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

S. 6610--C A. 9710--D

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

January 19, 2010

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 -- reported favorably from said committee and committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to Rules -- 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 -- again reported from said committee with amendments, 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 tax law, in relation to the statutory limitation on the biofuel production credit and the qualified emerging technology company facilities, operations and training credits (Part A); to amend the tax law, in relation to the inclusion of certain past employment related income in the calculation of the New York source income of nonresidents (Part B); to amend the tax law, in relation to clarifying that certain income constitutes New York source income of nonresident shareholders of an S corporation (Part C); Intentionally omitted (Part D); to amend the tax law, in relation to information reporting of payments made in settlement of payment card and third party network transactions (Part E); Intentionally omitted (Part F); to amend the tax law and the administrative code of the city of New York, in relation to the penalties imposed upon tax return preparers failing to electronically file returns and other tax documents when required by law to do so, to authorize reasonable correction periods for electron-

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

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ic tax filings and payments, and to prohibit tax return preparers and software companies from charging separately for electronic filing of New York tax documents (Part G); Intentionally omitted (Part H); Intentionally omitted (Part I); Intentionally omitted (Part J); to amend chapter 383 of the laws of 2001 amending the tax law and other laws relating to authorizing the division of the lottery to conduct a pilot program involving the operation of video lottery terminals at certain racetracks, in relationship to the effectiveness thereof; to amend the tax law, in relation to the hours of operation of video lottery gaming, the vendor fees paid to lottery agents, the amount of video lottery gaming revenue after payout of prizes to be retained by the division of the lottery for operation, administration and procurement purposes at a certain track and the recapture of the vendor fee at a certain track; and to repeal section 13 of chapter 140 of the laws of 2008 amending the racing, pari-mutuel wagering and breeding law and other laws relating to thoroughbred racing and to repeal section 5 of chapter 286 of the laws of 2008 amending the tax law relating to annual capital improvement credits for video lottery gaming operators, relating thereto (Part K); Intentionally omitted (Part L); Intentionally omitted (Part M); to amend the tax law, in relation to narrowing the definition of vendor for purposes of the sales and compensating use taxes (Part N); Intentionally omitted (Part O); to amend the public housing law, in relation to providing a credit against income tax for persons or entities investing in low-income housing (Part P); to amend chapter 60 of the laws of 2004, amending the tax law relating to the empire state film production credit, in relation to the empire state film production credit and in relation to the effectiveness of such provisions; to amend the tax law, in relation to the empire state film production credit; and to amend the tax law, in relation to the empire state film post production credit (Part Q); to amend the general municipal law, in relation to the decertification of business entities located in empire zones; to amend the tax law, in relation to a refund or credit provided to certain zone businesses and to a report on empire zone businesses produced by the department of taxation and finance, and to amend chapter 57 of the laws of 2009, amending the general municipal law and the tax law relating to enacting reforms to the empire zones program, in relation to the effectiveness thereof (Part R); to amend the tax law, in relation to making technical corrections to certain tax enforcement and sales tax avoidance provisions; and to amend chapter 57 of the laws of 2009 amending the criminal procedure law, the penal law, and the tax law relating to creating the offense of "tax fraud act", in relation to the effectiveness thereof (Subpart A); to amend the tax law, in relation to defining certain terms (Subpart B); and to amend the general municipal law and the public authorities law, in relation to statements of industrial agencies and their agents and project operators (Subpart C) (Part S); to amend the tax law, in relation to the amount of the unified credit against the estate tax (Part T); Intentionally omitted (Part U); to amend the tax law and the administrative code of the city of New York, in relation to the taxicab ride tax imposed in the metropolitan commuter transportation district by article 29-A of the tax law (Part V); to repeal subdivision (e-1) of section 1132 of the tax law, relating to a sales tax bad debt credit or refund for purchases made by private label credit cards (Part W); to amend the tax law, in relation to the sales tax vendor credit authorized under article 28 (Part X); to amend the tax law, in

relation to the deferral of use or payment of certain tax credits (Part Y); to amend the tax law and the administrative code of the city of New York, in relation to the deduction for bad debts provided to qualifying thrift institutions and commercial banks (Part Z); to amend the tax law and the administrative code of the city of New York, in relation to ensuring payment of sales tax due on rent for hotel room occupancy by room remarketers of hotel rooms and to reverse the decision of the Tax Appeals Tribunal in the Marriott International, Inc. matter on rewards program payments; and to repeal certain sections of the administrative code of the city of New York relating thereto (Part AA); Intentionally omitted (Part BB); to amend the tax law and the administrative code of the city of New York, in relation to modifying the New York itemized deduction (Part CC); Intentionally omitted (Part DD); to amend the state finance law, the tax law and the administrative code of the city of New York, in relation to the New York city personal income tax rates (Part EE); to amend the real property tax law and the tax law, in relation to the STAR exemption (Part FF); to amend the tax law, in relation to eliminating the state's sales and compensating use tax exemption for clothing and footwear sold for less than $110 per item for the period October 1, 2010, through March 31, 2011; exempting clothing and footwear sold for less than $55 per item from state taxes for the period April 1, 2011, through March 31, 2012; authorizing counties and cities to elect the less than $55 exemption for the same period; and restoring the state's original exemption April 1, 2012; and to repeal subdivision (k) of section 1210 of the tax law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part GG); to amend the tax law, in relation to limiting itemized deductions for certain taxpayers and determining the amount of estimated tax installments to be paid (Part HH); to amend the abandoned property law, in relation to uncashed travelers checks and money orders and miscellaneous unclaimed property (Part II); Intentionally omitted (Part JJ); to amend the tax law, in relation to investment management services to a partnership or other entity (Part KK); Intentionally omitted (Part LL); to amend Part FF-1 of chapter 57 of the laws of 2008 relating to the taxation of captive real estate investment trusts and captive regulated investment companies, in relation to the application of the provisions of such chapter (Part MM); to amend the tax law, in relation to the definition of a captive REIT (Part NN); to amend the public service law, in relation to electric corporations (Part OO); to amend chapter 57 of the laws of 2009 amending the education law and other laws relating 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, and maximum class size, in relation to deficit reduction assessment restoration (Part PP); to amend the education law, in relation to making technical corrections concerning gap elimination adjustment offset (Part QQ); to amend the public authorities law, in relation to the implementation of a state longitudinal data system (Part RR); to amend the vehicle and traffic law, in relation to making technical amendments concerning designated bus lanes (Part SS); to amend the retirement and social security law, in relation to the manner of paying employer contributions to the New York state and local employees' retirement system and the New York state and local police and

fire retirement system (Part TT); in relation to the New York state urban development corporation submitting a comprehensive financial plan to the director of the budget and the establishment of accounts and subaccounts within the treasury of such corporation; and providing for the repeal of such provisions upon the expiration thereof (Part UU); to amend the state finance law, in relation to establishing the education assessment account (Part VV); to amend the tax law, in relation to excluding from sales tax transportation service provided by an affiliated livery vehicle in a city with a population of one million or more (Part WW); to amend the correction law, the legislative law, and the municipal home rule law, in relation to the collection of census data (Part XX); and to amend the tax law, in relation to little cigars (Part YY)

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 two thousand ten-two thousand eleven state fiscal year. Each component is wholly contained within a Part identified as Parts A through YY. 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. Subdivision (a) of section 28 of the tax law, as added by section 1 of part X of chapter 62 of the laws of 2006, is amended to read as follows:

(a) General. A taxpayer subject to tax under article nine, nine-A or twenty-two of this chapter shall be allowed a credit against such tax pursuant to the provisions referenced in subdivision (d) of this section. The credit (or pro rata share of earned credit in the case of a partnership) for each gallon of biofuel produced at a biofuel plant on or after January first, two thousand six shall equal fifteen cents per gallon after the production of the first forty thousand gallons per year presented to market. The credit under this section shall be capped at two and one-half million dollars per taxpayer per taxable year for up to no more than four consecutive taxable years per biofuel plant. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE CAP IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED TWO AND ONE-HALF MILLION DOLLARS.

S 2. Paragraph (f) of subdivision 12-G of section 210 of the tax law, as amended by section 1-a of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(f) An eligible taxpayer may claim credits under this subdivision for four consecutive taxable years, except, if a taxpayer is located in an academic incubator facility and relocates within New York state to a

nonacademic incubator site, then the taxpayer (i) may make a revocable election to defer the credit provided under this subdivision to the first taxable year beginning after the taxpayer relocates from an academic incubator facility, and (ii) shall be eligible for such credit for five consecutive taxable years. In no case shall the credit allowed by this subdivision to a taxpayer exceed two hundred and fifty thousand dollars per year. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE LIMIT IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED TWO HUNDRED AND FIFTY THOUSAND DOLLARS.

S 3. Paragraph 6 of subsection (nn) of section 606 of the tax law, as amended by section 1-a of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(6) An eligible taxpayer may claim credits under this subsection for four consecutive taxable years, except, if a taxpayer is located in an academic incubator facility and relocates within New York state to a nonacademic incubator site, then the taxpayer (i) may make a revocable election to defer the credit provided under this subsection to the first taxable year beginning after the taxpayer relocates from an academic incubator facility, and (ii) shall be eligible for such credit for five consecutive years. In no case shall the credit allowed by this subsection to a taxpayer exceed two hundred fifty thousand dollars per year. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE LIMIT IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS.

S 4. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2010.

PART B

Section 1. Subparagraph (E) of paragraph 1 of subsection (b) of section 631 of the tax law, as added by section 1 of part H of chapter 60 of the laws of 2004, is amended and a new subparagraph (F) is added to read as follows:

(E) gains from the sale, conveyance or other disposition of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the owner thereof and subject to the provisions of article thirty-one of this chapter, whether such shares are held by a partnership, trust or otherwise[.]; OR

(F) INCOME RECEIVED BY NONRESIDENTS RELATED TO A BUSINESS, TRADE, PROFESSION OR OCCUPATION PREVIOUSLY CARRIED ON IN THIS STATE, WHETHER OR NOT AS AN EMPLOYEE, INCLUDING BUT NOT LIMITED TO, COVENANTS NOT TO COMPETE AND TERMINATION AGREEMENTS. INCOME RECEIVED BY NONRESIDENTS RELATED TO A BUSINESS, TRADE, PROFESSION OR OCCUPATION PREVIOUSLY CARRIED ON PARTLY WITHIN AND PARTLY WITHOUT THE STATE SHALL BE ALLOCATED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION.

S 2. This act shall take effect immediately and apply to taxable years on or after January 1, 2010.

PART C

Section 1. Legislative findings. The legislature finds that it is necessary to correct a decision of the tax appeals tribunal and a determination of the division of tax appeals that erroneously overturned the longstanding policies of department of taxation and finance that nonresident subchapter S shareholders who sell their interest in an S corporation pursuant to an election under section 338(h)(10) or section 453(h)(1)(A) of the Internal Revenue Code, respectively, are taxed in accordance with that election and the transaction is treated as an asset sale producing New York source income. Section two of this act is intended to clarify the concept of federal conformity in the personal income tax and is necessary to prevent confusion in the preparation of returns, unintended refunds, and protracted litigation of issues that have been properly administered up to now.

S 2. Paragraph 2 of subsection (a) of section 632 of the tax law, as amended by section 65 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(2) In determining New York source income of a nonresident shareholder of an S corporation where the election provided for in subsection (a) of section six hundred sixty of this article is in effect, there shall be included only the portion derived from or connected with New York sources of such shareholder's pro rata share of items of S corporation income, loss and deduction entering into his federal adjusted gross income, increased by reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, as such portion shall be determined under regulations of the commissioner consistent with the applicable methods and rules for allocation under article nine-A or thirty-two of this chapter, REGARDLESS OF WHETHER OR NOT SUCH ITEM OR REDUCTION IS INCLUDED IN ENTIRE NET INCOME UNDER ARTICLE NINE-A OR THIRTY-TWO FOR THE TAX YEAR. IF A NONRESIDENT IS A SHAREHOLDER IN AN S CORPORATION WHERE THE ELECTION PROVIDED FOR IN SUBSECTION (A) OF SECTION SIX HUNDRED SIXTY OF THIS ARTICLE IS IN EFFECT, AND THE S CORPORATION HAS DISTRIBUTED AN INSTALLMENT OBLIGATION UNDER SECTION 453(H)(1)(A) OF THE INTERNAL REVENUE CODE, THEN ANY GAIN RECOGNIZED ON THE RECEIPT OF PAYMENTS FROM THE INSTALLMENT OBLIGATION FOR FEDERAL INCOME TAX PURPOSES WILL BE TREATED AS NEW YORK SOURCE INCOME ALLOCATED IN A MANNER CONSISTENT WITH THE APPLICABLE METHODS AND RULES FOR ALLOCATION UNDER ARTICLE NINE-A OR THIRTY-TWO OF THIS CHAPTER IN THE YEAR THAT THE ASSETS WERE SOLD. IN ADDITION, IF THE SHAREHOLDERS OF THE S CORPORATION HAVE MADE AN ELECTION UNDER SECTION 338(H)(10) OF THE INTERNAL REVENUE CODE, THEN ANY GAIN RECOGNIZED ON THE DEEMED ASSET SALE FOR FEDERAL INCOME TAX PURPOSES WILL BE TREATED AS NEW YORK SOURCE INCOME ALLOCATED IN A MANNER CONSISTENT WITH THE APPLICABLE METHODS AND RULES FOR ALLOCATION UNDER ARTICLE NINE-A OR THIRTY-TWO OF THIS CHAPTER IN THE YEAR THAT THE SHAREHOLDER MADE THE SECTION 338(H)(10) ELECTION. FOR PURPOSES OF A SECTION 338(H)(10) ELECTION, WHEN A NONRESIDENT SHAREHOLDER EXCHANGES HIS OR HER S CORPORATION STOCK AS PART OF THE DEEMED LIQUIDATION, ANY GAIN OR LOSS RECOGNIZED SHALL BE TREATED AS THE DISPOSITION OF AN INTANGIBLE ASSET AND WILL NOT INCREASE OR OFFSET ANY GAIN RECOGNIZED ON THE DEEMED ASSETS SALE AS A RESULT OF THE SECTION 338(H)(10) ELECTION.

S 3. Paragraph 1 of subsection (b) of section 631 of the tax law is amended by adding a new subparagraph (E-1) to read as follows:

(E-1) IN THE CASE OF AN S CORPORATION FOR WHICH AN ELECTION IS IN EFFECT PURSUANT TO SUBSECTION (A) OF SECTION SIX HUNDRED SIXTY OF THIS ARTICLE THAT TERMINATES ITS TAXABLE STATUS IN NEW YORK, ANY INCOME OR GAIN RECOGNIZED ON THE RECEIPT OF PAYMENTS FROM AN INSTALLMENT SALE

CONTRACT ENTERED INTO WHEN THE S CORPORATION WAS SUBJECT TO TAX IN NEW YORK, ALLOCATED IN A MANNER CONSISTENT WITH THE APPLICABLE METHODS AND RULES FOR ALLOCATION UNDER ARTICLE NINE-A OR THIRTY-TWO OF THIS CHAPTER, IN THE YEAR THAT THE S CORPORATION SOLD ITS ASSETS.

S 4. This act shall take effect immediately; provided however, that section two of this act shall apply to all tax years for which the statute of limitations for seeking a refund or assessing additional tax are still open, and section three of this act shall apply to taxable years beginning on or after January 1, 2010.

PART D

Intentionally omitted.

PART E

Section 1. The tax law is amended by adding a new section 1703 to read as follows:

S 1703. INFORMATION RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS. 1. (A) EVERY PAYMENT SETTLEMENT ENTITY, THIRD PARTY SETTLEMENT ORGANIZATION, ELECTRONIC PAYMENT FACILITATOR OR OTHER THIRD PARTY ACTING ON BEHALF OF A PAYMENT SETTLEMENT ENTITY, ALL AS DEFINED IN SECTION 6050W OF THE INTERNAL REVENUE CODE AND REFERRED TO HEREIN AS "A REPORTING ENTITY," REQUIRED TO FILE INFORMATION RETURNS PURSUANT TO THAT SECTION SHALL, WITHIN THIRTY DAYS OF THE FILING THEREOF, FILE WITH THE DEPARTMENT IN SUCH FORM AND MANNER AS PRESCRIBED BY THE COMMISSIONER EITHER (I) A DUPLICATE OF ALL SUCH INFORMATION RETURNS OR (II) A DUPLICATE OF SUCH INFORMATION RETURNS RELATED TO PARTICIPATING PAYEES, AS DEFINED IN SECTION 6050W OF THE INTERNAL REVENUE CODE, WITH A NEW YORK STATE ADDRESS OR NEW YORK STATE TAXPAYERS. THE COMMISSIONER MAY REQUIRE THAT SUCH RETURNS BE FILED ELECTRONICALLY.

(B) TO FACILITATE ACCURATE REPORTING BY THE ENTITIES REQUIRED TO FILE INFORMATION RETURNS PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL PROVIDE A LIST OR DATABASE OF NEW YORK STATE TAXPAYERS NO LATER THAN FORTY-FIVE DAYS PRIOR TO THE INFORMATION REPORTING DEADLINE, IN SUCH FORM AND MANNER AS PRESCRIBED BY THE COMMISSIONER. THE INFORMATION INCLUDED IN SUCH LIST OR DATABASE SHALL NOT BE USED BY A REPORTING ENTITY FOR ANY PURPOSE OTHER THAN PRODUCING AND FILING INFORMATION RETURNS PURSUANT TO THIS SECTION.

(C) ANY INFORMATION RECEIVED BY THE DEPARTMENT ON AN INFORMATION RETURN FILED PURSUANT TO THIS SECTION, CONCERNING A PERSON WHO IS NOT SUBJECT TO TAX IN NEW YORK, OR IS NOT SUBJECT TO ANY REQUIREMENT IMPOSED BY OR PURSUANT TO THE AUTHORITY OF THIS CHAPTER, MAY NOT BE USED BY THE DEPARTMENT. THE DEPARTMENT SHALL NOT REDISCLOSE ANY INFORMATION RECEIVED ON AN INFORMATION RETURN FILED PURSUANT TO THIS SECTION.

2. (A) ANY REPORTING ENTITY FAILING TO FILE AN INFORMATION RETURN REQUIRED PURSUANT TO SUBDIVISION ONE OF THIS SECTION WITHIN THE TIME PRESCRIBED WILL BE SUBJECT TO A PENALTY OF FIFTY DOLLARS FOR EACH FAILURE, IF FAILURE IS FOR NOT MORE THAN ONE MONTH, WITH AN ADDITIONAL FIFTY DOLLARS FOR EACH MONTH OR FRACTION THEREOF DURING WHICH EACH FAILURE CONTINUES. HOWEVER, THE TOTAL AMOUNT OF PENALTY IMPOSED ON A REPORTING ENTITY MAY NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS ANNUALLY.

(B) THE COMMISSIONER MAY WAIVE ALL OR ANY PORTION OF ANY PENALTY IMPOSED BY THIS SUBDIVISION WITH RESPECT TO ANY VIOLATION IF (I) THE COMMISSIONER DETERMINES THAT THE FAILURE TO TIMELY FILE A RETURN, WAS

DUE TO REASONABLE CAUSE AND NOT DUE TO WILLFUL NEGLECT, OR (II) RESCINDING THE PENALTY WOULD PROMOTE COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER AND EFFECTIVE TAX ADMINISTRATION.

S 2. This act shall take effect immediately.

PART F

Intentionally omitted.

PART G

Section 1. Paragraph 1 of subdivision (e) of section 29 of the tax law, as added by section 1 of part UU-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(1) If a tax return preparer is required to file authorized tax documents electronically pursuant to subdivision (b) of this section, and that preparer fails to file one or more of those documents electronically, then that preparer will be subject to a penalty of fifty dollars for each failure to electronically file an authorized tax document, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. [For purposes of this paragraph, reasonable cause shall include, but not be limited to, a taxpayer's election not to electronically file the authorized tax document.]

S 2. The tax law is amended by adding a new section 33 to read as follows:

S 33. CORRECTION PERIODS FOR ELECTRONIC TAX DOCUMENTS AND PAYMENTS. (A) FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS HAVE THE SPECIFIED MEANINGS:

(1) "ELECTRONIC FUNDS WITHDRAWAL" MEANS THE PROCESS BY WHICH THE DEPARTMENT, WITH A TAXPAYER'S PERMISSION, ORIGINATES AN ELECTRONIC ORDER FROM ITS BANK TO THE TAXPAYER'S BANK TO WITHDRAW FUNDS FROM THE TAXPAYER'S BANK ACCOUNT SO THAT THE TAXPAYER MAY PAY A TAX LIABILITY ASSOCIATED WITH A TAX DOCUMENT.

(2) "ELECTRONIC POSTMARK" MEANS A RECORD OF THE DATE AND TIME (IN A PARTICULAR TIME ZONE) THAT AN AUTHORIZED ELECTRONIC TRANSMITTER RECEIVES THE TRANSMISSION OF A TAXPAYER'S ELECTRONICALLY FILED TAX DOCUMENT ON ITS HOST SYSTEM.

(3) "ELECTRONIC TRANSMITTER" MEANS A PERSON OR ENTITY THAT IS AUTHORIZED TO SUBMIT ELECTRONIC TAX DOCUMENTS DIRECTLY TO THE DEPARTMENT OR DIRECTLY TO THE INTERNAL REVENUE SERVICE FOR FORWARDING TO THE DEPARTMENT.

(4) "REJECT" OR "REJECTED" MEANS THAT AN ELECTRONICALLY FILED TAX DOCUMENT OR AN AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL IS NOT ACCEPTED FOR PROCESSING.

(5) "SUBMIT" OR "SUBMITTED" MEANS THE DATE OF THE ELECTRONIC POSTMARK ASSIGNED BY AN ELECTRONIC TRANSMITTER TO AN ELECTRONICALLY FILED TAX DOCUMENT OR AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL. HOWEVER, IF AN ELECTRONIC TRANSMITTER DOES NOT ASSIGN AN ELECTRONIC POSTMARK, THEN AN ELECTRONICALLY FILED TAX DOCUMENT OR AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL SHALL BE DEEMED SUBMITTED ON THE EARLIER OF THE DATE THE INTERNAL REVENUE SERVICE RECEIVES THE ELECTRONICALLY FILED TAX DOCUMENT OR AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL, OR THE DATE THE DEPARTMENT RECEIVES THE ELECTRONICALLY FILED TAX DOCUMENT OR AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL. IN ANY OF THE AFOREMENTIONED CASES, IF THE TAXPAYER CAN ESTABLISH THAT THE TIME OF

SUBMISSION, ADJUSTED FOR THE TAXPAYER'S TIME ZONE, WAS TIMELY, THE TIME OF SUBMISSION SHALL BE BASED ON THE TAXPAYER'S TIME ZONE.

(6) "TAX" MEANS ANY TAX, FEE, SPECIAL ASSESSMENT OR OTHER IMPOSITION ADMINISTERED BY THE COMMISSIONER.

(7) "TAX DOCUMENT" MEANS ANY RETURN, REPORT OR OTHER DOCUMENT RELATING TO A TAX.

(B) IF A TAX DOCUMENT IS REQUIRED OR PERMITTED TO BE FILED WITH THE DEPARTMENT ELECTRONICALLY (WHETHER DIRECTLY, DIRECTLY THROUGH A RETURN TRANSMITTER OR THROUGH THE INTERNAL REVENUE SERVICE), THE TAX DOCUMENT IS SUBMITTED ELECTRONICALLY ON OR BEFORE THE DUE DATE FOR SUCH DOCUMENT (INCLUDING ANY EXTENSION OF TIME), AND THE ELECTRONICALLY FILED TAX DOCUMENT IS REJECTED, THEN THE COMMISSIONER MAY, BY INSTRUCTION, PROVIDE FOR A REASONABLE PERIOD OF TIME DURING WHICH THE TAX DOCUMENT MAY BE CORRECTED AND RE-SUBMITTED. IF THE CORRECTED TAX DOCUMENT IS RE-SUBMITTED ON OR BEFORE THE EXPIRATION DATE OF THE EXTENDED TIME PERIOD, AND SUCH DOCUMENT IS ACCEPTED BY THE DEPARTMENT FOR PROCESSING, THEN THE RE-SUBMITTED TAX DOCUMENT SHALL BE DEEMED TO HAVE BEEN TIMELY FILED EVEN THOUGH THE DEPARTMENT RECEIVES IT AFTER THE APPLICABLE DUE DATE (INCLUDING ANY EXTENSION OF TIME).

(C) (1) IF A TAXPAYER HAS SUBMITTED AN AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL ON OR BEFORE THE DUE DATE FOR PAYMENT (INCLUDING ANY EXTENSION OF TIME), AND SUCH AUTHORIZATION IS REJECTED BY THE DEPARTMENT, THEN THE COMMISSIONER MAY, BY INSTRUCTION, PROVIDE FOR A REASONABLE PERIOD OF TIME, COMMENCING FROM THE DATE OF REJECTION, FOR THE TAXPAYER TO RE-SUBMIT THE AUTHORIZATION FOR THE ELECTRONIC FUNDS WITHDRAWAL. IF THE AUTHORIZATION FOR THE ELECTRONIC FUNDS WITHDRAWAL IS RE-SUBMITTED ON OR BEFORE THE EXPIRATION DATE OF THE EXTENDED TIME PERIOD, THEN THE ELECTRONIC FUNDS WITHDRAWAL SHALL BE DEEMED TO HAVE BEEN TIMELY PAID EVEN THOUGH THE DEPARTMENT RECEIVES IT AFTER THE APPLICABLE DUE DATE (INCLUDING ANY EXTENSION OF TIME).

(2) ANY REASONABLE PERIOD OF TIME PROVIDED FOR BY THE COMMISSIONER FOR RE-SUBMISSION OF AN AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL MAY DIFFER FROM THE REASONABLE TIME PERIOD, IF ANY, PROVIDED FOR BY THE COMMISSIONER WITH RESPECT TO THE ELECTRONICALLY FILED TAX DOCUMENT WITH WHICH THE TAXPAYER'S ELECTRONIC FUNDS WITHDRAWAL IS ASSOCIATED.

(3) IN LIEU OF RE-SUBMITTING AN AUTHORIZATION FOR AN ELECTRONIC FUNDS WITHDRAWAL, THE COMMISSIONER MAY PERMIT A TAXPAYER TO INSTEAD PAY BY SUBSTITUTE MEANS, AS DEFINED BY INSTRUCTION. ANY SUCH INSTRUCTION SHALL ADDRESS THE TIMELINESS OF PAYMENT BY SUBSTITUTE MEANS.

(D) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO TAXPAYERS PARTICIPATING IN THE ELECTRONIC FUNDS TRANSFER PROGRAMS PRESCRIBED BY SECTIONS NINE AND TEN OF THIS ARTICLE.

S 3. The tax law is amended by adding a new section 34 to read as follows:

S 34. TAX RETURN PREPARERS AND SOFTWARE COMPANIES NOT TO CHARGE SEPARATELY FOR NEW YORK E-FILE SERVICES. (A) FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS HAVE THE SPECIFIED MEANINGS:

(1) "AUTHORIZED TAX DOCUMENT" MEANS A TAX DOCUMENT WHICH THE COMMISSIONER HAS AUTHORIZED TO BE FILED ELECTRONICALLY.

(2) "ELECTRONIC" MEANS COMPUTER TECHNOLOGY.

(3) "SOFTWARE COMPANY" MEANS A DEVELOPER OF TAX SOFTWARE.

(4) "TAX" MEANS ANY TAX OR OTHER MATTER ADMINISTERED BY THE COMMISSIONER PURSUANT TO THIS CHAPTER OR ANY OTHER PROVISION OF LAW.

(5) "TAX DOCUMENT" MEANS A RETURN, REPORT OR ANY OTHER DOCUMENT RELATING TO A TAX OR OTHER MATTER ADMINISTERED BY THE COMMISSIONER.

(6) "TAX RETURN PREPARER" MEANS ANY PERSON WHO PREPARES FOR COMPENSATION, OR WHO EMPLOYS OR ENGAGES ONE OR MORE PERSONS TO PREPARE FOR COMPENSATION, ANY AUTHORIZED TAX DOCUMENT. FOR PURPOSES OF THIS SECTION, THE TERM "TAX RETURN PREPARER" ALSO INCLUDES A PAYROLL SERVICE.

(7) "TAX SOFTWARE" MEANS ANY COMPUTER SOFTWARE PROGRAM INTENDED FOR TAX RETURN PREPARATION PURPOSES. FOR PURPOSES OF THIS SECTION, THE TERM "TAX SOFTWARE" INCLUDES, BUT IS NOT LIMITED TO, AN OFF-THE-SHELF SOFTWARE PROGRAM LOADED ONTO A TAX RETURN PREPARER'S OR TAXPAYER'S COMPUTER, OR AN ONLINE TAX PREPARATION APPLICATION.

(B) IT SHALL BE UNLAWFUL FOR A TAX RETURN PREPARER OR A SOFTWARE COMPANY TO CHARGE A SEPARATE FEE FOR THE ELECTRONIC FILING OF AUTHORIZED TAX DOCUMENTS. IT SHALL ALSO BE UNLAWFUL FOR A SOFTWARE COMPANY TO OFFER A VERSION OF ITS TAX SOFTWARE THAT CHARGES A SEPARATE FEE FOR THE ELECTRONIC FILING OF AUTHORIZED TAX DOCUMENTS AND ONE VERSION OF THE SAME TAX SOFTWARE THAT DOES NOT.

(C) ANY TAX RETURN PREPARER OR SOFTWARE COMPANY VIOLATING THIS SECTION WILL BE LIABLE FOR A CIVIL PENALTY OF FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND ONE THOUSAND DOLLARS FOR EACH SUCCEEDING VIOLATION. THE CIVIL PENALTIES IMPOSED BY THIS SECTION SHALL BE PAID TO THE COMMISSIONER UPON NOTICE AND DEMAND, AND WILL BE ASSESSED, COLLECTED AND PAID IN THE SAME MANNER AS TAXES UNDER ARTICLE TWENTY-SEVEN OF THIS CHAPTER.

S 4. Paragraph 5 of subsection (u) of section 685 of the tax law, as added by section 2 of part Q of chapter 61 of the laws of 2005, is amended to read as follows:

(5) Failure to electronically file. If a tax return preparer is required to file returns electronically pursuant to paragraph ten of subsection (g) of section six hundred fifty-eight of this article, and such preparer fails to file one or more of such returns electronically, then such preparer shall be subject to a penalty of fifty dollars for each such failure to electronically file a return, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. [For purposes of this paragraph, reasonable cause shall include, but not be limited to, a taxpayer's election not to electronically file his or her return.]

S 5. Paragraph 5 of subdivision (t) of section 11-1785 of the administrative code of the city of New York, as added by section 4 of part Q of chapter 61 of the laws of 2005, is amended to read as follows:

(5) Failure to electronically file. If a tax return preparer is required to file returns electronically pursuant to paragraph ten of subdivision (g) of section 11-1758, and such preparer fails to file one or more of such returns electronically, then such preparer shall be subject to a penalty of fifty dollars for each such failure to electronically file a return, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. [For purposes of this paragraph, reasonable cause shall include, but not be limited to, a taxpayer's election not to electronically file his or her return.]

S 6. This act shall take effect immediately, provided, however, that sections one, four and five of this act shall apply to tax returns and other tax documents required to be filed electronically by tax return preparers on or after December 31, 2010, and section two of this act shall apply to electronic returns and payments made for tax years beginning after December 31, 2010.

PART H

Intentionally omitted.

PART I

Intentionally omitted.

PART J

Intentionally omitted.

PART K

Section 1. Section 4 of part C of chapter 383 of the laws of 2001, amending the tax law and other laws relating to authorizing the division of the lottery to conduct a pilot program involving the operation of video lottery terminals at certain racetracks, as amended by chapter 140 of the laws of 2008, is amended to read as follows:

S 4. This act shall take effect immediately[; provided, however, that the provisions of this act shall expire and be deemed repealed December 31, 2033].

S 2. Section 4 of part C of chapter 383 of the laws of 2001, amending the tax law and other laws relating to authorizing the division of the lottery to conduct a pilot program involving the operation of video lottery terminals at certain racetracks, as amended by chapter 286 of the laws of 2008, is amended to read as follows:

S 4. This act shall take effect immediately[; provided, however, that the provisions of this act shall expire and be deemed repealed December 31, 2050].

S 3. Section 13 of chapter 140 of the laws of 2008 amending the racing, pari-mutuel wagering and breeding law and other laws relating to thoroughbred racing is REPEALED.

S 4. Section 5 of chapter 286 of the laws of 2008 amending the tax law relating to annual capital improvement credits for video lottery gaming operators is REPEALED.

S 5. Subdivision b of section 1617-a of the tax law, as amended by section 2 of part Z3 of chapter 62 of the laws of 2003, is amended to read as follows:

b. Video lottery gaming shall only be permitted for no more than [sixteen] TWENTY consecutive hours per day and on no day shall such operation be conducted past [2:00] 4:00 a.m.

S 6. Subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by section 1 of part O-1 of chapter 57 of the laws of 2009 and clause (G) of subparagraph (ii) of paragraph 1 as amended by chapter 342 of the laws of 2009, is amended to read as follows:

(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] THIRTY-FIVE percent for the first fifty million dollars annually, [twenty-nine] TWENTY-EIGHT percent for the next hundred million dollars annually, and [twenty-six] TWENTY-FIVE 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] THIRTY-ONE 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] THIRTY 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] THIRTY-ONE 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] THIRTY-NINE percent for the first fifty million dollars annually, [twenty-nine] TWENTY-EIGHT percent for the next hundred million dollars annually, and [twenty-six] TWENTY-FIVE 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 at a rate of [forty-two] FORTY-ONE 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] FORTY-ONE percent of the total revenue wagered after payout for prizes pursuant to this chapter;

(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] FORTY-ONE 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) notwithstanding [any other provisions of this section] CLAUSES (A), (B), (C), (D), (E) AND (F) OF THIS SUBPARAGRAPH, when no more than one vendor track located in the town of Thompson in Sullivan county at the site of the former Concord Resort at which a qualified capital investment has been made and no fewer than one 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 VENDOR'S FEE SHALL EQUAL THE TOTAL REVENUE WAGERED AT THE VENDOR TRACK AFTER PAYOUT OF PRIZES PURSUANT TO THIS SUBDIVISION REDUCED BY 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 no more than one vendor track located in the town of Thompson in Sullivan county at the site of the former Concord Resort, 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] VENDOR FEE IS CALCULATED 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] VENDOR'S FEE SHALL BE FURTHER REDUCED BY 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] REDUCTION exceed five million dollars.

[The balance shall be paid as a vendor's fee to the track operator of no more than one vendor track located in the town of Thompson in Sullivan county at the site of the former Concord Resort for serving as a lottery agent under this chapter.]

Provided, however, that in the case of no more than one vendor track located in the town of Thompson in Sullivan county at the site of the former Concord Resort with a qualified capital investment, and one thousand full-time, permanent employees [as of July first, two thousand eleven] if at any time after three years of opening operations of the licensed video gaming facility or licensed vendor track, 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 six hundred million 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, 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 video gaming facility, 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 video gaming facility, 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 one thousand five hundred full-time permanent employees after three years of opening operations of the licensed video gaming facility or licensed vendor track.

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) one hundred percent of the recapture amount if the employment shortfall is greater than sixty-six and two-thirds percent of the employment goal;

(ii) seventy-five percent of the recapture amount if the employment shortfall is greater than thirty-three and one-third percent of the employment goal;

(iii) forty-nine and one-half percent of the recapture amount if the employment shortfall is greater than thirty percent of the employment goal;

(iv) twenty-two percent of the recapture amount if the employment shortfall is greater than twenty percent of the employment goal;

(v) eleven 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 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 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

S 7. This act shall take effect immediately.

PART L

Intentionally omitted.

PART M

Intentionally omitted.

PART N

Section 1. Clause (I) of subparagraph (i) of paragraph 8 of subdivision (b) of section 1101 of the tax law, as added by section 1 of part P-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(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. NOTWITHSTANDING THE PROVISIONS OF THIS CLAUSE, THE ACTIVITIES IN THE STATE OF AN AFFILIATED PERSON IN PROVIDING ACCOUNTING OR LEGAL SERVICES OR ADVICE TO A SELLER, OR IN DIRECTING THE ACTIVITIES OF A SELLER,

INCLUDING, BUT NOT LIMITED TO, MAKING DECISIONS ABOUT (A) STRATEGIC PLANNING, (B) MARKETING, (C) INVENTORY, (D) STAFFING, (E) DISTRIBUTION, OR (F) CASH MANAGEMENT, WILL NOT RESULT IN MAKING THE SELLER A VENDOR UNDER THIS PARAGRAPH.

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

Intentionally omitted.

PART P

Section 1. Subdivision 4 of section 22 of the public housing law, as amended by section 1 of part J-1 of chapter 57 of the laws of 2009, 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-four] TWENTY-EIGHT 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. This act shall take effect immediately.

PART Q

Section 1. Subdivision (d) of 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, as added by section 2 of part Y-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(d) ADDITIONAL POOL 1 - 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 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 (e) to read as follows:

(E) ADDITIONAL POOL 2 - THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED IN SUBDIVISION (A) OF THIS SECTION SHALL BE INCREASED BY AN ADDITIONAL $420 MILLION IN 2010, $420 MILLION IN 2011, $420 MILLION IN 2012, $420 MILLION IN 2013 AND $420 MILLION IN 2014 PROVIDED HOWEVER, UP TO $7 MILLION OF THE ANNUAL ALLOCATION SHALL BE AVAILABLE FOR THE EMPIRE STATE FILM POST PRODUCTION CREDIT PURSUANT TO SECTION 31 OF THE TAX LAW. 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. THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVELOPMENT MUST NOTIFY TAXPAYERS OF THEIR ALLOCATION YEAR AND INCLUDE THE ALLOCATION YEAR ON THE CERTIFICATE OF TAX CREDIT. TAXPAYERS ELIGIBLE TO CLAIM A CREDIT MUST REPORT THE ALLOCATION YEAR DIRECTLY ON THEIR EMPIRE STATE FILM PRODUCTION CREDIT TAX FORM FOR EACH YEAR A CREDIT IS CLAIMED AND INCLUDE A COPY OF THE CERTIFICATE WITH

THEIR TAX RETURN. IN THE CASE OF A QUALIFIED FILM THAT RECEIVES FUNDS FROM ADDITIONAL POOL 2, NO EMPIRE STATE FILM PRODUCTION CREDIT SHALL BE CLAIMED BEFORE THE LATER OF (1) THE TAXABLE YEAR THE PRODUCTION OF THE QUALIFIED FILM IS COMPLETE, OR (2) THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE ALLOCATION YEAR FOR WHICH THE FILM HAS BEEN ALLOCATED CREDIT BY THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVELOPMENT.

S 3. Paragraph 1 of subdivision (a) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(1) Allowance of credit. A taxpayer which is a qualified film production company, OR A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY, or which is a sole proprietor of OR A MEMBER OF A PARTNERSHIP WHICH IS a qualified film production company OR A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY, and which is subject to tax under articles nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (c) of this section, to be computed as hereinafter provided.

S 4. Paragraph 2 of subdivision (a) of section 24 of the tax law, as amended by section 1 of part Y-1 of chapter 57 of the laws of 2009, 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: (I) 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, AND (II) EXCEPT WITH RESPECT TO A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY OR PILOT, AT LEAST TEN PERCENT OF THE TOTAL PRINCIPAL PHOTOGRAPHY SHOOTING DAYS SPENT IN THE PRODUCTION OF SUCH QUALIFIED FILM MUST BE SPENT AT A QUALIFIED FILM PRODUCTION FACILITY. 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. HOWEVER, IN THE CASE OF A QUALIFIED FILM THAT RECEIVES FUNDS FROM ADDITIONAL POOL 2, NO CREDIT SHALL BE CLAIMED BEFORE THE LATER OF (1) THE TAXABLE YEAR THE PRODUCTION OF THE QUALIFIED FILM IS COMPLETE, OR (2) THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE ALLOCATION YEAR FOR WHICH THE FILM HAS BEEN ALLOCATED CREDIT BY THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVELOPMENT. 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 FIRST taxable year in which the [production of the qualified film is completed] CREDIT MAY BE CLAIMED 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 FIRST taxable year in which the [production of the qualified film is completed] CREDIT MAY BE CLAIMED and in the next two succeeding taxable years, with one-third of the amount of the credit allowed being claimed in each year.

S 5. Subdivision (a) of section 24 of the tax law is amended by adding a new paragraph 4 to read as follows:

(4) NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBDIVISION, A QUALIFIED FILM PRODUCTION COMPANY OR QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY, THAT HAS APPLIED FOR CREDIT UNDER THE PROVISIONS OF THIS SECTION, AGREES AS A CONDITION FOR THE GRANTING OF THE CREDIT: (I) TO INCLUDE IN EACH QUALIFIED FILM DISTRIBUTED BY DVD, OR OTHER MEDIA FOR THE SECONDARY MARKET, A NEW YORK PROMOTIONAL VIDEO APPROVED BY THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT OR TO INCLUDE IN THE END CREDITS OF EACH QUALIFIED FILM "FILMED WITH THE SUPPORT OF THE NEW YORK STATE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT" AND A LOGO PROVIDED BY THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT, AND (II) TO CERTIFY THAT IT WILL PURCHASE TAXABLE TANGIBLE PROPERTY AND SERVICES, DEFINED AS QUALIFIED PRODUCTION COSTS PURSUANT TO PARAGRAPH ONE OF SUBDIVISION (B) OF THIS SECTION, ONLY FROM COMPANIES REGISTERED TO COLLECT AND REMIT STATE AND LOCAL SALES AND USE TAXES PURSUANT TO ARTICLES TWENTY-EIGHT AND TWENTY-NINE OF THIS CHAPTER.

S 6. Paragraph 1 of subdivision (b) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(1) "Qualified production costs" means production costs only to the extent such costs are attributable to the use of tangible property or the performance of services within the state directly and predominantly in the production (including pre-production and post production) of a qualified film, PROVIDED, HOWEVER, THAT QUALIFIED PRODUCTION COSTS SHALL NOT INCLUDE POST PRODUCTION COSTS UNLESS THE PORTION OF THE POST PRODUCTION COSTS PAID OR INCURRED THAT IS ATTRIBUTABLE TO THE USE OF TANGIBLE PROPERTY OR THE PERFORMANCE OF SERVICES IN NEW YORK IN THE PRODUCTION OF SUCH QUALIFIED FILM EQUALS OR EXCEEDS SEVENTY-FIVE PERCENT OF THE TOTAL POST PRODUCTION COSTS SPENT WITHIN AND WITHOUT NEW YORK IN THE PRODUCTION OF SUCH QUALIFIED FILM.

S 7. Paragraph 4 of subdivision (b) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(4) "Film production facility" shall mean a building and/or complex of buildings and their improvements and associated back-lot facilities in which films are or are intended to be regularly produced and which contain at least one sound stage, PROVIDED, HOWEVER, THAT AN ARMORY OWNED BY THE STATE OR CITY OF NEW YORK LOCATED IN THE CITY OF NEW YORK SHALL NOT BE CONSIDERED TO BE A "FILM PRODUCTION FACILITY" UNLESS IT MEETS THE CRITERIA CONTAINED IN PARAGRAPH FIVE OF THIS SUBDIVISION OR UNLESS SUCH FACILITY IS USED BY A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY.

S 8. Paragraph 5 of subdivision (b) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(5) "Qualified film production facility" shall mean a film production facility in the state, which contains at least one sound stage having a minimum of seven thousand square feet of contiguous production space, PROVIDED, HOWEVER, THAT EXCEPT WITH RESPECT TO A QUALIFIED FILM PRODUCTION FACILITY BEING USED BY A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY: (I) A FILM PRODUCTION FACILITY IN THE CITY OF NEW YORK MUST CONTAIN AT LEAST ONE SOUND STAGE HAVING A MINIMUM OF SEVEN THOUSAND SQUARE FEET OF CONTIGUOUS PRODUCTION SPACE THAT IS SOUND PROOF WITH A NOISE CRITERIA ("NC") OF 30 OR BETTER, HAS SUFFICIENT HEATING AND AIR CONDITIONING FOR SHOOTING WITHOUT THE NEED FOR SUPPLEMENTAL UNITS, INCORPORATES A PERMANENT GRID AND SUFFICIENT BUILT-IN ELECTRIC SERVICE FOR SHOOTING WITHOUT THE NEED FOR GENERATORS, AND IS COLUMN-FREE WITH A CLEAR HEIGHT OF AT LEAST SIXTEEN FEET UNDER THE PERMANENT GRID; AND (II) AN ARMORY OWNED BY THE STATE OR CITY OF NEW YORK LOCATED IN THE CITY OF NEW YORK THAT DOES NOT SATISFY THE CRITERIA OF SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE TREATED AS A QUALIFIED FILM PRODUCTION FACILITY UPON CERTIFICATION BY THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT OF A PETITION SUBMITTED TO THAT OFFICE BY A QUALIFIED FILM PRODUCTION COMPANY ESTABLISHING THAT NO QUALIFIED FILM PRODUCTION FACILITY IS AVAILABLE IN THE CITY OF NEW YORK THAT HAS STAGE SPACE AVAILABLE FOR SHOOTING SUCH COMPANY'S FILM. SUCH PETITION SHALL BE SUBMITTED NO LATER THAN NINETY DAYS PRIOR TO THE START OF PRINCIPAL PHOTOGRAPHY FOR THE QUALIFIED FILM AND THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT SHALL HAVE TEN DAYS TO CERTIFY OR REJECT THE PETITION. A STAGE WILL BE DEEMED UNAVAILABLE IF CONSIDERATION HAS BEEN PAID FOR ITS USE OR SUCH STAGE IS CURRENTLY UNDER AN AGREEMENT WITH AN OPTION FOR USE AND, IN EITHER CIRCUMSTANCE, SUCH PERIOD OF USE INCLUDES THE PETITIONER'S ESTIMATED START DATE OF PRINCIPAL PHOTOGRAPHY.

S 9. Subdivision (b) of section 24 of the tax law is amended by adding a new paragraph 7 to read as follows:

(7) "QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY" IS A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP, OR OTHER ENTITY OR INDIVIDUAL, THAT OR WHO (I) IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF A QUALIFIED FILM WITH A MAXIMUM BUDGET OF FIFTEEN MILLION DOLLARS, AND (II) CONTROLS THE QUALIFIED FILM DURING PRODUCTION, AND (III) EITHER IS NOT A PUBLICLY TRADED ENTITY, OR NO MORE THAN FIVE PERCENT OF THE BENEFICIAL OWNERSHIP OF WHICH IS OWNED, DIRECTLY OR INDIRECTLY, BY A PUBLICLY TRADED ENTITY.

S 10. Section 24 of the tax law is amended by adding a new subdivision (d) to read as follows:

(D) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, EMPLOYEES AND OFFICERS OF THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT AND THE DEPARTMENT SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE INFORMATION REGARDING THE CREDITS APPLIED FOR, ALLOWED, OR CLAIMED PURSUANT TO THIS SECTION AND TAXPAYERS WHO ARE APPLYING FOR CREDITS OR WHO ARE CLAIMING CREDITS, INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM CREDIT CLAIM FORMS SUBMITTED TO THE DEPARTMENT AND APPLICATIONS FOR CREDIT SUBMITTED TO THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT.

S 11. Section 9 of part P of chapter 60 of the laws of 2004 amending the tax law relating to the empire state film production credit, as amended by section 5 of part WW-1 of chapter 57 of the laws of 2008, is amended to read as follows:

S 9. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2004, with respect to "qualified production costs" paid or incurred on or after such effective date, providing final applications are approved on or after the effective

date, regardless of whether the initial application relating to such qualified film was first submitted before such date, [provided further that this act shall expire and be deemed repealed January 1, 2014, provided further that the expiration and repeal of this act shall not affect the carry over of any credit allowed pursuant to this act and, subsequent to the expiration and repeal of this act, such carry over credits shall be allowed as provided by and pursuant to the provisions of this act, and] provided further that the IMB credit for energy taxes under subsection (t-l) of section 606 of the tax law contained in section three of this act shall expire on the same date as provided in subdivision (a) of section 49 of part Y of chapter 63 of the laws of 2000.

S 12. The tax law is amended by adding a new section 31 to read as follows:

S 31. EMPIRE STATE FILM POST PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. (1) A TAXPAYER WHICH IS A QUALIFIED FILM PRODUCTION COMPANY, AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER, UNLESS ELIGIBLE FOR THE CREDIT UNDER SECTION TWENTY-FOUR OF THIS ARTICLE WITH RESPECT TO THE QUALIFIED FILM, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (C) OF THIS SECTION TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION.

(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 TEN PERCENT AND THE QUALIFIED POST PRODUCTION COSTS PAID IN THE PRODUCTION OF A QUALIFIED FILM AT A QUALIFIED POST PRODUCTION FACILITY.

(3) A TAXPAYER SHALL NOT BE ELIGIBLE FOR THE CREDIT ESTABLISHED BY THIS SECTION UNLESS THE QUALIFIED POST PRODUCTION COSTS AT A QUALIFIED POST PRODUCTION FACILITY MEET OR EXCEED SEVENTY-FIVE PERCENT OF THE TOTAL POST PRODUCTION COSTS PAID OR INCURRED IN THE POST PRODUCTION OF THE QUALIFIED FILM AT ANY POST PRODUCTION FACILITY. THE CREDIT SHALL BE ALLOWED FOR THE TAXABLE YEAR IN WHICH THE PRODUCTION OF SUCH QUALIFIED FILM IS COMPLETED.

(4) NO QUALIFIED POST PRODUCTION COSTS USED BY A TAXPAYER EITHER AS THE BASIS FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER THIS SECTION OR USED IN THE CALCULATION OF THE CREDIT PROVIDED FOR UNDER THIS SECTION SHALL BE USED BY SUCH TAXPAYER TO CLAIM ANY OTHER CREDIT ALLOWED PURSUANT TO THIS CHAPTER.

(B) DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(1) "QUALIFIED FILM PRODUCTION COMPANY" AND "QUALIFIED FILM" SHALL HAVE THE SAME MEANING AS ARE ASCRIBED TO SUCH TERMS BY SECTION TWENTY-FOUR OF THIS ARTICLE.

(2) "POST PRODUCTION COSTS" MEANS PRODUCTION OF ORIGINAL CONTENT FOR A QUALIFIED FILM EMPLOYING TRADITIONAL, EMERGING AND NEW WORKFLOW TECHNIQUES USED IN POST-PRODUCTION FOR PICTURE, SOUND AND MUSIC EDITORIAL, RERECORDING AND MIXING, VISUAL EFFECTS, GRAPHIC DESIGN, ORIGINAL SCORING, ANIMATION, AND MUSICAL COMPOSITION; BUT SHALL NOT INCLUDE THE EDITING OF PREVIOUSLY PRODUCED CONTENT FOR A QUALIFIED FILM.

(3) "POST PRODUCTION FACILITY" MEANS A BUILDING AND/OR COMPLEX OF BUILDINGS AND THEIR IMPROVEMENTS ON WHICH FILM ARE INTENDED TO BE POST PRODUCED.

(4) "QUALIFIED POST PRODUCTION FACILITY" MEANS A POST PRODUCTION FACILITY LOCATED IN THE STATE, ENGAGED IN FINISHING A QUALIFIED FILM.

(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE AGGREGATE AMOUNT OF TAX CREDITS AVAILABLE UNDER THIS SECTION SHALL NOT EXCEED THE AMOUNTS ALLOWED PURSUANT TO SUBDIVISION (E) OF SECTION SEVEN

OF PART P OF CHAPTER SIXTY OF THE LAWS OF TWO THOUSAND FOUR AND SHALL BE ALLOCATED IN THE SAME MANNER AS PROVIDED FOR IN SUBDIVISION (A) OF SECTION SEVEN OF PART P OF CHAPTER SIXTY OF THE LAWS OF TWO THOUSAND FOUR.

(D) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210: SUBDIVISION 41.

(2) ARTICLE 22: SECTION 606: SUBSECTION (QQ).

S 13. Section 210 of the tax law is amended by adding a new subdivision 41 to read as follows:

41. EMPIRE STATE FILM POST PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION THIRTY-ONE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION THIRTY-ONE AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, FIFTY PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE BALANCE OF SUCH CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR MAY BE A CARRY OVER TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY, OF THE AMOUNT OF THE CREDIT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 14. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxi) to read as follows:

(XXXI) EMPIRE STATE FILM POST PRODUCTION CREDIT UNDER SUBSECTION (QQ)	AMOUNT OF CREDIT FOR QUALIFIED POST PRODUCTION COSTS OF A QUALIFIED FILM UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN

S 15. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) EMPIRE STATE FILM POST PRODUCTION CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION THIRTY-ONE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION THIRTY-ONE AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, FIFTY PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE BALANCE OF SUCH CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY BE

DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY, OF THE AMOUNT OF THE CREDIT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 16. This act shall take effect immediately; provided that sections one through nine of this act shall apply to applications for credit awarded under additional pool 2 authorized by section two of this act.

PART R

Section 1. It is the intent of the legislature to clarify and confirm that the amendments made to the general municipal law by chapter 57 of the laws of 2009 that require the revocation of certification of certain business entities previously certified under the empire zones program are intended to be effective for the taxable year in which the revocation of certification occurs and for all subsequent taxable years, notwithstanding that any such business entity may subsequently apply for certification pursuant to part 11 of title 5 of the New York state codes, rules and regulations, and that such revocations of certification that occur in 2009 are deemed to be in effect for the taxable year commencing on or after January 1, 2008 and before January 1, 2009.

S 2. Subdivision (a) of section 959 of the general municipal law, as amended by section 3 of part S-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(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 certification by the commissioner 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 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 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 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; (4) where applicable, the business enterprise has failed to submit an annual report after it has applied for zone tax benefits or program assistance based on new hires or investments or failed to submit other information when due; (5) the business enterprise, 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; WITH RESPECT TO ANY BUSINESS ENTERPRISE WHOSE CERTIFICATION HAS BEEN REVOKED PURSUANT TO SUBPARAGRAPH FIVE OR SIX OF THIS PARAGRAPH, THAT REVOCATION (I) WILL BE EFFECTIVE FOR A TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHT AND BEFORE JANUARY FIRST, TWO THOUSAND NINE AND FOR SUBSEQUENT TAXABLE YEARS, UNLESS THE BUSINESS ENTERPRISE IS SUBSEQUENTLY RE-CERTIFIED PURSUANT TO PART 11 OF TITLE 5 OF THE NEW YORK STATE CODES, RULES AND REGULATIONS FOR A BUSINESS ENTERPRISE FOR WHICH A REVIEW IS REQUIRED TO BE CONDUCTED PURSUANT TO SUBDIVISION (W) OF THIS SECTION IN CALENDAR YEAR TWO THOUSAND NINE, AND (II) THEREAFTER WILL BE EFFECTIVE FOR THE TAXABLE YEAR DURING WHICH THE COMMISSIONER MAKES HIS OR HER DETERMINATION (PRIOR TO ANY APPEAL) TO REVOKE THE CERTIFICATION OF A BUSINESS ENTERPRISE AND FOR SUBSEQUENT TAXABLE YEARS;

S 3. Subdivision (w) of section 959 of the general municipal law, as amended by section 3 of part S-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(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)] (V) 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] SUFFICIENT evidence presented BY THE BUSINESS ENTERPRISE 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. Section 969 of the general municipal law is amended by adding two new subdivisions (f) and (g) to read as follows:

(F) NOTWITHSTANDING SUBDIVISION (A) OF THIS SECTION, IF THE ZONE ADMINISTRATIVE BOARD DEMONSTRATES THAT, PRIOR TO THE DATE THE EMPIRE ZONES EXPIRE UNDER THIS SECTION, THAT IT HAD SUBMITTED A PRELIMINARY APPLICATION TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT REQUESTING TO REVISE THE BOUNDARIES OF ITS ZONE IN ORDER TO ACCOMMODATE A PROJECT THAT WOULD RESULT IN THE CREATION OF JOBS WITHIN THE ZONE, THE COMMISSIONER OF ECONOMIC DEVELOPMENT MAY REVIEW AND APPROVE SUCH BOUNDARY REVISION AND, IF APPROVED, MAY ESTABLISH AN EFFECTIVE DATE PRIOR TO THE DATE THE EMPIRE ZONES EXPIRE PURSUANT TO SUBDIVISION (A) OF THIS SECTION.

(G) NOTWITHSTANDING ANY REGULATIONS TO THE CONTRARY, A REGIONALLY SIGNIFICANT PROJECT AS DEFINED IN PARAGRAPH (I) OF SUBDIVISION (D) OF SECTION NINE HUNDRED FIFTY-SEVEN OF THIS ARTICLE, THAT WAS DEEMED ELIGIBLE BY THE LOCAL ZONE ADMINISTRATIVE BOARD AND RECOMMENDED FOR APPROVAL TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT ON OR BEFORE THE DATE THE EMPIRE ZONES EXPIRE PURSUANT TO SUBDIVISION (A) OF THIS SECTION, THE COMMISSIONER OF ECONOMIC DEVELOPMENT, IF THE PROJECT IS APPROVED, MAY ESTABLISH AN EFFECTIVE DATE PRIOR TO THE DATE THE EMPIRE ZONES EXPIRE PURSUANT TO SUBDIVISION (A) OF THIS SECTION.

S 5. Paragraph 6 of subdivision (d) of section 1119 of the tax law, as added by section 31 of part S-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(6) Any reference in this chapter OR IN ANY LOCAL LAW, ORDINANCE OR RESOLUTION ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF THIS CHAPTER to former subdivision (z) of section eleven hundred fifteen of this article will be deemed to be a reference to this subdivision, AND ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION WHICH PROVIDES THE EXEMPTIONS DESCRIBED IN FORMER SUBDIVISION (Z) OF SUCH SECTION ELEVEN HUNDRED FIFTEEN SHALL BE DEEMED INSTEAD TO PROVIDE THE REFUNDS AND CREDITS DESCRIBED IN THIS SUBDIVISION.

S 6. Subdivision (a) of section 17 of the tax law, as added by section 43 of part S-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(a) The department of taxation and finance must publish an empire zones tax benefits report annually by [January thirty-first] JUNE THIRTIETH. The first report must be published by [January thirty-first] JUNE THIRTIETH, two thousand [thirteen] ELEVEN.

S 7. Subdivision (d) of section 44 of part S-1 of chapter 57 of the laws of 2009, amending the general municipal law and the tax law relating to enacting reforms to the empire zones program, is amended to read as follows:

(d) section forty-two of this act shall take effect on January 1, [2012] 2010; and

S 8. Subdivision 12-B of section 210 of the tax law is amended by adding two new paragraphs (g) and (h) to read as follows:

(G) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS CERTIFIED AS A QUALIFIED INVESTMENT PROJECT PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS A QUALIFIED INVESTMENT PROJECT ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS.

(H) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND EXCEPT AS PROVIDED IN PARAGRAPH (G) OF THIS SUBDIVISION, A TAXPAYER THAT IS CERTIFIED AS AN EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION UNTIL APRIL FIRST, TWO THOUSAND FOURTEEN. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF THIS SUBDIVISION UNTIL APRIL FIRST, TWO THOUSAND FOURTEEN.

S 9. Subsection (j) of section 606 of the tax law is amended by adding a new paragraph 7 to read as follows:

(7) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS CERTIFIED AS AN EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION UNTIL APRIL FIRST, TWO THOUSAND FOURTEEN. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF THIS SUBDIVISION UNTIL APRIL FIRST, TWO THOUSAND FOURTEEN.

S 10. Subdivision 12-C of section 210 of the tax law is amended by adding two new paragraphs (d) and (e) to read as follows:

(D) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS CERTIFIED AS A QUALIFIED INVESTMENT PROJECT PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS A QUALIFIED INVESTMENT PROJECT ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF

THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS.

(E) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVISION, A TAXPAYER THAT IS CERTIFIED AS AN EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED IN THE EMPIRE ZONE IN WHICH THE TAXPAYER WAS CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED FOR EACH OF THE THREE YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUBDIVISION TWELVE-B IS ALLOWED.

S 11. Subsection (j-1) of section 606 of the tax law is amended by adding a new subdivision (4) to read as follows:

(4) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS CERTIFIED AS AN EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED IN THE EMPIRE ZONE IN WHICH THE TAXPAYER WAS CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED FOR EACH OF THE THREE YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUBDIVISION (J) IS ALLOWED.

S 12. Section 14 of the tax law is amended by adding a new subdivision (h) to read as follows:

(H) SALES AND USE TAX. (1) IN ADDITION TO THE OTHER REQUIREMENTS OF THIS SECTION, FOR BUSINESS ENTERPRISES CERTIFIED PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW PRIOR TO APRIL FIRST, TWO THOUSAND NINE, IN ORDER FOR AN EXEMPTION UNDER SUBDIVISION (Z) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER OR THE CREDIT OR REFUND DESCRIBED IN SUBDIVISION (D) OF SECTION ELEVEN HUNDRED NINETEEN OF THIS CHAPTER OR ANY LIKE EXEMPTION OR CREDIT OR REFUND IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF THIS CHAPTER TO APPLY WITH RESPECT TO A QUALIFIED EMPIRE ZONE ENTERPRISE, SUCH ENTERPRISE SHALL APPLY TO THE COMMISSIONER OF TAXATION AND FINANCE FOR THE ISSUANCE OF A QUALIFIED EMPIRE ZONE ENTERPRISE CERTIFICATION IN THE MANNER PRESCRIBED BY THE COMMISSIONER. IF SUCH COMMISSIONER GRANTS SUCH CERTIFICATION, SUCH CERTIFICATION SHALL BE SUBJECT TO CONDITIONS SPECIFIED BY SUCH COMMISSIONER. NOTHING HEREIN OR IN ANY OTHER LAW SHALL BE CONSTRUED TO PROHIBIT THE DISCLOSURE, IN SUCH MANNER AS THE COMMISSIONER OF TAXATION AND FINANCE DEEMS APPROPRIATE, OF THE NAMES AND OTHER APPROPRIATE IDENTIFYING INFORMATION OF THOSE PERSONS HOLDING QUALIFIED EMPIRE ZONE CERTIFICATIONS PURSUANT TO THIS SUBDIVISION, THOSE PERSONS WHOSE QUALIFIED EMPIRE ZONE ENTERPRISE CERTIFICATIONS HAVE BEEN REVOKED OR PERSONS WHOSE QUALIFIED EMPIRE ZONE ENTERPRISE CERTIFICATIONS HAVE EXPIRED. THE COMMISSIONER SHALL NOT GRANT ANY CERTIFICATIONS PURSUANT TO THIS SUBDIVISION AFTER JUNE THIRTIETH, TWO THOUSAND TEN.

(2) A BUSINESS ENTERPRISE, CERTIFIED AS AN EMPIRE ZONE BUSINESS UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW PRIOR TO APRIL FIRST, TWO THOUSAND NINE, AND CERTIFIED AS A QUALIFIED EMPIRE ZONE ENTERPRISE BY THE COMMISSIONER OF TAXATION AND FINANCE PRIOR TO AUGUST FIRST, TWO THOUSAND NINE, IS ELIGIBLE TO CLAIM THE EXEMPTION UNDER SUBDIVISION (Z) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER OR ANY LIKE EXEMPTION FROM TAX IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF THIS CHAPTER UNTIL SEPTEMBER FIRST, TWO THOUSAND NINE, PROVIDED THAT THE OTHER REQUIREMENTS OF THE STATUTE ARE MET. A BUSINESS ENTERPRISE CERTI-

FIED AS AN EMPIRE ZONE BUSINESS UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW PRIOR TO APRIL FIRST, TWO THOUSAND NINE, AND CERTIFIED AS A QUALIFIED EMPIRE ZONE ENTERPRISE BY THE COMMISSIONER OF TAXATION AND FINANCE AS OF OR PRIOR TO JUNE THIRTIETH, TWO THOUSAND TEN, IS ELIGIBLE TO CLAIM THE CREDIT OR REFUND UNDER SUBDIVISION (D) OF SECTION ELEVEN HUNDRED NINETEEN OF THIS CHAPTER OR ANY LIKE CREDIT OR REFUND IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF THIS CHAPTER, PROVIDED THAT THE OTHER REQUIREMENTS OF THE STATUTE ARE MET DURING THE TERM OF ITS SALES AND USE TAX BENEFIT PERIOD NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW.

(3) DURING THE PERIOD THAT A BUSINESS ENTERPRISE IS ELIGIBLE TO APPLY, OR IS QUALIFIED, FOR AN EXEMPTION OR A CREDIT OR REFUND OF THE SALES AND COMPENSATING USE TAXES UNDER THIS SECTION, THE COMMISSIONER OF ECONOMIC DEVELOPMENT SHALL, AT THE TIME SUCH COMMISSIONER CERTIFIES OR DECERTIFIES A BUSINESS ENTERPRISE UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, NOTIFY THE COMMISSIONER OF TAXATION AND FINANCE OF SUCH CERTIFICATION OR DECERTIFICATION, WHICH NOTIFICATION SHALL INCLUDE THE FULL LEGAL NAME, ADDRESS AND FEDERAL EMPLOYER IDENTIFICATION NUMBER OF SUCH ENTERPRISE. THE COMMISSIONER OF ECONOMIC DEVELOPMENT SHALL, AT THE TIME OF ANY SUCH CERTIFICATION, ALSO ADVISE SUCH ENTERPRISE OF THE REQUIREMENTS IN PARAGRAPH ONE OF THIS SUBDIVISION.

S 13. Subdivision (e) of section 15 of the tax law, as amended by chapter 161 of the laws of 2005, is amended to read as follows:

(e) Eligible real property taxes. The term "eligible real property taxes" means taxes imposed on real property which is owned by the QEZE and located in an empire zone with respect to which the QEZE is certified pursuant to article eighteen-B of the general municipal law, provided such taxes are paid by the QEZE which is the owner of the real property or are paid by a tenant which either (i) does not meet the eligibility requirements under section fourteen of this article to be a QEZE or (ii) cannot treat such payment as eligible real property taxes pursuant to this paragraph and such taxes become a lien on the real property during a taxable year in which the owner of the real property is both certified pursuant to article eighteen-B of the general municipal law and a qualified empire zone enterprise. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "TAX" MEANS A CHARGE IMPOSED UPON REAL PROPERTY BY OR ON BEHALF OF A COUNTY, CITY, TOWN, VILLAGE OR SCHOOL DISTRICT FOR MUNICIPAL OR SCHOOL DISTRICT PURPOSES, PROVIDED THAT THE CHARGE IS LEVIED FOR THE GENERAL PUBLIC WELFARE BY THE PROPER TAXING AUTHORITIES AT A LIKE RATE AGAINST ALL PROPERTY IN THE TERRITORY OVER WHICH SUCH AUTHORITIES HAVE JURISDICTION, AND PROVIDED THAT WHERE TAXES ARE LEVIED PURSUANT TO ARTICLE EIGHTEEN OR ARTICLE NINETEEN OF THE REAL PROPERTY TAX LAW, THE PROPERTY MUST HAVE BEEN TAXED AT THE RATE DETERMINED FOR THE CLASS IN WHICH IT IS CONTAINED, AS PROVIDED BY SUCH ARTICLE EIGHTEEN OR NINETEEN, WHICHEVER IS APPLICABLE. THE TERM "TAX" DOES NOT INCLUDE A CHARGE FOR LOCAL BENEFITS, INCLUDING ANY PORTION OF THAT CHARGE THAT IS PROPERLY ALLOCATED TO THE COSTS ATTRIBUTABLE TO MAINTENANCE OR INTEREST, WHEN (1) THE PROPERTY SUBJECT TO THE CHARGE IS LIMITED TO THE PROPERTY THAT BENEFITS FROM THE CHARGE, OR (2) THE AMOUNT OF THE CHARGE IS DETERMINED BY THE BENEFIT TO THE PROPERTY ASSESSED, OR (3) THE IMPROVEMENT FOR WHICH THE CHARGE IS ASSESSED TENDS TO INCREASE THE PROPERTY VALUE. In addition, "eligible real property taxes" shall include taxes paid by a QEZE which is a lessee of real property if the following conditions are satisfied: (1) the taxes must be paid by the lessee pursuant to explicit requirements in a written lease executed or amended on or after

June first, two thousand five, (2) such taxes become a lien on the real property during a taxable year in which the lessee of the real property is both certified pursuant to article eighteen-B of the general municipal law and a qualified empire zone enterprise, and (3) the lessee has made direct payment of such taxes to the taxing authority and has received a receipt for such payment of taxes from the taxing authority. In addition, the term "eligible real property taxes" includes payments in lieu of taxes made by the QEZE to the state, a municipal corporation or a public benefit corporation pursuant to a written agreement entered into between the QEZE and the state, municipal corporation, or public benefit corporation. Provided, however, a payment in lieu of taxes made by the QEZE pursuant to a written agreement executed or amended on or after January first, two thousand one, shall not constitute eligible real property taxes in any taxable year to the extent that such payment exceeds the product of (A) the greater of (i) the basis for federal income tax purposes, calculated without regard to depreciation, determined as of the effective date of the QEZE's certification pursuant to article eighteen-B of the general municipal law of real property, including buildings and structural components of buildings, owned by the QEZE and located in empire zones with respect to which the QEZE is certified pursuant to such article eighteen-B of the general municipal law, and provided that if such basis is further adjusted or reduced pursuant to any provision of the internal revenue code, the QEZE may petition the department, the department of economic development and the office of real property services to disregard such reduction or adjustment for the purpose of this subdivision or (ii) the basis for federal income tax purposes of such real property described in clause (i) of this subparagraph, calculated without regard to depreciation, on the last day of the taxable year, and provided that if such basis is further adjusted or reduced pursuant to any provision of the internal revenue code, the QEZE may petition the department, the department of economic development and the office of real property services to disregard such reduction or adjustment for the purpose of this subdivision; and (B) the estimated effective full value tax rate within the county in which such property is located, as most recently reported to the commissioner by the secretary of the state board of real property services, or his or her designee. The state board shall annually calculate estimated effective full value tax rates within each county for this purpose based upon the most current information available to it in relation to county, city, town, village and school district taxes.

S 14. Subdivision 20 of section 210 of the tax law is amended by adding a new paragraph (f) to read as follows:

(F) IF THE DESIGNATION OF AN AREA AS AN EMPIRE ZONE IS NO LONGER IN EFFECT BECAUSE THE DESIGNATIONS OF ALL EMPIRE ZONES PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW HAVE EXPIRED, A TAXPAYER THAT HAS MADE A CONTRIBUTION OF MONEY ON OR BEFORE THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES EXPIRED TO A COMMUNITY DEVELOPMENT PROJECT APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT SHALL BE DEEMED ELIGIBLE TO CLAIM THE EMPIRE ZONE CAPITAL CREDIT UNDER SUBPARAGRAPH THREE OF PARAGRAPH (A) OF THIS SUBDIVISION FOR ADDITIONAL CONTRIBUTIONS MADE PRIOR TO APRIL FIRST, TWO THOUSAND FOURTEEN AND CERTIFIED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO THAT COMMUNITY DEVELOPMENT PROJECT AS PAYMENT OF A COMMITMENT MADE BY THE TAXPAYER TO THAT COMMUNITY DEVELOPMENT PROJECT BEFORE THE EMPIRE ZONES EXPIRED.

S 15. Subsection (l) of section 606 of the tax law is amended by adding a new paragraph 5 to read as follows:

(5) IF THE DESIGNATION OF AN AREA AS AN EMPIRE ZONE IS NO LONGER IN EFFECT BECAUSE THE DESIGNATIONS OF ALL EMPIRE ZONES PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW HAVE EXPIRED, A TAXPAYER THAT HAS MADE A CONTRIBUTION OF MONEY ON OR BEFORE THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES EXPIRED TO A COMMUNITY DEVELOPMENT PROJECT APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT SHALL BE DEEMED ELIGIBLE TO CLAIM THE EMPIRE ZONE CAPITAL CREDIT UNDER SUBPARAGRAPH (C) OF PARAGRAPH ONE OF THIS SUBSECTION FOR ADDITIONAL CONTRIBUTIONS MADE PRIOR TO APRIL FIRST, TWO THOUSAND FOURTEEN AND CERTIFIED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO THAT COMMUNITY DEVELOPMENT PROJECT AS PAYMENT OF A COMMITMENT MADE BY THE TAXPAYER TO THAT COMMUNITY DEVELOPMENT PROJECT BEFORE THE EMPIRE ZONES EXPIRED.

S 16. Subsection (d) of section 1456 of the tax law is amended by adding a new paragraph 5 to read as follows:

(5) IF THE DESIGNATION OF AN AREA AS AN EMPIRE ZONE IS NO LONGER IN EFFECT BECAUSE THE DESIGNATIONS OF ALL EMPIRE ZONES PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW HAVE EXPIRED, A TAXPAYER THAT HAS MADE A CONTRIBUTION OF MONEY ON OR BEFORE THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES EXPIRED TO A COMMUNITY DEVELOPMENT PROJECT APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT SHALL BE DEEMED ELIGIBLE TO CLAIM THE EMPIRE ZONE CAPITAL CREDIT UNDER SUBPARAGRAPH (C) OF PARAGRAPH ONE OF THIS SUBSECTION FOR ADDITIONAL CONTRIBUTIONS MADE PRIOR TO APRIL FIRST, TWO THOUSAND FOURTEEN AND CERTIFIED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO THAT COMMUNITY DEVELOPMENT PROJECT AS PAYMENT OF A COMMITMENT MADE BY THE TAXPAYER TO THAT COMMUNITY DEVELOPMENT PROJECT BEFORE THE EMPIRE ZONES EXPIRED.

S 17. Subdivision (h) of section 1511 of the tax law is amended by adding a new paragraph 5 to read as follows:

(5) IF THE DESIGNATION OF AN AREA AS AN EMPIRE ZONE IS NO LONGER IN EFFECT BECAUSE THE DESIGNATIONS OF ALL EMPIRE ZONES PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW HAVE EXPIRED, A TAXPAYER THAT HAS MADE A CONTRIBUTION OF MONEY ON OR BEFORE THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES EXPIRED TO A COMMUNITY DEVELOPMENT PROJECT APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT SHALL BE DEEMED ELIGIBLE TO CLAIM THE EMPIRE ZONE CAPITAL CREDIT UNDER SUBPARAGRAPH (C) OF PARAGRAPH ONE OF THIS SUBDIVISION FOR ADDITIONAL CONTRIBUTIONS MADE PRIOR TO APRIL FIRST, TWO THOUSAND FOURTEEN AND CERTIFIED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO THAT COMMUNITY DEVELOPMENT PROJECT AS PAYMENT OF A COMMITMENT MADE BY THE TAXPAYER TO THAT COMMUNITY DEVELOPMENT PROJECT BEFORE THE EMPIRE ZONES EXPIRED.

S 18. This act shall take effect immediately, provided that the amendments to section 14 of the tax law, made by section twelve of this act shall take effect immediately and be deemed to have been in full force and effect on April 1, 2009; and provided, however, that section thirteen of this act shall take effect immediately and apply to all taxable years beginning on or after January 1, 2010 and, except with respect to maintenance or interest charges, to all taxable years for which the statute of limitations for seeking a refund or assessing additional tax are still open.

PART S

Section 1. This act enacts into law major components of legislation relating to tax enforcement, sales tax avoidance and statements of industrial agencies and their agents. Each component is wholly contained within a Subpart identified as Subparts A through C. The

effective date for each particular 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 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 act sets forth the general effective date of this act.

SUBPART A

Section 1. The tax law is amended by adding two new sections 1808 and 1809 to read as follows:

S 1808. PERSONAL INCOME AND EARNINGS TAXES; REPEATED FAILURE TO FILE. (A) ANY PERSON WHO, WITH INTENT TO EVADE PAYMENT OF ANY TAX IMPOSED UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER OR ANY RELATED INCOME OR EARNINGS TAX STATUTE, FAILS TO FILE A RETURN FOR THREE CONSECUTIVE TAXABLE YEARS SHALL BE GUILTY OF A CLASS E FELONY, PROVIDED THAT SUCH PERSON HAD AN UNPAID TAX LIABILITY WITH RESPECT TO EACH OF THE THREE CONSECUTIVE TAXABLE YEARS.

(B) IN ANY PROSECUTION FOR A VIOLATION OF SUBDIVISION (A) OF THIS SECTION, IT SHALL BE A DEFENSE THAT THE DEFENDANT HAD NO UNPAID TAX LIABILITY FOR ANY OF THE THREE CONSECUTIVE TAXABLE YEARS.

(C) AS USED IN THIS SUBDIVISION, THE TERM "RETURN" SHALL MEAN A RETURN REQUIRED UNDER SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER, SECTION 11-1751 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK OR SECTION 92-85 OR 92-105 OF THE CODES AND ORDINANCES OF THE CITY OF YONKERS. IT SHALL NOT INCLUDE ANY INFORMATION RETURN REFERRED TO IN SUBSECTION (I) OF SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER, OR SUBDIVISION (I) OF SECTION 11-1751 OF SUCH CODE, OR SUBDIVISION (G) OF SECTION 92-105 OF SUCH CODES AND ORDINANCES, OR SECTION SIX HUNDRED FIFTY-EIGHT OF THIS CHAPTER OR SECTION 11-1758 OF SUCH CODE OR SECTION 92-111 OF SUCH CODES AND ORDINANCES, OR ANY EMPLOYER'S RETURN REQUIRED BY SECTION SIX HUNDRED SEVENTY-FOUR OF THIS CHAPTER OR SECTION 11-1774 OF SUCH CODE.

S 1809. CORPORATE TAXES; REPEATED FAILURE TO FILE. (A) ANY PERSON WHO, WITH INTENT TO EVADE PAYMENT OF ANY TAX IMPOSED UNDER ARTICLE NINE (OTHER THAN UNDER SECTION ONE HUNDRED EIGHTY OR ONE HUNDRED EIGHTY-ONE), NINE-A, THIRTEEN, THIRTY-TWO, THIRTY-THREE OR THIRTY-THREE-A OF THIS CHAPTER, FAILS TO FILE A RETURN OR REPORT FOR THREE CONSECUTIVE TAXABLE YEARS SHALL BE GUILTY OF A CLASS E FELONY, PROVIDED THAT SUCH PERSON HAD AN UNPAID TAX LIABILITY, IN EXCESS OF THE THRESHOLD AMOUNT WITH RESPECT TO EACH OF THE THREE CONSECUTIVE TAXABLE YEARS. THE THRESHOLD AMOUNT IN THE CASE OF A TAXABLE YEAR UNDER ARTICLE NINE-A OF THIS CHAPTER ENDING AFTER JUNE THIRTIETH, NINETEEN HUNDRED EIGHTY-NINE IS THE APPLICABLE FIXED DOLLAR MINIMUM PRESCRIBED UNDER PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. IN THE EVENT SUCH FIXED DOLLAR MINIMUM IS LESS THAN TWO HUNDRED FIFTY DOLLARS, THE THRESHOLD AMOUNT IN THE CASE OF SUCH TAXABLE YEAR IS TWO HUNDRED FIFTY DOLLARS. IN ALL OTHER CASES THE THRESHOLD AMOUNT IS TWO HUNDRED FIFTY DOLLARS.

(B) IN ANY PROSECUTION FOR A VIOLATION OF SUBDIVISION (A) OF THIS SECTION, IT SHALL BE A DEFENSE THAT THE DEFENDANT HAD NO UNPAID TAX LIABILITY FOR ANY OF THE THREE CONSECUTIVE TAXABLE YEARS.

(C) AS USED IN THIS SECTION, THE TERMS "RETURN" AND "REPORT" SHALL MEAN A RETURN OR REPORT REQUIRED UNDER SECTION ONE HUNDRED NINETY-TWO, TWO HUNDRED ELEVEN, TWO HUNDRED NINETY-FOUR, FOURTEEN HUNDRED SIXTY-TWO, FIFTEEN HUNDRED FIFTEEN OR FIFTEEN HUNDRED FIFTY-FOUR OF THIS CHAPTER.

IT SHALL NOT INCLUDE ANY RETURN OR REPORT REFERRED TO IN SECTION ONE HUNDRED NINETY-SEVEN-A, TWO HUNDRED THIRTEEN-A, FOURTEEN HUNDRED SIXTY OR FIFTEEN HUNDRED THIRTEEN OF THIS CHAPTER.

S 2. Paragraph (b) of subdivision 3-a of section 170 of the tax law, as amended by section 1 of subpart C of part V-1 of chapter 57 of the laws of 2009, is 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. 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, 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. The commissioner shall notify the division of tax appeals when any person requests a conference or requests to discontinue such conference.

S 3. Paragraph (h) of subdivision 3-a of section 170 of the tax law, as added by section 2 of subpart C of part V-1 of chapter 57 of the laws of 2009, is amended 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 EXCLUDING A CERTIFICATE OF REGISTRATION OF A RETAIL DEALER UNDER SECTION FOUR HUNDRED EIGHTY-A 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 FOR REGISTRATION AS A RETAIL DEALER UNDER SECTION FOUR HUNDRED EIGHTY-A OF THIS CHAPTER AND 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] THE MAILING of that notice.

S 4. Paragraphs (a) and (b) of subdivision 2 of section 2008 of the tax law, as added by section 3 of subpart C of part V-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(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 EXCLUDING A CERTIFICATE OF REGISTRATION OF A RETAIL DEALER UNDER SECTION FOUR HUNDRED EIGHTY-A 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 FOR REGISTRATION AS A RETAIL DEALER UNDER SECTION FOUR HUNDRED EIGHTY-A OF THIS CHAPTER AND 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] THE MAILING 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] A PARTY 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.

S 5. Section 1807 of the tax law, as added by section 21 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

S 1807. Aggregation. For purposes of this article, the payments due and not paid under A SINGLE 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 6. Section 34 of subpart I of part V-1 of chapter 57 of the laws of 2009, amending the criminal procedure law, the penal law, and the tax law relating to creating the offense of "tax fraud act", is amended to read as follows:

S 34. This act shall take effect immediately and SECTIONS TWO THROUGH THIRTY-THREE OF THIS ACT SHALL apply to offenses committed on and after such effective date.

S 7. This act shall take effect immediately; provided however that section one of this act shall apply to offenses committed on and after such effective date.

SUBPART B

Section 1. Subparagraph (iv) of paragraph 4 of subdivision (b) of section 1101 of the tax law, as added by chapter 93 of the laws of 1965, clause (B) as amended by chapter 575 of the laws of 1965 and as renumbered by chapter 2 of the laws of 1995, is amended to read as follows:

(iv) (A) The term retail sale does not include:

[(A)] (I) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the law of New York or any other jurisdiction.

[(B)] (II) The distribution of property by a corporation to its stockholders as a liquidating dividend.

[(C)] (III) The distribution of property by a partnership to its partners in whole or partial liquidation.

[(D)] (IV) The transfer of property to a corporation upon its organization in consideration for the issuance of its stock.

[(E)] (V) The contribution of property to a partnership in consideration for a partnership interest therein.

(B) FOR AN EXCEPTION APPLICABLE TO THIS SUBPARAGRAPH, SEE SUBDIVISION (Q) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

S 2. Paragraph 17 of subdivision (b) of section 1101 of the tax law, as amended by section 1 of part N-1 of chapter 57 of the laws of 2009, 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 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. FOR AN EXCEPTION TO THE EXCLUSIONS FROM THE DEFINITION OF "RETAIL SALE" APPLICABLE TO AIRCRAFT, SEE SUBDIVISION (Q) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

S 3. Section 1111 of the tax law is amended by adding a new subdivision (q) to read as follows:

(Q) (1) THE EXCLUSIONS FROM THE DEFINITION OF RETAIL SALE IN SUBPARAGRAPH (IV) OF PARAGRAPH FOUR OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE OF THIS ARTICLE SHALL NOT APPLY TO TRANSFERS, DISTRIBUTIONS, OR CONTRIBUTIONS OF AN AIRCRAFT OR VESSEL, EXCEPT WHERE, IN THE CASE OF THE EXCLUSION IN SUBCLAUSE (I) OF CLAUSE (A) OF SUCH SUBPARAGRAPH (IV), THE TWO CORPORATIONS TO BE MERGED OR CONSOLIDATED ARE NOT AFFILIATED PERSONS WITH RESPECT TO EACH OTHER. FOR PURPOSES OF THIS SUBDIVISION, CORPORATIONS ARE AFFILIATED PERSONS WITH RESPECT TO EACH OTHER WHERE (I) MORE THAN FIVE PERCENT OF THEIR COMBINED SHARES ARE OWNED BY MEMBERS OF THE SAME FAMILY, AS DEFINED BY PARAGRAPH FOUR OF SUBSECTION (C) OF SECTION TWO HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE OF NINETEEN HUNDRED EIGHTY-SIX; (II) ONE OF THE CORPORATIONS HAS AN OWNERSHIP INTEREST OF MORE THAN FIVE PERCENT, WHETHER DIRECT OR INDIRECT, IN THE OTHER; OR (III) ANOTHER PERSON OR A GROUP OF OTHER PERSONS THAT ARE AFFILIATED PERSONS WITH RESPECT TO EACH OTHER HOLD AN OWNERSHIP INTEREST OF MORE THAN FIVE PERCENT, WHETHER DIRECT OR INDIRECT, IN EACH OF THE CORPORATIONS.

(2) NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, IN RELATION TO ANY TRANSFER, DISTRIBUTION, OR CONTRIBUTION OF AN AIRCRAFT OR VESSEL THAT QUALIFIES AS A RETAIL SALE AS A RESULT OF PARAGRAPH ONE OF THIS SUBDIVISION, THE SALES TAX IMPOSED BY SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIVE OF THIS PART SHALL BE COMPUTED BASED ON THE PRICE AT WHICH THE SELLER PURCHASED THE TANGIBLE PERSONAL PROPERTY, PROVIDED THAT WHERE THE SELLER OR PURCHASER AFFIRMATIVELY SHOWS THAT THE SELLER OWNED THE PROPERTY FOR SIX MONTHS PRIOR TO MAKING THE TRANSFER, DISTRIBUTION OR CONTRIBUTION COVERED BY PARAGRAPH ONE OF THIS SUBDIVISION, SUCH AIRCRAFT OR VESSEL SHALL BE TAXED ON THE BASIS OF THE CURRENT MARKET VALUE OF THE AIRCRAFT OR VESSEL AT THE TIME OF THAT TRANSFER, DISTRIBUTION, OR CONTRIBUTION. FOR THE PURPOSES OF THE PRIOR SENTENCE, "CURRENT MARKET VALUE" SHALL NOT EXCEED THE COST OF THE AIRCRAFT OR VESSEL. SEE SUBDIVISION (B) OF THIS SECTION FOR A SIMILAR RULE ON THE COMPUTATION OF ANY COMPENSATING USE TAX DUE UNDER SECTION ELEVEN HUNDRED TEN OF THIS PART ON SUCH TRANSFERS, DISTRIBUTIONS, OR CONTRIBUTIONS.

(3) A PURCHASER OF AN AIRCRAFT OR VESSEL COVERED BY PARAGRAPH ONE OF THIS SUBDIVISION WILL BE ENTITLED TO A REFUND OR CREDIT AGAINST THE

SALES OR COMPENSATING USE TAX DUE AS A RESULT OF A TRANSFER, DISTRIBUTION, OR CONTRIBUTION OF SUCH AIRCRAFT OR VESSEL IN THE AMOUNT OF ANY SALES OR USE TAX PAID TO THIS STATE OR ANY OTHER STATE ON THE SELLER'S PURCHASE OR USE OF THE AIRCRAFT OR VESSEL SO TRANSFERRED, DISTRIBUTED OR CONTRIBUTED, BUT NOT TO EXCEED THE TAX DUE ON THE TRANSFER, DISTRIBUTION, OR CONTRIBUTION OF THE AIRCRAFT OR VESSEL OR ON THE PURCHASER'S USE IN THE STATE OF THE AIRCRAFT OR VESSEL SO TRANSFERRED, DISTRIBUTED OR CONTRIBUTED. AN APPLICATION FOR A REFUND OR CREDIT UNDER THIS SUBDIVISION MUST BE FILED AND SHALL BE IN SUCH FORM AS THE COMMISSIONER MAY PRESCRIBE. WHERE AN APPLICATION FOR CREDIT HAS BEEN FILED, THE APPLICANT MAY IMMEDIATELY TAKE SUCH CREDIT ON THE RETURN WHICH IS DUE COINCIDENT WITH OR IMMEDIATELY SUBSEQUENT TO THE TIME THE APPLICATION FOR CREDIT IS FILED. HOWEVER, THE TAKING OF THE CREDIT ON THE RETURN SHALL BE DEEMED TO BE PART OF THE APPLICATION FOR CREDIT. PROVIDED THAT THE COMMISSIONER MAY, IN HIS OR HER DISCRETION AND NOTWITHSTANDING ANY OTHER LAW, WAIVE THE APPLICATION REQUIREMENT FOR ANY OR ALL CLASSES OF PERSONS WHERE THE AMOUNT OF THE CREDIT OR REFUND IS EQUAL TO THE AMOUNT OF THE TAX DUE FROM THE PURCHASER. THE PROVISIONS OF SUBDIVISIONS (A), (B), AND (C) OF SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS ARTICLE SHALL APPLY TO APPLICATIONS FOR REFUND OR CREDIT UNDER THIS SUBDIVISION. NO INTEREST SHALL BE ALLOWED OR PAID ON ANY REFUND MADE OR CREDIT ALLOWED UNDER THIS SUBDIVISION. IF A REFUND IS GRANTED OR A CREDIT ALLOWED UNDER THIS PARAGRAPH, THE SELLER OR PURCHASER SHALL NOT BE ELIGIBLE FOR A REFUND OR CREDIT PURSUANT TO SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED EIGHTEEN OF THIS ARTICLE WITH REGARD TO THE SAME PURCHASE OR USE.

S 4. Subdivision 2 of section 1118 of the tax law, as amended by section 2 of part N-1 of chapter 57 of the laws of 2009, 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. FOR AN EXCEPTION TO THE EXCLUSIONS FROM THE DEFINITION OF "RETAIL SALE" APPLICABLE TO AIRCRAFT AND VESSELS, SEE SUBDIVISION (Q) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

S 5. This act shall take effect immediately 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, provided that sales or use tax paid on the seller's purchase or use of the aircraft or vessel transferred, distributed or contributed may be refunded or credited as authorized by the new subdivision (q) of section 1111 of the tax law, as added by section three of this act, regardless of the date on which the seller purchased or used the aircraft or vessel.

SUBPART C

Section 1. Section 874 of the general municipal law is amended by adding a new subdivision 9 to read as follows:

(9) WITHIN THIRTY DAYS OF THE DATE THAT THE AGENCY DESIGNATES A PROJECT OPERATOR OR OTHER PERSON TO ACT AS AGENT OF THE AGENCY FOR PURPOSES OF PROVIDING FINANCIAL ASSISTANCE CONSISTING OF ANY SALES AND COMPENSATING USE TAX EXEMPTION TO SUCH PERSON, THE AGENCY SHALL FILE A STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE RELATING THERETO, ON A FORM AND IN SUCH MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE, IDENTIFYING EACH SUCH AGENT SO NAMED BY THE AGENCY, SETTING FORTH THE TAXPAYER IDENTIFICATION NUMBER OF EACH SUCH AGENT, GIVING A BRIEF DESCRIPTION OF THE PROPERTY AND/OR SERVICES INTENDED TO BE EXEMPTED FROM SUCH TAXES AS A RESULT OF SUCH APPOINTMENT AS AGENT, INDICATING THE AGENCY'S ROUGH ESTIMATE OF THE VALUE OF THE PROPERTY AND/OR SERVICES TO WHICH SUCH APPOINTMENT AS AGENT RELATES, INDICATING THE DATE WHEN SUCH DESIGNATION AS AGENT BECAME EFFECTIVE AND INDICATING THE DATE UPON WHICH SUCH DESIGNATION AS AGENT SHALL CEASE.

S 2. Section 1963 of the public authorities law is amended by adding two new subdivisions 3 and 4 to read as follows:

3. AGENTS OF THE AUTHORITY AND PROJECT OPERATORS SHALL ANNUALLY FILE A STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE, ON A FORM AND IN SUCH A MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE, OF THE VALUE OF ALL SALES AND USE TAX EXEMPTIONS CLAIMED BY SUCH AGENTS OR AGENTS OF SUCH AGENTS OR PROJECT OPERATORS, INCLUDING, BUT NOT LIMITED TO, CONSULTANTS OR SUBCONTRACTORS OF SUCH AGENTS OR PROJECT OPERATORS, UNDER THE AUTHORITY GRANTED PURSUANT TO THIS SECTION. THE PENALTY FOR FAILURE TO FILE SUCH STATEMENT SHALL BE THE REMOVAL OF THE AUTHORITY TO ACT AS AN AGENT OF THE AUTHORITY OR AS A PROJECT OPERATOR.

4. WITHIN THIRTY DAYS OF THE DATE THAT THE AUTHORITY DESIGNATES A PROJECT OPERATOR OR OTHER PERSON TO ACT AS AGENT OF THE AUTHORITY FOR PURPOSES OF PROVIDING FINANCIAL ASSISTANCE CONSISTING OF ANY SALES AND COMPENSATING USE TAX EXEMPTION TO SUCH PERSON, THE AGENCY SHALL FILE A STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE RELATING THERETO, ON A FORM AND IN SUCH MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE, IDENTIFYING EACH SUCH AGENT SO NAMED BY THE AUTHORITY, SETTING FORTH THE TAXPAYER IDENTIFICATION NUMBER OF EACH SUCH AGENT, GIVING A BRIEF DESCRIPTION OF THE PROPERTY AND/OR SERVICES INTENDED TO BE EXEMPTED FROM SUCH TAXES AS A RESULT OF SUCH APPOINTMENT AS AGENT, INDICATING THE AUTHORITY'S ROUGH ESTIMATE OF THE VALUE OF THE PROPERTY AND/OR SERVICES TO WHICH SUCH APPOINTMENT AS AGENT RELATES, INDICATING THE DATE WHEN SUCH DESIGNATION AS AGENT BECAME EFFECTIVE AND INDICATING THE DATE UPON WHICH SUCH DESIGNATION AS AGENT SHALL CEASE.

S 3. Section 2326 of the public authorities law is amended by adding two new subdivisions 3 and 4 to read as follows:

3. AGENTS OF THE AUTHORITY AND PROJECT OPERATORS SHALL ANNUALLY FILE A STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE, ON A FORM AND IN

SUCH A MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE, OF THE VALUE OF ALL SALES AND USE TAX EXEMPTIONS CLAIMED BY SUCH AGENTS OR AGENTS OF SUCH AGENTS OR PROJECT OPERATORS, INCLUDING, BUT NOT LIMITED TO, CONSULTANTS OR SUBCONTRACTORS OF SUCH AGENTS OR PROJECT OPERATORS, UNDER THE AUTHORITY GRANTED PURSUANT TO THIS SECTION. THE PENALTY FOR FAILURE TO FILE SUCH STATEMENT SHALL BE THE REMOVAL OF THE AUTHORITY TO ACT AS AN AGENT OF THE AUTHORITY OR AS A PROJECT OPERATOR.

4. WITHIN THIRTY DAYS OF THE DATE THAT THE AUTHORITY DESIGNATES A PROJECT OPERATOR OR OTHER PERSON TO ACT AS AGENT OF THE AUTHORITY FOR PURPOSES OF PROVIDING FINANCIAL ASSISTANCE CONSISTING OF ANY SALES AND COMPENSATING USE TAX EXEMPTION TO SUCH PERSON, THE AGENCY SHALL FILE A STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE RELATING THERETO, ON A FORM AND IN SUCH MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE, IDENTIFYING EACH SUCH AGENT SO NAMED BY THE AUTHORITY, SETTING FORTH THE TAXPAYER IDENTIFICATION NUMBER OF EACH SUCH AGENT, GIVING A BRIEF DESCRIPTION OF THE PROPERTY AND/OR SERVICES INTENDED TO BE EXEMPTED FROM SUCH TAXES AS A RESULT OF SUCH APPOINTMENT AS AGENT, INDICATING THE AUTHORITY'S ROUGH ESTIMATE OF THE VALUE OF THE PROPERTY AND/OR SERVICES TO WHICH SUCH APPOINTMENT AS AGENT RELATES, INDICATING THE DATE WHEN SUCH DESIGNATION AS AGENT BECAME EFFECTIVE AND INDICATING THE DATE UPON WHICH SUCH DESIGNATION AS AGENT SHALL CEASE.

S 4. This act shall take effect immediately, provided, however, that:

(a) section one of this act shall be deemed to have been in full force and effect on and after January 31, 2008;

(b) sections two and three of this act shall be deemed to have been in full force and effect on and after January 1, 2010; and

(c) any statement of an industrial development agency or authority to the department of taxation and finance required by this act with respect to having appointed an agent or project operator before the effective date of this act shall be deemed timely if it is filed within 90 days of such date.

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 C of this act shall be as specifically set forth in the last section of such Subparts.

PART T

Section 1. Subsection (a) of section 951 of the tax law, as amended by section 1 of part A of chapter 407 of the laws of 1999, is amended to read as follows:

(a) Dates. For purposes of this article, any reference to the internal revenue code means the United States Internal Revenue Code of 1986, with all amendments enacted on or before July twenty-second, nineteen hundred ninety-eight, and, unless specifically provided otherwise in this article, any reference to December thirty-first, nineteen hundred seventy-six or January first, nineteen hundred seventy-seven contained in the

provisions of such code which are applicable to the determination of the tax imposed by this article shall be read as a reference to June thirtieth, nineteen hundred seventy-eight or July first, nineteen hundred seventy-eight, respectively. Notwithstanding the foregoing, the unified credit against the estate tax provided in section two thousand ten of the internal revenue code shall, for purposes of this article, be the amount [allowed by such section under the applicable federal law in effect on the decedent's date of death. Provided, however, the amount of such credit allowable for purposes of this article shall not exceed the amount] allowable as if the federal [unified credit did not exceed the tax due under section two thousand one of the internal revenue code on a federal taxable estate of] APPLICABLE EXCLUSION AMOUNT WERE one million dollars.

S 2. This act shall take effect immediately and shall apply to estates of decedents dying on or after January 1, 2010.

PART U

Intentionally omitted.

PART V

Section 1. The article heading of article 29-A of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

TAX ON MEDALLION TAXICAB [RIDES] TRIPS
IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT

S 2. Subdivisions (d), (e), (f) and (h) of section 1280 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, are amended and six new subdivisions (i), (j), (k), (l), (m) and (n) are added to read as follows:

(d) "Taxicab" means a motor vehicle [carrying passengers for hire in the city, duly] licensed by the [taxi and limousine commission of the city] TLC TO CARRY PASSENGERS FOR HIRE and [permitted] AUTHORIZED to accept hails from prospective passengers in the street.

(e) "Taxicab [ride] TRIP" means a taxicab [ride] TRIP provided to one or more passengers [to a given destination] REGARDLESS OF THE NUMBER OF STOPS, FOR WHICH THE TAXIMETER IS REQUIRED TO BE IN THE RECORDING OR HIRED POSITION.

(f) "Taxicab owner" OR "OWNER" means a person [owning a taxicab and shall include a purchaser under a reserve title contract, conditional sales agreement or vendor's lien agreement. In addition, an owner shall be deemed to include any lessee, licensee or bailee having the exclusive use of a taxicab, under a lease or otherwise, for a period of thirty days or more] LICENSED BY THE TLC TO OWN AND OPERATE A MEDALLION TAXICAB.

(h) "Taximeter" [shall include any device which, when affixed to a motor vehicle, is so constructed as to operate as a fare indicator and a time and distance register for the purpose of automatically determining the charge for which a passenger becomes liable] MEANS AN INSTRUMENT OR DEVICE APPROVED BY THE TLC BY WHICH THE CHARGE TO A PASSENGER FOR HIRE OF A LICENSED TAXICAB IS AUTOMATICALLY CALCULATED AND ON WHICH SUCH CHARGE IS PLAINLY INDICATED.

(I) "TLC" MEANS THE TAXI AND LIMOUSINE COMMISSION OF THE CITY.

(J) "AGENT" MEANS A PERSON THAT ACTS, BY EMPLOYMENT, CONTRACT, OR OTHERWISE, ON BEHALF OF ONE OR MORE TAXICAB OWNERS TO OPERATE OR PROVIDE

FOR THE OPERATION OF A LICENSED MEDALLION TAXICAB IN ACCORDANCE WITH THE TLC'S RULES. "AGENT" SHALL NOT INCLUDE AN ATTORNEY OR REPRESENTATIVE WHO APPEARS ON BEHALF OF ONE OR MORE OWNERS BEFORE THE TLC, THE TLC HEARING TRIBUNAL, THE COMMISSIONER, OR THE NEW YORK STATE DIVISION OF TAX APPEALS, AND TAXICAB DRIVERS LICENSED PURSUANT TO CHAPTER FIVE OF TITLE NINETEEN OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK WHEN ACTING IN THAT CAPACITY.

(K) "MEDALLION" MEANS A PLATE ISSUED BY THE TLC AS THE PHYSICAL EVIDENCE OF A TAXICAB LICENSE, AND AFFIXED TO THE OUTSIDE OF SUCH TAXICAB.

(L) "TAXICAB LICENSE" MEANS THE AUTHORITY GRANTED BY THE TLC TO AN OWNER TO OPERATE A DESIGNATED VEHICLE AS A TAXICAB IN THE CITY.

(M) "TRIP RECORD," ALSO KNOWN AS A TRIP SHEET OR TRIP LOG, MEANS THE WRITTEN, COMPUTERIZED, AUTOMATED OR ELECTRONIC ACCOUNTING OF A TAXICAB RIDE. THE TRIP DATA TO BE TRANSMITTED OR RECORDED SHALL INCLUDE THE TAXICAB LICENSE NUMBER (MEDALLION NUMBER); THE TAXICAB DRIVER'S LICENSE NUMBER; THE LOCATION OF TRIP INITIATION; THE TIME OF TRIP INITIATION; THE NUMBER OF PASSENGERS; THE LOCATION OF TRIP TERMINATION; THE TIME OF TRIP TERMINATION; THE ITEMIZED METERED FARE FOR THE TRIP (TOLLS, SURCHARGE, AND TIP IF PAID BY CREDIT OR DEBIT CARD); THE DISTANCE OF THE TRIP, THE TRIP NUMBER, THE METHOD OF PAYMENT, THE TOTAL NUMBER OF PASSENGERS, AS WELL AS SUCH OTHER INFORMATION AS MAY BE REQUIRED BY THE TLC.

(N) "MEDALLION TAXICAB" MEANS A TAXICAB TO WHICH A MEDALLION HAS BEEN AFFIXED IN ACCORDANCE WITH APPLICABLE LAW AND REGULATIONS.

S 3. Section 1281 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

S 1281. Imposition of tax. In addition to any other tax imposed by this chapter or other law, there is hereby imposed on every taxicab owner a tax of fifty cents per taxicab [ride] TRIP on every [ride] TRIP that originates in the city and terminates anywhere within the territorial boundaries of the MCTD.

S 4. Section 1282 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

S 1282. Presumption of taxability. For the purpose of the proper administration of this article and to prevent evasion of the tax imposed by this article, it shall be presumed that every taxicab [ride] TRIP that originates in the city is subject to the tax imposed by this article. This presumption shall prevail until the contrary is proven, and the burden of proving the contrary shall be on the person liable for [payment of the] tax.

S 5. Section 1283 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

S 1283. [Special] LIABILITY FOR TAX; SPECIAL provisions. Notwithstanding any [provisions] PROVISION of [this article] LAW to the contrary: (a) [If a taxicab owner subject to the tax imposed by this article leases, rents or otherwise furnishes a taxicab to an unrelated person who uses the taxicab to provide taxicab rides originating in the city, then: (1) the owner is deemed to provide such taxicab rides during the day or other period that the unrelated person uses the taxicab to provide such rides; (2) the tax imposed by this article shall be imposed on such owner; and (3) the owner must pay the tax imposed by this article on the number of rides subject to such tax provided by such unrelated person during the day or other period] THE TAXICAB OWNER SHALL BE LIABLE FOR THE TAX IMPOSED BY THIS ARTICLE. IF THE OWNER HAS DESIGNATED AN AGENT, THEN THE AGENT SHALL BE JOINTLY LIABLE WITH THE OWNER FOR THE TAX ON

TRIPS OCCURRING DURING THE PERIOD THAT SUCH DESIGNATION IS IN EFFECT. EVEN IF THE TLC HAS SPECIFIED THAT THE OWNER'S AGENT CANNOT OPERATE AS AN AGENT, THAT AGENT SHALL BE JOINTLY LIABLE WITH THE OWNER IF THE AGENT HAS ACTED FOR THE OWNER. DURING THE PERIOD THAT AN OWNER'S DESIGNATION OF AN AGENT IS IN EFFECT, THE AGENT SHALL FILE THE RETURNS REQUIRED BY THIS ARTICLE AND PAY ANY TAX DUE WITH SUCH RETURN, BUT THE OWNER SHALL NOT BE RELIEVED OF LIABILITY FOR TAX, PENALTY OR INTEREST DUE UNDER THIS ARTICLE, OR FOR THE FILING OF RETURNS REQUIRED TO BE FILED, UNLESS THE AGENT HAS TIMELY FILED ACCURATE RETURNS AND TIMELY PAID THE TAX REQUIRED TO BE PAID UNDER THIS ARTICLE. IF AN OWNER HAS DESIGNATED AN AGENT, THEN THE AGENT MUST PERFORM ANY ACT THIS ARTICLE REQUIRES AN OWNER TO PERFORM, BUT THE FAILURE OF SUCH AGENT TO PERFORM ANY SUCH ACT SHALL NOT RELIEVE THE OWNER FROM THE OBLIGATION TO PERFORM SUCH ACT OR FROM ANY LIABILITY THAT MAY ARISE FROM FAILURE TO PERFORM THE ACT.

(b) [Notwithstanding any law to the contrary:] (1) Although the tax is imposed on the taxicab owner, the [taxicab owner must pass along the] CITY OR THE TLC SHALL ADOPT OR AMEND ORDINANCES OR REGULATIONS TO ENSURE THAT THE economic incidence of the tax IS PASSED THROUGH to [the passenger] PASSENGERS, SUCH AS by [adjusting the fare for the ride, and the] INCREASING TAXICAB TRIP FARES. THE passing along of such economic incidence may not be construed by any court or administrative body as imposing the tax on [the] ANY person [or entity that pays the fare for a ride] OTHER THAN THE TAXICAB OWNER. [A] THE city [that regulates taxicabs or taxicab fares] OR THE TLC must adjust [the] TRIP fares [authorized] to include therein the PASS-THROUGH OF THE ECONOMIC INCIDENCE OF THE tax imposed by this article, as the rate of such tax may from time to time change, and must timely require that any taximeter in a taxicab used to provide [rides] TRIPS THAT ORIGINATE in the city be adjusted to include the [tax] PASS-THROUGH.

(2) A taxicab owner in such city must timely adjust the taximeter in any of such person's taxicabs so that it reflects [the tax imposed by this article] SUCH PASS-THROUGH as such [rate] PASS-THROUGH AMOUNT may from time to time change.

(3) Neither the failure of such city OR THE TLC to adjust fares nor the failure of a taxicab owner OR OTHER PERSON to adjust a taximeter will relieve any person liable for the tax imposed by this article from the obligation to pay such tax timely, at the correct rate.

[(c) For purposes of this section, "unrelated person" means a person other than a related person as defined for purposes of section fourteen of this chapter.]

S 6. Section 1284 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

S 1284. Returns. Every person liable for the tax imposed by this article shall file a return quarterly with the commissioner. Each return shall show the number of [rides] TRIPS in the quarter for which the return is filed, together with such other information as the commissioner may require. The returns required by this section shall be filed for quarterly periods ending on the last day of March, June, September, and December of each year, and each return shall be filed within twenty days after the end of the quarterly period covered thereby. Every such person shall also file a return with the commissioner for the period of November and December two thousand nine, by January twentieth, two thousand ten, containing the information described above. If the commissioner deems it necessary in order to ensure the payment of the tax imposed by this article, the commissioner may require returns to be made for shorter periods than prescribed by the foregoing provisions of this section,

and upon such dates as the commissioner may specify. The form of returns shall be prescribed by the commissioner and shall contain such information as the commissioner may deem necessary for the proper administration of this article. The commissioner may require amended returns to be filed within twenty days after notice and to contain the information specified in the notice. The commissioner may require that the returns be filed electronically.

S 7. Section 1285 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

S 1285. Payment of tax. Every person required to file a return under this article shall, at the time of filing such return, pay to the commissioner the total of all tax imposed by this article, on the correct number of [rides] TRIPS subject to tax under this article. The amount so payable to the commissioner for the period for which a return is required to be filed shall be due and payable to the commissioner on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the correct number of [rides] TRIPS or the amount of tax due thereon. The commissioner may require that the tax be paid electronically.

S 8. Section 1286 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

S 1286. Records to be kept. (A) Every person [required to pay] LIABLE FOR any tax imposed by this article shall keep:

(1) records of every [ride] TAXICAB TRIP originating in the city and of all amounts paid, charged or due thereon and of the tax payable thereon, in such form as the commissioner may require[. Every such person shall also keep];

(2) a true and complete copy of every contract, agreement, or arrangement concerning the lease, rental, or license to use a taxicab for which the person is required to remit the tax on [rides] TRIPS imposed by this article on such person;

(3) A TRUE AND COMPLETE COPY OF EVERY CONTRACT, AGREEMENT, OR ARRANGEMENT CONCERNING THE APPOINTMENT OF AN AGENT;

(4) TRUE AND COMPLETE COPIES OF ANY RECORDS REQUIRED TO BE KEPT BY THE TLC; AND

(5) SUCH OTHER RECORDS AND INFORMATION AS THE COMMISSIONER MAY REQUIRE TO PERFORM HIS OR HER DUTIES UNDER THIS ARTICLE.

[Such] (B) THE records REQUIRED TO BE KEPT BY THIS SECTION shall be available for inspection and examination at any time upon demand by the commissioner or the commissioner's duly authorized agent or employee and shall be preserved for a period of three years, except that the commissioner may consent to their destruction within that period or may require that they be kept longer. Such records may be kept within the meaning of this section when reproduced on any photographic, photostatic, microfilm, micro-card, miniature photographic or other process which actually reproduces the original record. If those records are maintained in an electronic format, they must be made available and accessible to the commissioner in electronic format.

S 9. Subdivision (b) of section 1287 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

(b) Notwithstanding the provisions of subdivision (a) of this section, the commissioner may, in his or her discretion, permit the proper officer of [a] THE city [that regulates taxicabs] or the duly authorized representative of such officer, to inspect any return filed under this

article, or may furnish to such officer or such officer's authorized representative an abstract of any such return or supply such person with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article; but such permission shall be granted or such information furnished only if [such] THE city OR THE TLC shall have furnished the commissioner with all information requested by the commissioner pursuant to this article and shall have permitted the commissioner or the commissioner's authorized representative to make any inspection of any records or reports concerning taxicabs [and their], TAXICAB owners [or operators], AND AGENTS filed with or possessed by such city OR THE TLC which the commissioner may have requested from such city OR THE TLC. PROVIDED, FURTHER, THAT THE COMMISSIONER MAY DISCLOSE TO THE CITY OR THE TLC WHETHER OR NOT A PERSON LIABLE FOR THE TAX IMPOSED BY THIS ARTICLE HAS PAID ALL OF THE TAX DUE UNDER THIS ARTICLE AS OF ANY GIVEN DATE.

S 10. Section 1289 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

S 1289. Cooperation by city. The city AND THE TLC shall cooperate with and assist the commissioner to effect the purposes of this article and the commissioner's responsibilities under this article. Such cooperation shall include furnishing the names, addresses and all other information concerning every TAXICAB owner, operator, and driver of taxicabs in the city, AND CONCERNING EVERY AGENT AND VEHICLE OWNER, AND THE TRIP RECORDS AND OTHER RECORDS OF ANY OF THEM, IN THE CITY'S POSSESSION OR IN THE POSSESSION OF ANY OF ITS AGENCIES OR INSTRUMENTALITIES, together with any other information the commissioner requests, all without cost to the commissioner.

S 11. Section 1290 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

S 1290. Practice and procedure. The provisions of article twenty-seven of this chapter shall apply with respect to the administration of and procedure with respect to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article twenty-seven had been incorporated in full into this article and had expressly referred to the tax under this article, except to the extent that any such provision is either inconsistent with a provision of this article or is not relevant to this article. [Criminal penalties provided in section one thousand eight hundred twenty of this chapter shall apply in the same manner and with the same force and effect with respect to this article.]

S 12. The tax law is amended by adding a new section 1821 to read as follows:

S 1821. MEDALLION TAXICAB OWNERS TAX IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT. ANY WILLFUL ACT OR OMISSION BY ANY PERSON WHICH CONSTITUTES A VIOLATION OF ANY PROVISION OF ARTICLE TWENTY-NINE-A OF THIS CHAPTER SHALL CONSTITUTE A MISDEMEANOR.

S 13. Section 19-504 of the administrative code of the city of New York is amended by adding a new subdivision q to read as follows:

Q. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, THE COMMISSION SHALL NOT ISSUE OR RENEW A TAXICAB LICENSE UNLESS THE APPLICANT OR HOLDER, AS THE CASE MAY BE, AVOWS UNDER PENALTY OF PERJURY THAT SUCH PERSON HAS FULLY PAID ALL AND ANY TAX IMPOSED ON SUCH PERSON BY ARTICLE TWENTY-NINE-A OF THE TAX LAW. THE COMMISSION MAY ASK THE COMMISSIONER OF TAXATION AND FINANCE FOR CONFIRMATION THAT SUCH PERSON HAS PAID SUCH TAX. NOTHING IN THIS SUBDIVISION SHALL PREVENT A PERSON TO WHOM A TAXICAB LICENSE HAS BEEN ISSUED FROM MOVING THE MEDALLION WHICH EVIDENCES

THE LICENSE TO A STANDBY VEHICLE IF THE TLC'S REGULATIONS PERMIT SUCH PERSON TO DO SO.

S 14. This act shall take effect July 1, 2010, and shall apply to taxicab trips commencing on or after that date; provided that: the provisions of article 29-A of the tax law in existence prior to that date shall continue to apply to all liabilities accrued up to that date.

PART W

Section 1. Subdivision (e-1) of section 1132 of the tax law is REPEALED.

S 2. This act shall take effect immediately and shall apply to credits taken and refunds claimed on or after July 1, 2010.

PART X

Section 1. Paragraph 1 of subdivision (f) of section 1137 of the tax law, as amended by section 1 of part H of chapter 62 of the laws of 2006, is amended to read as follows:

(1) Except as otherwise provided in this subdivision, a person required to collect tax who files a return required to be filed under section eleven hundred thirty-six of this part for a quarterly or longer period shall be allowed a credit against the taxes and fees required to be reported on, and paid with, such return, in an amount as determined in paragraph two of this subdivision, but only where such person files the return on or before the filing due date and pays or pays over with such return the total amount shown on such return (determined with regard to this subdivision); PROVIDED, HOWEVER, THAT NO CREDIT PURSUANT TO THIS SUBDIVISION SHALL BE ALLOWED FOR ANY PERSON WHO FILES OR IS REQUIRED TO FILE A RETURN PURSUANT TO PARAGRAPH TWO OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS PART OR ANY PERSON WHO PAYS OR IS REQUIRED TO PAY TAX PURSUANT TO SECTION TEN OF THIS CHAPTER.

S 2. This act shall take effect June 1, 2010; and shall apply to quarterly periods, as described in subdivision (b) of section eleven hundred thirty-six of the tax law, beginning on or after such date.

PART Y

Section 1. The tax law is amended by adding a new section 33 to read as follows:

S 33. TEMPORARY DEFERRAL OF CERTAIN TAX CREDITS. 1. (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN AND BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, THE EXCESS OVER TWO MILLION DOLLARS OF THE TOTAL AMOUNT OF THE TAX CREDITS SPECIFIED IN SUBDIVISION THREE OF THIS SECTION THAT IN EACH OF THOSE TAXABLE YEARS WOULD OTHERWISE BE USED TO REDUCE THE TAXPAYER'S TAX LIABILITY TO THE AMOUNT OTHERWISE SPECIFIED IN THIS CHAPTER OR BE REFUNDED OR CREDITED AS AN OVERPAYMENT WILL BE DEFERRED TO AND USED OR REFUNDED IN TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN IN ACCORDANCE WITH THE PROVISIONS OF SECTION THIRTY-FOUR OF THIS ARTICLE. INTEREST SHALL NOT BE PAID ON THE AMOUNTS OF CREDIT DEFERRED.

(B) TO DETERMINE THE AMOUNT OF EACH TAX CREDIT ALLOWED FOR THE TAXABLE YEAR TO BE USED, REFUNDED OR CREDITED AS AN OVERPAYMENT THE TAXPAYER SHALL MULTIPLY THE AMOUNT OF EACH CREDIT SUBJECT TO DEFERRAL THAT WOULD HAVE BEEN USED, REFUNDED OR CREDITED AS AN OVERPAYMENT IN THE ABSENCE OF THIS SECTION BY A FRACTION, THE NUMERATOR OF WHICH IS TWO MILLION

DOLLARS, AND THE DENOMINATOR OF WHICH IS THE TOTAL AMOUNT OF THE TAXPAYER'S CREDITS SUBJECT TO DEFERRAL PURSUANT TO SUBDIVISION THREE OF THIS SECTION THAT WOULD HAVE BEEN USED, REFUNDED OR CREDITED AS AN OVERPAYMENT FOR THE TAXABLE YEAR IN THE ABSENCE OF THIS SECTION. THE PRODUCT IS THE AMOUNT OF SUCH CREDIT THAT IS NOT SUBJECT TO DEFERRAL AND THUS ALLOWED TO BE USED, REFUNDED OR CREDITED AS AN OVERPAYMENT FOR THE TAXABLE YEAR.

2. TAXPAYERS SHALL CALCULATE AND MAKE ANY ESTIMATED TAX PAYMENTS REQUIRED TO BE MADE BY TAKING INTO ACCOUNT THE DEFERRAL OF CREDITS REQUIRED BY THIS SECTION. TAXPAYERS SHALL CALCULATE ANY MANDATORY FIRST INSTALLMENT PAYMENTS MADE ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION AS IF THE DEFERRAL OF CREDITS REQUIRED BY THIS SECTION HAD BEEN IN EFFECT FOR THE TAXABLE YEAR UPON WHICH THAT INSTALLMENT IS BASED. IN ADDITION, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN AND BEFORE JANUARY FIRST, TWO THOUSAND ELEVEN, (A) NO ADDITION TO TAX UNDER SUBSECTION (C) OF SECTION SIX HUNDRED EIGHTY-FIVE OF THIS CHAPTER OR SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-FIVE OF THIS CHAPTER SHALL BE IMPOSED WITH RESPECT TO ANY UNDERPAYMENT ATTRIBUTABLE TO THE DEFERRAL REQUIRED BY THIS SECTION OF ANY ESTIMATED TAXES THAT ARE REQUIRED TO BE PAID PRIOR TO THE ENACTMENT OF THIS SECTION, PROVIDED THAT THE TAXPAYER TIMELY MADE THOSE PAYMENTS; AND (B) THE REQUIRED INSTALLMENT OF ESTIMATED TAX DESCRIBED IN CLAUSE (II) OF SUBPARAGRAPH (B) OF PARAGRAPH THREE OF SUBSECTION (C) OF SECTION SIX HUNDRED EIGHTY-FIVE OF THIS CHAPTER, AND THE EXCEPTION TO ADDITION FOR UNDERPAYMENT OF ESTIMATED TAX DESCRIBED IN PARAGRAPH ONE OR TWO OF SUBSECTION (D) OF SECTION ONE THOUSAND EIGHTY-FIVE OF THIS CHAPTER, IN RELATION TO THE PRECEDING YEAR'S RETURN, SHALL BE CALCULATED AS IF THE DEFERRAL REQUIRED BY THIS SECTION HAD BEEN IN EFFECT FOR THAT ENTIRE PRECEDING YEAR.

3. (A) THIS SECTION SHALL APPLY TO THE CREDITS ALLOWED UNDER THE FOLLOWING PROVISIONS IN ARTICLE NINE-A OF THIS CHAPTER AND ANY APPLICABLE COUNTERPART PROVISIONS IN ARTICLES NINE, TWENTY-TWO, THIRTY-TWO AND THIRTY-THREE OF THIS CHAPTER:

SECTION 210(12) INVESTMENT TAX CREDIT
SECTION 210(12-B) EMPIRE ZONE INVESTMENT TAX CREDIT
SECTION 210(12-C) EMPIRE ZONE EMPLOYMENT INCENTIVE CREDIT
SECTION 210(12-D) EMPLOYMENT INCENTIVE CREDIT
SECTION 210(12-E) QETC EMPLOYMENT CREDIT
SECTION 210(12-F) QETC CAPITAL TAX CREDIT
SECTION 210(12-G) QETC FACILITIES, OPERATIONS, AND TRAINING CREDIT
SECTION 210(17) SPECIAL ADDITIONAL MORTGAGE RECORDING TAX CREDIT
SECTION 210(19) EMPIRE ZONE WAGE TAX CREDIT
SECTION 210(20) EMPIRE ZONE CAPITAL TAX CREDIT
SECTION 210(21-A) CREDIT FOR SERVICING CERTAIN MORTGAGES
SECTION 210(23) CREDIT FOR EMPLOYMENT OF PERSONS WITH DISABILITIES
SECTION 210(24) ALTERNATIVE FUELS CREDIT
SECTION 210(25) CREDIT FOR PURCHASE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR
SECTION 210(27) QEZE CREDIT FOR REAL PROPERTY TAXES
SECTION 210(28) QEZE TAX REDUCTION CREDIT
SECTION 210(30) LOW INCOME HOUSING CREDIT
SECTION 210(31) GREEN BUILDING CREDIT
SECTION 210(33) BROWNFIELD REDEVELOPMENT TAX CREDIT
SECTION 210(34) REMEDIATED BROWNFIELD CREDIT FOR REAL PROPERTY TAXES FOR QUALIFIED SITES
SECTION 210(35) ENVIRONMENTAL REMEDIATION INSURANCE CREDIT

SECTION 210(37) SECURITY TRAINING TAX CREDIT
SECTION 210(37) CREDIT FOR FUEL CELL ELECTRIC GENERATING EQUIPMENT EXPENDITURES
SECTION 210(38) CONSERVATION EASEMENT TAX CREDIT
SECTION 210(38) EMPIRE STATE COMMERCIAL PRODUCTION CREDIT
SECTION 210(38) BIOFUEL PRODUCTION CREDIT
SECTION 210(39) CLEAN HEATING FUEL CREDIT
SECTION 210(40) CREDIT FOR REHABILITATION OF HISTORIC PROPERTIES
SECTION 210(40) CREDIT FOR COMPANIES WHO PROVIDE TRANSPORTATION TO INDIVIDUALS WITH DISABILITIES
(B) THIS SECTION SHALL ALSO APPLY TO THE CREDITS ALLOWED BY THE FOLLOWING SECTIONS:
SECTION 186-A(9) POWER FOR JOBS CREDIT
SECTION 606(G-1) SOLAR ENERGY SYSTEM EQUIPMENT CREDIT
SECTION 606(PP) HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT
SECTION 1511(K) CREDIT FOR CERTAIN INVESTMENTS IN CERTIFIED CAPITAL COMPANIES

S 2. The tax law is amended by adding a new section 34 to read as follows:

S 34. TEMPORARY DEFERRAL PAYOUT CREDITS. 1. THE AMOUNTS OF NONREFUNDABLE CREDITS THAT ARE DEFERRED PURSUANT TO SECTION THIRTY-THREE OF THIS ARTICLE IN TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN AND BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN SHALL BE ACCUMULATED AND CONSTITUTE THE TAXPAYER'S TEMPORARY DEFERRAL NONREFUNDABLE PAYOUT CREDIT. THE TAXPAYER MAY FIRST CLAIM THIS CREDIT IN THE TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN. THE TAXPAYER SHALL BE ALLOWED TO CLAIM THIS CREDIT UNTIL THE ACCUMULATED AMOUNTS ARE EXHAUSTED. THE CREDIT SHALL BE ALLOWED AGAINST THE TAXPAYER'S TAX AS PROVIDED IN THE PROVISIONS REFERENCED IN PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION.

2. THE AMOUNTS OF REFUNDABLE CREDITS THAT ARE DEFERRED PURSUANT TO SECTION THIRTY-THREE OF THIS ARTICLE IN TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN AND BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN SHALL BE ACCUMULATED AND CONSTITUTE THE TAXPAYER'S TEMPORARY DEFERRAL REFUNDABLE PAYOUT CREDIT. IN THE TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN, THE TAXPAYER SHALL BE ALLOWED TO CLAIM A CREDIT EQUAL TO FIFTY PERCENT OF THE AMOUNT ACCUMULATED. IN THE TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE TAXPAYER SHALL BE ALLOWED TO CLAIM A CREDIT EQUAL TO SEVENTY-FIVE PERCENT OF THE BALANCE OF THE AMOUNT ACCUMULATED. IN THE TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, THE TAXPAYER SHALL BE ALLOWED TO CLAIM A CREDIT EQUAL TO THE REMAINING BALANCE OF THE AMOUNT ACCUMULATED. THE CREDIT SHALL BE ALLOWED AGAINST THE TAXPAYER'S TAX AS PROVIDED IN THE PROVISIONS REFERENCED IN PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION.

3. (A) FOR APPLICATION OF THE TEMPORARY DEFERRAL NONREFUNDABLE PAYOUT CREDIT, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:
(1) ARTICLE 9: SECTION 187-0
(2) ARTICLE 9-A: SECTION 210(41)
(3) ARTICLE 22: SECTION 606(QQ)
(4) ARTICLE 32: SECTION 1456(V)
(5) ARTICLE 33: SECTION 1511(Y)

(B) FOR APPLICATION OF THE TEMPORARY DEFERRAL REFUNDABLE PAYOUT CREDIT, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:
(1) ARTICLE 9: SECTION 187-P
(2) ARTICLE 9-A: SECTION 210(42)
(3) ARTICLE 22: SECTION 606(RR)
(4) ARTICLE 32: SECTION 1456(W)
(5) ARTICLE 33: SECTION 1511(Z)

S 3. The tax law is amended by adding two new sections 187-o and 187-p to read as follows:

S 187-O. TEMPORARY DEFERRAL NONREFUNDABLE PAYOUT CREDIT. 1. ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION ONE OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST EITHER THE TAXES IMPOSED BY SECTIONS ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR, AND ONE HUNDRED EIGHTY-FIVE, OR THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-SIX-A OF THIS ARTICLE. HOWEVER, THE AMOUNT OF SUCH CREDIT AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-FOUR OF THIS ARTICLE SHALL BE THE EXCESS OF THE AMOUNT OF THAT CREDIT OVER THE AMOUNT OF ANY CREDIT ALLOWED BY THIS SECTION AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-THREE OF THIS ARTICLE.

2. APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX TO LESS THAN THE APPLICABLE MINIMUM TAX FIXED BY SECTION ONE HUNDRED EIGHTY-THREE OR ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 187-P. TEMPORARY DEFERRAL REFUNDABLE PAYOUT CREDIT. 1. ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION TWO OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY SECTIONS ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR AND ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE, OR THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-SIX-A OF THIS ARTICLE. HOWEVER, THE AMOUNT OF SUCH CREDIT AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-FOUR OF THIS ARTICLE SHALL BE THE EXCESS OF THE AMOUNT OF THAT CREDIT OVER THE AMOUNT OF ANY CREDIT ALLOWED BY THIS SECTION AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-THREE OF THIS ARTICLE.

2. APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX TO LESS THAN THE APPLICABLE MINIMUM TAX FIXED BY SECTION ONE HUNDRED EIGHTY-THREE OR ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 4. Section 210 of the tax law is amended by adding two new subdivisions 41 and 42 to read as follows:

41. TEMPORARY DEFERRAL NONREFUNDABLE PAYOUT CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION ONE OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVI-

SION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

42. TEMPORARY DEFERRAL REFUNDABLE PAYOUT CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION TWO OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 5. Section 606 of the tax law is amended by adding two new subsections (qq) and (rr) to read as follows:

(QQ) TEMPORARY DEFERRAL NONREFUNDABLE PAYOUT CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION ONE OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(RR) TEMPORARY DEFERRAL REFUNDABLE PAYOUT CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION TWO OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 6. Section 1456 of the tax law is amended by adding two new subsections (v) and (w) to read as follows:

(V) TEMPORARY DEFERRAL NONREFUNDABLE PAYOUT CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION ONE OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS THAN THE MINIMUM TAX FIXED BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(W) TEMPORARY DEFERRAL REFUNDABLE PAYOUT CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION TWO OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX TO LESS THAN THE MINIMUM TAX FIXED BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 7. Section 1511 of the tax law is amended by adding two new subdivisions (y) and (z) to read as follows:

(Y) TEMPORARY DEFERRAL NONREFUNDABLE PAYOUT CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION ONE OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS THAN THE MINIMUM TAX FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OF THIS ARTICLE OR BY SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE, WHICHEVER IS APPLICABLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(Z) TEMPORARY DEFERRAL REFUNDABLE PAYOUT CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION TWO OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX TO LESS THAN THE MINIMUM TAX FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OF THIS ARTICLE OR BY SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE, WHICHEVER IS APPLICABLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 8. This act shall take effect immediately.

PART Z

Section 1. Paragraph 11 of subsection (b) of section 1453 of the tax law, as added by chapter 817 of the laws of 1987, is amended to read as follows:

(11) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, in the case of a taxpayer subject to the provisions of section 585(c) of the internal revenue code, the amount allowed as a deduction pursuant to section 166 of such code, and

S 2. Paragraph 12 of subsection (b) of section 1453 of the tax law, as added by chapter 817 of the laws of 1987, is amended to read as follows:

(12) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, for taxpayers subject to the provisions of subsection (i) of this section, twenty percent of the excess of (A) the amount determined pursuant to such subsection (i) over (B) the amount which would have

been allowable had such institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

S 3. Paragraph 13 of subsection (e) of section 1453 of the tax law, as added by chapter 817 of the laws of 1987, is amended to read as follows:

(13) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, in the case of a taxpayer which recaptures its balance of the reserve for losses on loans for federal income tax purposes pursuant to section 585(c) of the internal revenue code, any amount which is included in federal taxable income pursuant to section 585(c) of such code,

S 4. Paragraph 14 of subsection (e) of section 1453 of the tax law, as added by chapter 817 of the laws of 1987, is amended to read as follows:

(14) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, in the case of a taxpayer subject to the provisions of section 585(c) of the internal revenue code, any amount which is included in federal taxable income as a result of a recovery of a loan.

S 5. Paragraph 15 of subsection (e) of section 1453 of the tax law, as added by chapter 411 of the laws of 1996, is amended to read as follows:

(15) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, in the case of a taxpayer which is currently or has previously been subject to subsection (h) of this section, any amount which is included in federal taxable income pursuant to section 593(e)(2) of the internal revenue code, and any other amount so included as a result of a recovery of or termination from the use of a bad debt reserve as defined in section 593 of such code as in existence on December thirty-first, nineteen hundred ninety-five as a result of federal legislation enacted after December thirty-first, nineteen hundred ninety-five.

S 6. Paragraph 2 of subsection (h) of section 1453 of the tax law, as amended by chapter 411 of the laws of 1996, is amended to read as follows:

(2) [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, A thrift institution must exclude from the computation of its entire net income any amount allowed as a deduction for federal income tax purposes pursuant to sections 166, 585 or 593 of the internal revenue code.

S 7. Paragraph 3 of subsection (h) of section 1453 of the tax law, as amended by chapter 411 of the laws of 1996, is amended to read as follows:

(3) [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, A thrift institution shall be allowed as a deduction in computing entire net income the amount of a reasonable addition to its reserve for bad debts. This amount shall be equal to the sum of

(A) the amount determined to be a reasonable addition to the reserve for losses on nonqualifying loans, computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under paragraph one of subsection (i) of this section, plus

(B) the amount determined by the taxpayer to be a reasonable addition to the reserve for losses on qualifying real property loans, but such amount shall not exceed the amount determined under paragraph four or five of this subsection, whichever is the larger, but the amount determined under this subparagraph shall in no case be greater than the larger of

(i) the amount determined under such paragraph five, or

(ii) the amount which, when added to the amount determined under subparagraph (A) of this paragraph, equals the amount by which twelve percent of the total deposits or withdrawable accounts of depositors of

the taxpayer at the close of such year exceeds the sum of its surplus, undivided profits and reserves at the beginning of such year (taking into account any portion thereof attributable to the period before the first taxable year beginning after December thirty-first, nineteen hundred fifty-one).

The taxpayer must include in its tax return for each year a computation of the amount of the addition to the bad debt reserve determined under this subsection. The use of a particular method in the return for a taxable year is not a binding election by the taxpayer.

S 8. Paragraph 1 of subsection (i) of section 1453 of the tax law, as amended by chapter 411 of the laws of 1996, is amended to read as follows:

(1) [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, A taxpayer subject to the provisions of section 585(c) of the internal revenue code and not subject to subsection (h) of this section may, in computing entire net income, deduct an amount equal to or less than the amount determined pursuant to subparagraph (A) of this paragraph or subparagraph (B) of this paragraph, whichever is greater. Provided, however, in no event shall the deduction be less than the amount determined pursuant to such subparagraph (A).

(A) The amount determined pursuant to this subparagraph shall be the amount necessary to increase the balance of its New York reserve for losses on loans (at the close of the taxable year) to the amount which bears the same ratio to loans outstanding at the close of the taxable year as (i) the total bad debts sustained during the taxable year and the five preceding taxable years (or, with the approval of the commissioner of taxation and finance, a shorter period), adjusted for recoveries of bad debts during such period, bears to (ii) the sum of the loans outstanding at the close of such six or fewer taxable years.

(B) (i) The amount determined pursuant to this subparagraph shall be the amount necessary to increase the balance of its New York reserve for losses on loans (at the close of the taxable year) to the lower of --

(I) the balance of the reserve at the close of the base year, or

(II) if the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of loans outstanding at the close of the base year.

(ii) For purposes of this paragraph, the base year shall be (I) for taxable years beginning in nineteen hundred eighty-seven, the last taxable year before the most recent adoption of the experience method for federal income tax purposes or for purposes of this article, whichever is earlier, and (II) for taxable years beginning after nineteen hundred eighty-seven, the last taxable year beginning before nineteen hundred eighty-eight.

S 9. Paragraph 2 of subsection (i) of section 1453 of the tax law, as amended by chapter 411 of the laws of 1996, is amended to read as follows:

(2) (A) [Each] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, EACH taxpayer described in paragraph one of this subsection shall establish and maintain a New York reserve for losses on loans. Such reserve shall be maintained for all subsequent taxable years. The balance of the New York reserve for losses on loans at the beginning of the first day of the first taxable year the taxpayer becomes subject to this subsection shall be the same as the balance at

the beginning of such day of the reserve for losses on loans maintained for federal income tax purposes. The New York reserve for losses on loans shall be reduced by an amount equal to the deduction allowed, but not more than the amount allowable, for worthless debts for federal income tax purposes pursuant to section 166 of the internal revenue code plus the amount, if any, charged against its reserve for losses on loans pursuant to section 585(c)(4) of such code.

(B) For purposes of subparagraph (A) of this paragraph, a taxpayer which had previously been subject to the provisions of subsection (h) of this section shall establish a New York reserve for losses on loans equal to the sum of (i) the greater of (I) the balance of its federal reserve for losses on qualifying real property loans as of the first day of the first taxable year the taxpayer becomes subject to the provisions of this subsection or (II) the greater of the amounts determined under subparagraphs (A) and (B) of paragraph nine of subsection (h) of this section in the year such paragraph applied to the taxpayer, (ii) the greater of (I) the balance in its federal reserve for losses on nonqualifying loans as of the first day of the first taxable year the taxpayer becomes subject to this subsection or (II) the balance in its New York reserve for losses on nonqualifying loans as of the last date the taxpayer was subject to the provisions of subsection (h) of this section and (iii) the balance in its supplemental reserve for losses on loans as of the last date the taxpayer was subject to the provisions of subsection (h) of this section.

S 10. Paragraph 11 of subdivision (b) of section 11-641 of the administrative code of the city of New York, as added by chapter 525 of the laws of 1988, is amended to read as follows:

(11) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, in the case of a taxpayer subject to the provisions of section 585(c) of the internal revenue code, the amount allowed as a deduction pursuant to section 166 of such code; and

S 11. Paragraph 12 of subdivision (b) of section 11-641 of the administrative code of the city of New York, as added by chapter 525 of the laws of 1988, is amended to read as follows:

(12) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, for taxpayers subject to the provisions of subdivision (i) of this section, twenty percent of the excess of (A) the amount determined pursuant to such subdivision (i) over (B) the amount which would have been allowable had such institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

S 12. Paragraph 13 of subdivision (e) of section 11-641 of the administrative code of the city of New York, as added by chapter 525 of the laws of 1988, is amended to read as follows:

(13) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, in the case of a taxpayer which recaptures its balance of the reserve for losses on loans for federal income tax purposes pursuant to section 585(c) of the internal revenue code, any amount which is included in federal taxable income pursuant to section 585(c) of such code,

S 13. Paragraph 14 of subdivision (e) of section 11-641 of the administrative code of the city of New York, as added by chapter 525 of the laws of 1988, is amended to read as follows:

(14) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, in the case of a taxpayer subject to the provisions of section 585(c) of the internal revenue code, any amount which is included in federal taxable income as a result of a recovery of a loan.

S 14. Paragraph 15 of subdivision (e) of section 11-641 of the administrative code of the city of New York, as added by chapter 18 of the laws of 1997, is amended to read as follows:

(15) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, in the case of a taxpayer which is currently or has previously been subject to subdivision (h) of this section, any amount which is included in federal taxable income pursuant to section 593(e)(2) of the internal revenue code, and any other amount so included as a result of a recovery of or termination from the use of a bad debt reserve as defined in section 593 of such code as in existence on December thirty-first, nineteen hundred ninety-five as a result of federal legislation enacted after December thirty-first, nineteen hundred ninety-five.

S 15. Paragraph 2 of subdivision (h) of section 11-641 of the administrative code of the city of New York, as amended by chapter 18 of the laws of 1997, is amended to read as follows:

(2) [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, A thrift institution must exclude from the computation of its entire net income any amount allowed as a deduction for federal income tax purposes pursuant to section 166, 585 or 593 of the internal revenue code.

S 16. Paragraph 3 of subdivision (h) of section 11-641 of the administrative code of the city of New York, as amended by chapter 18 of the laws of 1997, is amended to read as follows:

(3) [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, A thrift institution shall be allowed as a deduction in computing entire net income the amount of a reasonable addition to its reserve for bad debts. This amount shall be equal to the sum of

(A) the amount determined to be a reasonable addition to the reserve for losses on nonqualifying loans, computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under paragraph one of subdivision (i) of this section, plus

(B) the amount determined by the taxpayer to be a reasonable addition to the reserve for losses on qualifying real property loans, but such amount shall not exceed the amount determined under paragraph four or five of this subdivision, whichever is the larger, but the amount determined under this subparagraph shall in no case be greater than the larger of

(i) the amount determined under paragraph five of this subdivision, or

(ii) the amount which, when added to the amount determined under subparagraph (A) of this paragraph, equals the amount by which twelve percent of the total deposits or withdrawable accounts of depositors of the taxpayer at the close of such year exceeds the sum of its surplus, undivided profits and reserves at the beginning of such year (taking into account any portion thereof attributable to the period before the first taxable year beginning after December thirty-first, nineteen hundred fifty-one).

The taxpayer must include in its tax return for each year a computation of the amount of the addition to the bad debt reserve determined under this subdivision. The use of a particular method in the return for a taxable year is not a binding election by the taxpayer.

S 17. Paragraph 1 of subdivision (i) of section 11-641 of the administrative code of the city of New York, as amended by chapter 18 of the laws of 1997, is amended to read as follows:

(1) [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, A taxpayer subject to the provisions of section 585(c) of the internal revenue code and not subject to subdivision (h) of this section

may, in computing entire net income, deduct an amount equal to or less than the amount determined pursuant to subparagraph (A) of this paragraph or subparagraph (B) of this paragraph, whichever is greater. Provided, however, in no event shall the deduction be less than the amount determined pursuant to such subparagraph (A).

(A) The amount determined pursuant to this subparagraph shall be the amount necessary to increase the balance of its New York reserve for losses on loans (at the close of the taxable year) to the amount which bears the same ratio to loans outstanding at the close of the taxable year as (i) the total bad debts sustained during the taxable year and the five preceding taxable years (or, with the approval of the commissioner of finance, a shorter period), adjusted for recoveries of bad debts during such period, bears to (ii) the sum of the loans outstanding at the close of such six or fewer taxable years.

(B)(i) The amount determined pursuant to this subparagraph shall be the amount necessary to increase the balance of its New York reserve for losses on loans (at the close of the taxable year) to the lower of --

(I) the balance of the reserve at the close of the base year, or

(II) if the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of loans outstanding at the close of the base year.

(ii) For purposes of this paragraph, the base year shall be (I) for taxable years beginning in nineteen hundred eighty-seven, the last taxable year before the most recent adoption of the experience method for federal income tax purposes or for purposes of this part, whichever is earlier, and (II) for taxable years beginning after nineteen hundred eighty-seven, the last taxable year beginning before nineteen hundred eighty-eight.

S 18. Paragraph 2 of subdivision (i) of section 11-641 of the administrative code of the city of New York, as amended by chapter 18 of the laws of 1997, is amended to read as follows:

(2) (A) [Each] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN, EACH taxpayer described in paragraph one of this subdivision shall establish and maintain a New York reserve for losses on loans. Such reserve shall be maintained for all subsequent taxable years. The balance of the New York reserve for losses on loans at the beginning of the first day of the first taxable year the taxpayer becomes subject to this subdivision shall be the same as the balance at the beginning of such day of the reserve for losses on loans maintained for federal income tax purposes. The New York reserve for losses on loans shall be reduced by an amount equal to the deduction allowed, but not more than the amount allowable, for worthless debts for federal income tax purposes pursuant to section 166 of the internal revenue code plus the amount, if any, charged against its reserve for losses on loans pursuant to section 585(c)(4) of such code.

(B) For purposes of subparagraph (A) of this paragraph, a taxpayer which had previously been subject to the provisions of subdivision (h) of this section shall establish a New York reserve for losses on loans equal to the sum of (i) the greater of (I) the balance of its federal reserve for losses on qualifying real property loans as of the first day of the first taxable year the taxpayer becomes subject to the provisions of this subdivision or (II) the greater of the amounts determined under subparagraphs (A) and (B) of paragraph nine of subdivision (h) of this

section in the year such paragraph applied to the taxpayer, (ii) the greater of (I) the balance in its federal reserve for losses on nonqualifying loans as of the first day of the first taxable year the taxpayer becomes subject to this subdivision or (II) the balance in its New York reserve for losses on nonqualifying loans as of the last date the taxpayer was subject to the provisions of subdivision (h) of this section, and (iii) the balance in its supplemental reserve for losses on loans as of the last date the taxpayer was subject to the provisions of subdivision (h) of this section.

S 19. This act shall take effect immediately.

PART AA

Section 1. Statement of legislative findings and purposes. It is hereby found and declared that New York's Tax Law should be updated to put room remarketers on the same footing as hotel operators for sales tax purposes. In recent years, more and more consumers are booking their hotel rooms through room remarketers and paying them instead of obtaining the hotel room directly from hotel operators. Room remarketers enter into agreements with New York hotel operators to resell rooms through the remarketers' websites and toll-free numbers. The State currently receives no tax on the remarketers' markup on the room, giving remarketers a competitive advantage over hotels using conventional reservation methods. This bill would make clear that the right to "resell" the occupancy, as well as the physical occupancy of a hotel room, are both taxable, thus removing the tax advantage that room remarketers currently have over hotel operators. The bill would also amend New York City's locally-administered hotel room occupancy tax to conform it to the methodology of the State tax in regard to room remarketers.

S 2. Paragraphs 2, 3, 4 and 6 of subdivision (c) of section 1101 of the tax law, as added by chapter 93 of the laws of 1965, are amended to read as follows:

(2) Occupancy. The use or possession, or the right to the use or possession, of any room in a hotel. "RIGHT TO THE USE OR POSSESSION" INCLUDES THE RIGHTS OF A ROOM REMARKETER AS DESCRIBED IN PARAGRAPH EIGHT OF THIS SUBDIVISION.

(3) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise. "RIGHT TO USE OR POSSESS" INCLUDES THE RIGHTS OF A ROOM REMARKETER AS DESCRIBED IN PARAGRAPH EIGHT OF THIS SUBDIVISION.

(4) Operator. Any person operating a hotel. SUCH TERM SHALL INCLUDE A ROOM REMARKETER AND SUCH ROOM REMARKETER SHALL BE DEEMED TO OPERATE A HOTEL, OR PORTION THEREOF, WITH RESPECT TO WHICH SUCH PERSON HAS THE RIGHTS OF A ROOM REMARKETER.

(6) Rent. The consideration received for occupancy, INCLUDING ANY SERVICE OR OTHER CHARGE OR AMOUNT REQUIRED TO BE PAID AS A CONDITION FOR OCCUPANCY, valued in money, whether received in money or otherwise AND WHETHER RECEIVED BY THE OPERATOR OR A ROOM REMARKETER OR ANOTHER PERSON ON BEHALF OF EITHER OF THEM.

S 3. Subdivision (c) of section 1101 of the tax law is amended by adding a new paragraph 8 to read as follows:

(8) ROOM REMARKETER. A PERSON WHO RESERVES, ARRANGES FOR, CONVEYS, OR FURNISHES OCCUPANCY, WHETHER DIRECTLY OR INDIRECTLY, TO AN OCCUPANT FOR RENT IN AN AMOUNT DETERMINED BY THE ROOM REMARKETER, DIRECTLY OR INDIRECTLY, WHETHER PURSUANT TO A WRITTEN OR OTHER AGREEMENT. SUCH PERSON'S

ABILITY OR AUTHORITY TO RESERVE, ARRANGE FOR, CONVEY, OR FURNISH OCCUPANCY, DIRECTLY OR INDIRECTLY, AND TO DETERMINE RENT THEREFOR, SHALL BE THE "RIGHTS OF A ROOM REMARKETER". A ROOM REMARKETER IS NOT A PERMANENT RESIDENT WITH RESPECT TO A ROOM FOR WHICH SUCH PERSON HAS THE RIGHTS OF A ROOM REMARKETER.

S 4. Subdivision (e) of section 1105 of the tax law, as amended by chapter 72 of the laws of 1971, is amended to read as follows:

(e) (1) The rent for every occupancy of a room or rooms in a hotel in this state, except that the tax shall not be imposed upon [(1)] (I) a permanent resident, or [(2)] (II) where the rent is not more than at the rate of two dollars per day.

(2) WHEN OCCUPANCY IS PROVIDED, FOR A SINGLE CONSIDERATION, WITH PROPERTY, SERVICES, AMUSEMENT CHARGES, OR ANY OTHER ITEMS, THE SEPARATE SALE OF WHICH IS NOT SUBJECT TO TAX UNDER THIS ARTICLE, THE ENTIRE CONSIDERATION SHALL BE TREATED AS RENT SUBJECT TO TAX UNDER PARAGRAPH ONE OF THIS SUBDIVISION; PROVIDED, HOWEVER, THAT WHERE THE AMOUNT OF THE RENT FOR OCCUPANCY IS STATED SEPARATELY FROM THE PRICE OF SUCH PROPERTY, SERVICES, AMUSEMENT CHARGES, OR OTHER ITEMS, ON ANY SALES SLIP, INVOICE, RECEIPT, OR OTHER STATEMENT GIVEN THE OCCUPANT, AND SUCH RENT IS REASONABLE IN RELATION TO THE VALUE OF SUCH PROPERTY, SERVICES, AMUSEMENT CHARGES OR OTHER ITEMS, ONLY SUCH SEPARATELY STATED RENT WILL BE SUBJECT TO TAX UNDER PARAGRAPH ONE OF THIS SUBDIVISION.

S 5. Section 1119 of the tax law is amended by adding a new subdivision (e) to read as follows:

(E) SUBJECT TO CONDITIONS AND LIMITATIONS PROVIDED IN THIS SUBDIVISION, A ROOM REMARKETER SHALL BE ALLOWED A REFUND OR CREDIT AGAINST THE AMOUNT OF TAX COLLECTED AND REQUIRED TO BE REMITTED UNDER SECTION ELEVEN HUNDRED THIRTY-SEVEN OF THIS ARTICLE IN THE AMOUNT OF THE TAX IT PAID TO AN OPERATOR OF A HOTEL UNDER SECTION ELEVEN HUNDRED FOUR OF THIS ARTICLE, WHERE APPLICABLE, AND SUBDIVISION (E) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE. PROVIDED, HOWEVER, THAT, IN ORDER TO QUALIFY FOR A REFUND OR CREDIT UNDER THIS SUBDIVISION FOR ANY SALES TAX QUARTERLY PERIOD, THE ROOM REMARKETER MUST, FOR THAT QUARTER, (1) BE REGISTERED FOR SALES TAX PURPOSES UNDER SECTION ELEVEN HUNDRED THIRTY-FOUR OF THIS ARTICLE; (2) COLLECT THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED FOUR OF THIS ARTICLE, WHERE APPLICABLE, AND SUBDIVISION (E) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE; AND (3) FURNISH THE CERTIFICATE OF AUTHORITY NUMBER OF THE OPERATOR TO WHOM THE APPLICANT PAID THE TAX IN ITS APPLICATION FOR REFUND OR CREDIT IF REQUIRED ON THAT FORM OR UPON REQUEST. AN APPLICATION FOR REFUND OR CREDIT UNDER THIS SUBDIVISION MUST BE FILED WITH THE COMMISSIONER WITHIN THE TIME PROVIDED BY SUBDIVISION (A) OF SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS ARTICLE. THE APPLICATION MUST BE IN THE FORM PRESCRIBED BY THE COMMISSIONER. WHERE AN APPLICATION FOR CREDIT HAS BEEN FILED, THE APPLICANT MAY IMMEDIATELY TAKE THE CREDIT ON THE RETURN THAT IS DUE COINCIDENT WITH OR IMMEDIATELY SUBSEQUENT TO THE TIME THAT THE APPLICANT FILES THE APPLICATION FOR CREDIT. HOWEVER, THE TAKING OF THE CREDIT ON THE RETURN IS DEEMED TO BE PART OF THE APPLICATION FOR CREDIT. THE PROCEDURE FOR GRANTING OR DENYING THE APPLICATIONS FOR REFUND OR CREDIT AND REVIEW OF THOSE DETERMINATIONS SHALL BE AS PROVIDED IN SUBDIVISION (E) OF SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS ARTICLE. AN OPERATOR, INCLUDING A ROOM REMARKETER, WHO IS PAID TAX BY A ROOM REMARKETER MUST UPON REQUEST PROVIDE THE REMARKETER WITH ITS CERTIFICATE OF AUTHORITY NUMBER, PROVIDED THAT THE OPERATOR'S FAILURE TO DO SO DOES NOT CHANGE THE REQUIREMENT SET FORTH IN PARAGRAPH THREE OF THIS SUBDIVISION.

S 6. Subdivisions 2, 3, 4, 7 and 12 of section 11-2501 of the administrative code of the city of New York, subdivision 7 as amended and subdivision 12 as added by local law number 43 of the city of New York for the year 2009, are amended to read as follows:

2. "Operator." Any person operating a hotel in the city of New York, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, [mortgage] MORTGAGEE in possession, licensee or any other person otherwise operating such hotel.

3. "Occupant." A person who, for a consideration, uses, possesses, or has the right to use or possess, any room or rooms in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise. "RIGHT TO USE OR POSSESS" INCLUDES THE RIGHTS OF A ROOM REMARKETER AS DESCRIBED IN SUBDIVISION TWELVE OF THIS SECTION.

4. "Occupancy." The use or possession, or the right to the use or possession of any room or rooms in a hotel, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms. "RIGHT TO THE USE OR POSSESSION" INCLUDES THE RIGHTS OF A ROOM REMARKETER AS DESCRIBED IN SUBDIVISION TWELVE OF THIS SECTION.

7. "Rent." The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, including any service [and/or booking fees that are] OR OTHER CHARGE OR AMOUNT REQUIRED TO BE PAID AS a condition [of] FOR occupancy, and also any amount for which credit is allowed by the operator or room remarketer to the occupant, without any deduction therefrom whatsoever, WHETHER RECEIVED BY THE OPERATOR OR A ROOM REMARKETER OR ANOTHER PERSON ON BEHALF OF EITHER OF THEM.

12. "Room remarketer." [Any person, excluding the operator, having any right, access, ability or authority, through an internet transaction or any other means whatsoever, to offer, reserve, book, arrange for, remarket, distribute, broker, resell, or facilitate the transfer of rooms the occupancy of which is subject to tax under this chapter.] A PERSON WHO RESERVES, ARRANGES FOR, CONVEYS, OR FURNISHES OCCUPANCY, WHETHER DIRECTLY OR INDIRECTLY, TO AN OCCUPANT FOR RENT IN AN AMOUNT DETERMINED BY SUCH ROOM REMARKETER, DIRECTLY OR INDIRECTLY, WHETHER PURSUANT TO A WRITTEN OR OTHER AGREEMENT. SUCH PERSON'S ABILITY OR AUTHORITY TO RESERVE, ARRANGE FOR, CONVEY, OR FURNISH OCCUPANCY, DIRECTLY OR INDIRECTLY, AND TO DETERMINE RENT THEREFOR, SHALL BE THE "RIGHTS OF A ROOM REMARKETER". A ROOM REMARKETER IS NOT A PERMANENT RESIDENT WITH RESPECT TO A ROOM FOR WHICH SUCH PERSON HAS THE RIGHTS OF A ROOM REMARKETER.

S 7. Subdivisions 13 and 14 of section 11-2501 of the administrative code of the city of New York are REPEALED.

S 8. Paragraphs 4 and 5 of subdivision a of section 11-2502 of the administrative code of the city of New York, as amended by local law number 43 of the city of New York for the year 2009, are amended to read as follows:

(4) [Where the occupancy of a room is reserved, booked or otherwise arranged for by a room remarketer, the tax imposed by paragraph three of this subdivision shall be determined based on the rent received from the occupant by the room remarketer. In such a transaction, the room remarketer shall collect from the occupant and remit to the operator that portion of the tax that is determined based upon the net rent, and the operator shall pay such portion of the tax to the commissioner of finance. The room remarketer shall collect from the occupant and pay to the commissioner of finance that portion of the tax that is determined

based upon the additional rent.] WHEN OCCUPANCY IS PROVIDED, FOR A SINGLE CONSIDERATION, WITH PROPERTY, SERVICES, AMUSEMENT CHARGES, OR ANY OTHER ITEMS, THE SEPARATE SALE OF WHICH IS NOT SUBJECT TO TAX UNDER THIS CHAPTER, THE ENTIRE CONSIDERATION SHALL BE TREATED AS RENT SUBJECT TO TAX UNDER PARAGRAPH ONE OF THIS SUBDIVISION; PROVIDED, HOWEVER, THAT WHERE THE AMOUNT OF THE RENT FOR OCCUPANCY IS STATED SEPARATELY FROM THE PRICE OF SUCH PROPERTY, SERVICES, AMUSEMENT CHARGES OR OTHER ITEMS ON ANY SALES SLIP, INVOICE, RECEIPT, OR OTHER STATEMENT GIVEN THE OCCUPANT AND SUCH RENT IS REASONABLE IN RELATION TO THE VALUE OF SUCH PROPERTY, SERVICES, AMUSEMENT CHARGES, OR OTHER ITEMS, ONLY SUCH SEPARATELY STATED RENT WILL BE SUBJECT TO TAX UNDER PARAGRAPH ONE OF THIS SUBDIVISION.

(5) A ROOM REMARKETER SHALL BE ALLOWED A REFUND OR CREDIT AGAINST THE TAXES COLLECTED AND REQUIRED TO BE REMITTED PURSUANT TO SECTION 11-2505 OF THIS CHAPTER IN THE AMOUNT OF THE TAX IT PAID TO THE OPERATOR OF THE HOTEL OR ANOTHER ROOM REMARKETER UNDER PARAGRAPH THREE OF THIS SUBDIVISION. PROVIDED, HOWEVER, THAT IN ORDER TO QUALIFY FOR A REFUND OR CREDIT UNDER THIS PARAGRAPH WITH RESPECT TO ANY QUARTERLY PERIOD, AS DESCRIBED IN SUBDIVISION A OF SECTION 11-2504 OF THIS CHAPTER, THE ROOM REMARKETER MUST, WITH RESPECT TO SUCH QUARTER, (I) BE REGISTERED FOR HOTEL ROOM OCCUPANCY TAX PURPOSES UNDER SECTION 11-2514 OF THIS CHAPTER, AND (II) COLLECT THE TAXES IMPOSED BY PARAGRAPHS TWO AND THREE OF THIS SUBDIVISION. SUBJECT TO THE CONDITIONS AND LIMITATIONS OF THIS PARAGRAPH, THE PROVISIONS OF SECTION 11-2507 OF THIS CHAPTER SHALL APPLY TO REFUNDS OR CREDITS UNDER THIS PARAGRAPH.

(6) Where the rent is paid or charged or billed, or falls due on either a weekly, monthly or other term basis, the daily rent upon which the tax is determined shall be the result obtained by dividing the rent for such term by the number of days in such term. Where the rent is for more than one room, including but not limited to a suite of rooms, the daily rent per room upon which tax is determined shall be calculated by multiplying the daily rent for the group of rooms by a fraction, the numerator of which shall be the daily rent for the particular room, or a similar room, when such room is rented alone with similar bath facilities, and the denominator of which shall be the total of the daily rent for the individual rooms in the group of rooms, or similar rooms, when such rooms are rented alone with similar bath facilities. In any case in which it is not possible to determine the daily rent per room in the foregoing manner, the commissioner of finance shall prescribe methods for making such determination.

S 9. Paragraph 2 of subdivision f of section 11-2502 of the administrative code of the city of New York is REPEALED and paragraph 3 of such subdivision is renumbered paragraph 2.

S 10. Subdivision a of section 11-2507 of the administrative code of the city of New York, as amended by local law number 43 of the city of New York for the year 2009, is amended to read as follows:

a. In the manner provided in this section the commissioner of finance shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if written application to the commissioner of finance for such refund shall be made within one year from the payment thereof. Whenever a refund or credit is made or denied by the commissioner of finance, he or she shall state his or her reasons therefor and give notice thereof to the taxpayer in writing. Such application may be made by the occupant, operator, room remarketer or other person who has actually paid the tax [or portion of the tax] to the commissioner of finance. Such application may also be made by an operator or room remarketer who has collected and

paid over such tax [or portion of such tax] to the commissioner of finance provided that the application is made within one year of the payment by the occupant to the operator or room remarketer, but no actual refund of moneys shall be made to such operator or room remarketer until he or she shall first establish to the satisfaction of the commissioner of finance, under such regulations as the commissioner of finance may prescribe, that he or she has repaid to the occupant the amount for which the application for refund is made. The commissioner of finance may, in lieu of any refund required to be made, allow credit therefor on payments due from the applicant.

S 11. Paragraph 1 of subdivision (h) of section 11-2515 of the administrative code of the city of New York, as amended by local law number 43 of the city of New York for the year 2009, is amended to read as follows:

(1) Officers of a corporate operator or room remarketer and partners in a partnership which is an operator or room remarketer shall be personally liable for the tax [or portion of such tax] collected or required to be collected by such corporation or partnership under this chapter, and subject to the penalties and interest imposed by this section.

S 12. This act shall take effect September 1, 2010 and shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law.

PART BB

Intentionally omitted.

PART CC

Section 1. Paragraph 1 of subsection (c) of section 615 of the tax law, as amended by chapter 497 of the laws of 1997, is amended to read as follows:

(1) STATE AND LOCAL GENERAL SALES TAXES AS DEFINED IN SUBSECTION (B) OF SECTION ONE HUNDRED SIXTY-FOUR OF THE INTERNAL REVENUE CODE, TO THE EXTENT INCLUDED IN FEDERAL ITEMIZED DEDUCTIONS OR income taxes imposed by this state or any other taxing jurisdiction, except city earnings taxes on nonresidents that are imposed upon and paid by taxpayers for taxable years beginning after December thirty-first, nineteen hundred seventy and before January first, two thousand, pursuant to the authority of FORMER section twenty-five-m of the general city law, to the extent that the amount of such tax exceeds the tax computed as if the rates were one-fourth of one percent of wages subject to tax and three-eighths of one percent of net earnings from self-employment subject to tax;

S 2. Paragraph 1 of subdivision (c) of section 11-1715 of the administrative code of the city of New York, as amended by chapter 497 of the laws of 1997, is amended to read as follows:

(1) STATE AND LOCAL GENERAL SALES TAXES AS DEFINED IN SUBSECTION (B) OF SECTION ONE HUNDRED SIXTY-FOUR OF THE INTERNAL REVENUE CODE, TO THE EXTENT INCLUDED IN FEDERAL ITEMIZED DEDUCTIONS OR income taxes imposed by this city or any other taxing jurisdiction, except city earnings taxes on nonresidents that are imposed upon and paid by taxpayers for taxable years beginning after December thirty-first, nineteen hundred seventy and before January first, two thousand, pursuant to the authority of FORMER section twenty-five-m of the general city law, to the

extent that the amount of such tax exceeds the tax computed as if the rates were one-fourth of one percent of wages subject to tax and three-eighths of one percent of net earnings from self-employment subject to tax;

S 3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2010.

PART DD

Intentionally omitted.

PART EE

Section 1. Subdivision 1 of section 54-f of the state finance law, as added by section 139 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

1. Except as otherwise provided by law, the provisions of this section shall be utilized by the state to calculate the annual amount due to be paid to the city of New York by the state to reimburse such city for tax receipts foregone (A) as a result of a chapter of the laws of nineteen hundred ninety-seven that reduced the rates of tax imposed pursuant to authority granted under section thirteen hundred one of the tax law and that created a new "state school tax reduction credit" against liabilities imposed pursuant to the authority granted the city by such section and other statutes authorizing the imposition of a personal income tax on the residents of such city, AND (B) AS A RESULT OF THE TAX RATE ADJUSTMENTS MADE BY A CHAPTER OF THE LAWS OF TWO THOUSAND TEN WHICH AMENDED THIS SUBDIVISION.

S 2. Paragraphs 1, 2 and 3 of subsection (a) of section 1304 of the tax law, as amended by section 134 of part A of chapter 389 of the laws of 1997, subparagraph (A) of paragraph 1, subparagraph (A) of paragraph 2 and subparagraph (A) of paragraph 3 as amended by chapter 525 of the laws of 2008, are amended to read as follows:

(1) Resident married individuals filing joint returns and resident surviving spouses. The tax under this section for each taxable year on the city taxable income of every city resident married individual who makes a single return jointly with his or her spouse under subsection (b) of section thirteen hundred six of this article and on the city taxable income of every city resident surviving spouse shall be determined in accordance with the following tables:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE:

IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $21,600	2.55% OF THE CITY TAXABLE INCOME
OVER $21,600 BUT NOT OVER $45,000	$551 PLUS 3.1% OF EXCESS OVER $21,600
OVER $45,000 BUT NOT OVER $90,000	$1,276 PLUS 3.15% OF EXCESS OVER $45,000
OVER $90,000 BUT NOT OVER $500,000	$2,694 PLUS 3.2% OF EXCESS OVER $90,000
OVER $500,000	$15,814 PLUS 3.4% OF EXCESS OVER $500,000

(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand [twelve] TEN:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000	$2,694 plus 3.2% of excess over $90,000

[(B) For taxable years beginning in two thousand:

If the city taxable income is:	The tax is:
Not over $21,600	2.65% of the city taxable income
Over $21,600 but not over $45,000	$572 plus 3.215% of excess over $21,600
Over $45,000 but not over $90,000	$1,325 plus 3.265% of excess over $45,000
Over $90,000	$2,794 plus 3.315% of excess over $90,000

(C) For taxable years beginning in nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $21,600	2.675% of the city taxable income
Over $21,600 but not over $45,000	$578 plus 3.2575% of excess over $21,600
Over $45,000 but not over $90,000	$1,340 plus 3.3075% of excess over $45,000
Over $90,000	$2,828 plus 3.3575% of excess over $90,000

(D) For taxable years beginning after nineteen hundred ninety-six and before nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $21,600	2.7% of the city taxable income
Over $21,600 but not over $45,000	$583 plus 3.3% of excess over $21,600
Over $45,000 but not over $90,000	$1,355 plus 3.35% of excess over $45,000
Over $90,000	$2,863 plus 3.4% of excess over $90,000

(E) For taxable years beginning in nineteen hundred ninety-six:

If the city taxable income is:	The tax is:
Not over $14,400	2.6% of the city taxable income
Over $14,400 but not over $27,000	$374 plus 3% of excess over $14,400
Over $27,000 but not over $45,000	$752 plus 3.3% of excess over $27,000
Over $45,000 but not over $108,000	$1,346 plus 3.35% of excess over $45,000
Over $108,000	$3,457 plus 3.4% of excess over $108,000

(F) For taxable years beginning in nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $14,400	2.25% of the city taxable income
Over $14,400 but not over $27,000	$324 plus 2.85% of excess over $14,400
Over $27,000 but not over $45,000	$683 plus 3.3% of excess over $27,000
Over $45,000 but not over $108,000	$1,278 plus 3.35% of excess over $45,000
Over $108,000	$3,388 plus 3.4% of excess over $108,000

(G) For taxable years beginning after nineteen hundred eighty-eight and before nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $14,400	2.2% of the city taxable income
Over $14,400 but not over $27,000	$317 plus 2.7% of excess over $14,400
Over $27,000 but not over $45,000	$657 plus 3.2% of excess over $27,000
Over $45,000 but not over $108,000	$1,233 plus 3.35% of excess over $45,000
Over $108,000	$3,344 plus 3.4% of excess over $108,000

(H) For taxable years beginning in nineteen hundred eighty-eight:

If the city taxable income is:	The tax is:
Not over $4,500	1.5% of the city taxable income
Over $4,500 but not over $16,200	$68 plus 2.2% of excess over $4,500
Over $16,200 but not over $27,000	$325 plus 2.7% of excess over $16,200
Over $27,000 but not over $45,000	$617 plus 3.2% of excess over $27,000
Over $45,000 but not over $108,000	$1,193 plus 3.4% of excess over $45,000
Over $108,000	$3,335 plus 3.5% of excess over $108,000

(I) For taxable years beginning in nineteen hundred eighty-seven:

If the city taxable income is:	The tax is:
Not over $4,125	1.5% of the city taxable income
Over $4,125 but not over $8,250	$62 plus 1.8% of excess over $4,125
Over $8,250 but not over $14,850	$136 plus 2.2% of excess over $8,250
Over $14,850 but not over $21,450	$281 plus 2.6% of excess over $14,850
Over $21,450 but not over $28,050	$453 plus 3% of excess over $21,450
Over $28,050 but not over $34,650	$651 plus 3.4% of excess over $28,050
Over $34,650 but not	$875 plus 3.7% of excess

over $41,250	over $34,650
Over $41,250 but not over $99,000	$1,119 plus 3.9% of excess over $41,250
Over $99,000	$3,371 plus 4.1% of excess over $99,000]

(2) Resident heads of households. The tax under this section for each taxable year on the city taxable income of every city resident head of a household shall be determined in accordance with the following tables:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE:

IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $14,400	2.55% OF THE CITY TAXABLE INCOME
OVER $14,400 BUT NOT OVER $30,000	$367 PLUS 3.1% OF EXCESS OVER $14,400
OVER $30,000 BUT NOT OVER $60,000	$851 PLUS 3.15% OF EXCESS OVER $30,000
OVER $60,000 BUT NOT OVER $500,000	$1,796 PLUS 3.2% OF EXCESS OVER $60,000
OVER $500,000	$15,876 PLUS 3.4% OF EXCESS OVER $500,000

(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand [twelve] TEN:

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000	$1,796 plus 3.2% of excess over $60,000

[(B) For taxable years beginning in two thousand:

If the city taxable income is:	The tax is:
Not over $14,400	2.65% of the city taxable income
Over $14,400 but not over $30,000	$382 plus 3.215% of excess over $14,400
Over $30,000 but not over $60,000	$883 plus 3.265% of excess over $30,000
Over $60,000 but not	$1,863 plus 3.315% of excess over $60,000

(C) For taxable years beginning in nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $14,400	2.675% of the city taxable income
Over $14,400 but not over $30,000	$385 plus 3.2575% of excess over $14,400
Over $30,000 but not over $60,000	$893 plus 3.3075% of excess over $30,000
Over $60,000	$1,886 plus 3.3575% of excess over $60,000

(D) For taxable years beginning after nineteen hundred ninety-six and before nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $14,400	2.7% of the city taxable income
Over $14,400 but not over $30,000	$389 plus 3.3% of excess over $14,400
Over $30,000 but not over $60,000	$904 plus 3.35% of excess over $30,000
Over $60,000	$1,909 plus 3.4% of excess over $60,000

(E) For taxable years beginning in nineteen hundred ninety-six:

If the city taxable income is:	The tax is:
Not over $9,600	2.6% of the city taxable income
Over $9,600 but not over $18,000	$250 plus 3% of excess over $9,600
Over $18,000 but not over $30,000	$502 plus 3.3% of excess over $18,000
Over $30,000 but not over $72,000	$898 plus 3.35% of excess over $30,000
Over $72,000	$2,305 plus 3.4% of excess over $72,000

(F) For taxable years beginning in nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $9,200	2.25% of the city taxable income
Over $9,200 but not over $17,250	$207 plus 2.85% of excess over $9,200
Over $17,250 but not over $28,750	$436 plus 3.3% of excess over $17,250
Over $28,750 but not over $69,000	$816 plus 3.35% of excess over $28,750
Over $69,000	$2,164 plus 3.4% of excess over $69,000

(G) For taxable years beginning after nineteen hundred eighty-eight and before nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $8,800	2.2% of the city taxable income
Over $8,800 but not over $16,500	$194 plus 2.7% of excess over $8,800
Over $16,500 but not over $27,500	$402 plus 3.2% of excess over $16,500
Over $27,500 but not over $66,000	$754 plus 3.35% of excess over $27,500
Over $66,000	$2,044 plus 3.4% of excess over $66,000

(H) For taxable years beginning in nineteen hundred eighty-eight:

If the city taxable income is:	The tax is:
Not over $2,750	1.5% of the city taxable income

Over $2,750 but not over $9,900	$41 plus 2.2% of excess over $2,750
Over $9,900 but not over $16,500	$198 plus 2.7% of excess over $9,900
Over $16,500 but not over $27,500	$376 plus 3.2% of excess over $16,500
Over $27,500 but not over $66,000	$728 plus 3.4% of excess over $27,500
Over $66,000	$2,037 plus 3.5% of excess over $66,000

(I) For taxable years beginning in nineteen hundred eighty-seven:

If the city taxable income is:	The tax is:
Not over $2,750	1.5% of the city taxable income
Over $2,750 but not over $5,500	$41 plus 1.8% of excess over $2,750
Over $5,500 but not over $9,900	$91 plus 2.2% of excess over $5,500
Over $9,900 but not over $14,300	$188 plus 2.6% of excess over $9,900
Over $14,300 but not over $18,700	$302 plus 3% of excess over $14,300
Over $18,700 but not over $23,100	$434 plus 3.4% of excess over $18,700
Over $23,100 but not over $27,500	$584 plus 3.7% of excess over $23,100
Over $27,500 but not over $66,000	$747 plus 3.9% of excess over $27,500
Over $66,000	$2,249 plus 4.1% of excess over $66,000]

(3) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. The tax under this section for each taxable year on the city taxable income of every city resident individual who is not a city resident married individual who makes a single return jointly with his or her spouse under subsection (b) of section thirteen hundred six OF THIS ARTICLE or a city resident head of household or a city resident surviving spouse, and on the city taxable income of every city resident estate and trust shall be determined in accordance with the following tables:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE:

IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $12,000	2.55% OF THE CITY TAXABLE INCOME
OVER $12,000 BUT NOT OVER $25,000	$306 PLUS 3.1% OF EXCESS OVER $12,000
OVER $25,000 BUT NOT OVER $50,000	$709 PLUS 3.15% OF EXCESS OVER $25,000
OVER $50,000 BUT NOT OVER $500,000	$1,497 PLUS 3.2% OF EXCESS OVER $50,000
OVER $500,000	$15,897 PLUS 3.4% OF EXCESS OVER $500,000

(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand [twelve] TEN:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
Over $25,000 but not over $50,000	$709 plus 3.15% of excess over $25,000
Over $50,000	$1,497 plus 3.2% of excess over $50,000

[(B) For taxable years beginning in two thousand:

If the city taxable income is:	The tax is:
Not over $12,000	2.65% of the city taxable income
Over $12,000 but not over $25,000	$318 plus 3.215% of excess over $12,000
Over $25,000 but not over $50,000	$736 plus 3.265% of excess over $25,000
Over $50,000	$1,552 plus 3.315% of excess over $50,000

(C) For taxable years beginning in nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $12,000	2.675% of the city taxable income
Over $12,000 but not over $25,000	$321 plus 3.2575% of excess over $12,000
Over $25,000 but not over $50,000	$744 plus 3.3075% of excess over $25,000
Over $50,000	$1,571 plus 3.3575% of excess over $50,000

(D) For taxable years beginning after nineteen hundred ninety-six and before nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $12,000	2.7% of the city taxable income
Over $12,000 but not over $25,000	$324 plus 3.3% of excess over $12,000
Over $25,000 but not over $50,000	$753 plus 3.35% of excess over $25,000
Over $50,000	$1,591 plus 3.4% of excess over $50,000

(E) For taxable years beginning in nineteen hundred ninety-six:

If the city taxable income is:	The tax is:
Not over $8,000	2.6% of the city taxable income
Over $8,000 but not over $15,000	$208 plus 3% of excess over $8,000
Over $15,000 but not over $25,000	$418 plus 3.3% of excess over $15,000
Over $25,000 but not	$748 plus 3.35% of excess

over $60,000	over $25,000
Over $60,000	$1,920 plus 3.4% of excess over $60,000

(F) For taxable years beginning in nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $8,000	2.25% of the city taxable income
Over $8,000 but not over $15,000	$180 plus 2.85% of excess over $8,000
Over $15,000 but not over $25,000	$380 plus 3.3% of excess over $15,000
Over $25,000 but not over $60,000	$710 plus 3.35% of excess over $25,000
Over $60,000	$1,883 plus 3.4% of excess over $60,000

(G) For taxable years beginning after nineteen hundred eighty-eight and before nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $8,000	2.2% of the city taxable income
Over $8,000 but not over $15,000	$176 plus 2.7% of excess over $8,000
Over $15,000 but not over $25,000	$365 plus 3.2% of excess over $15,000
Over $25,000 but not over $60,000	$685 plus 3.35% of excess over $25,000
Over $60,000	$1,858 plus 3.4% of excess over $60,000

(H) For taxable years beginning in nineteen hundred eighty-eight:

If the city taxable income is:	The tax is:
Not over $2,500	1.5% of the city taxable income
Over $2,500 but not over $9,000	$38 plus 2.2% of excess over $2,500
Over $9,000 but not over $15,000	$181 plus 2.7% of excess over $9,000
Over $15,000 but not over $25,000	$343 plus 3.2% of excess over $15,000
Over $25,000 but not over $60,000	$663 plus 3.4% of excess over $25,000
Over $60,000	$1,853 plus 3.5% of excess over $60,000

(I) For taxable years beginning in nineteen hundred eighty-seven:

If the city taxable income is:	The tax is:
Not over $2,500	1.5% of the city taxable income
Over $2,500 but not over $5,000	$38 plus 1.8% of excess over $2,500
Over $5,000 but not over $9,000	$83 plus 2.2% of excess over $5,000
Over $9,000 but not over $13,000	$171 plus 2.6% of excess over $9,000

Over $13,000 but not over $17,000	$275 plus 3% of excess over $13,000
Over $17,000 but not over $21,000	$395 plus 3.4% of excess over $17,000
Over $21,000 but not over $25,000	$531 plus 3.7% of excess over $21,000
Over $25,000 but not over $60,000	$679 plus 3.9% of excess over $25,000
Over $60,000	$2,044 plus 4.1% of excess over $60,000]

S 3. Paragraphs 1, 2 and 3 of subdivision (a) of section 11-1701 of the administrative code of the city of New York, as amended by section 136 of part A of chapter 389 of the laws of 1997, subparagraph (A) of paragraph 1, subparagraph (A) of paragraph 2 and subparagraph (A) of paragraph 3 as amended by chapter 525 of the laws of 2008, are amended to read as follows:

(1) Resident married individuals filing joint returns and resident surviving spouses. The tax under this section for each taxable year on the city taxable income of every city resident married individual who makes a single return jointly with his or her spouse under subdivision (b) of section 11-1751 OF THIS CHAPTER and on the city taxable income of every city resident surviving spouse shall be determined in accordance with the following tables:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE:

IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $21,600	2.55% OF THE CITY TAXABLE INCOME
OVER $21,600 BUT NOT OVER $45,000	$551 PLUS 3.1% OF EXCESS OVER $21,600
OVER $45,000 BUT NOT OVER $90,000	$1,276 PLUS 3.15% OF EXCESS OVER $45,000
OVER $90,000 BUT NOT OVER $500,000	$2,694 PLUS 3.2% OF EXCESS OVER $90,000
OVER $500,000	$15,814 PLUS 3.4% OF EXCESS OVER $500,000

(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand [twelve] TEN:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000	$2,694 plus 3.2% of excess over $90,000

[(B) For taxable years beginning in two thousand:

If the city taxable income is:	The tax is:
Not over $21,600	2.65% of the city taxable income
Over $21,600 but not over $45,000	$572 plus 3.215% of excess over $21,600
Over $45,000 but not	$1,325 plus 3.265% of excess

over $90,000	over $45,000
Over $90,000	$2,794 plus 3.315% of excess over $90,000

(C) For taxable years beginning in nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $21,600	2.675% of the city taxable income
Over $21,600 but not over $45,000	$578 plus 3.2575% of excess over $21,600
Over $45,000 but not over $90,000	$1,340 plus 3.3075% of excess over $45,000
Over $90,000	$2,828 plus 3.3575% of excess over $90,000

(D) For taxable years beginning after nineteen hundred ninety-six and before nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $21,600	2.7% of the city taxable income
Over $21,600 but not over $45,000	$583 plus 3.3% of excess over $21,600
Over $45,000 but not over $90,000	$1,355 plus 3.35% of excess over $45,000
Over $90,000	$2,863 plus 3.4% of excess over $90,000

(E) For taxable years beginning in nineteen hundred ninety-six:

If the city taxable income is:	The tax is:
Not over $14,400	2.6% of the city taxable income
Over $14,400 but not over $27,000	$374 plus 3% of excess over $14,400
Over $27,000 but not over $45,000	$752 plus 3.3% of excess over $27,000
Over $45,000 but not over $108,000	$1,346 plus 3.35% of excess over $45,000
Over $108,000	$3,457 plus 3.4% of excess over $108,000

(F) For taxable years beginning in nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $14,400	2.25% of the city taxable income
Over $14,400 but not over $27,000	$324 plus 2.85% of excess over $14,400
Over $27,000 but not over $45,000	$683 plus 3.3% of excess over $27,000
Over $45,000 but not over $108,000	$1,278 plus 3.35% of excess over $45,000
Over $108,000	$3,388 plus 3.4% of excess over $108,000

(G) For taxable years beginning after nineteen hundred eighty-eight and before nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $14,400	2.2% of the city taxable income
Over $14,400 but not over $27,000	$317 plus 2.7% of excess over $14,400
Over $27,000 but not over $45,000	$657 plus 3.2% of excess over $27,000
Over $45,000 but not over $108,000	$1,233 plus 3.35% of excess over $45,000
Over $108,000	$3,344 plus 3.4% of excess over $108,000

(H) For taxable years beginning in nineteen hundred eighty-eight:

If the city taxable income is:	The tax is:
Not over $4,500	1.5% of the city taxable income
Over $4,500 but not over $16,200	$68 plus 2.2% of excess over $4,500
Over $16,200 but not over $27,000	$325 plus 2.7% of excess over $16,200
Over $27,000 but not over $45,000	$617 plus 3.2% of excess over $27,000
Over $45,000 but not over $108,000	$1,193 plus 3.4% of excess over $45,000
Over $108,000	$3,335 plus 3.5% of excess over $108,000

(I) For taxable years beginning in nineteen hundred eighty-seven:

If the city taxable income is:	The tax is:
Not over $4,125	1.5% of the city taxable income
Over $4,125 but not over $8,250	$62 plus 1.8% of excess over $4,125
Over $8,250 but not over $14,850	$136 plus 2.2% of excess over $8,250
Over $14,850 but not over $21,450	$281 plus 2.6% of excess over $14,850
Over $21,450 but not over $28,050	$453 plus 3% of excess over $21,450
Over $28,050 but not over $34,650	$651 plus 3.4% of excess over $28,050
Over $34,650 but not over $41,250	$875 plus 3.7% of excess over $34,650
Over $41,250 but not over $99,000	$1,119 plus 3.9% of excess over $41,250
Over $99,000	$3,371 plus 4.1% of excess over $99,000]

(2) Resident heads of households. The tax under this section for each taxable year on the city taxable income of every city resident head of a household shall be determined in accordance with the following tables:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE:

IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $14,400	2.55% OF THE CITY TAXABLE INCOME
OVER $14,400 BUT NOT OVER $30,000	$367 PLUS 3.1% OF EXCESS OVER $14,400

OVER $30,000 BUT NOT OVER $60,000	$851 PLUS 3.15% OF EXCESS OVER $30,000
OVER $60,000 BUT NOT OVER $500,000	$1,796 PLUS 3.2% OF EXCESS OVER $60,000
OVER $500,000	$15,876 PLUS 3.4% OF EXCESS OVER $500,000

(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand [twelve] TEN:

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000	$[1,769] 1,796 plus 3.2% of excess over $60,000

[(B) For taxable years beginning in two thousand:

If the city taxable income is:	The tax is:
Not over $14,400	2.65% of the city taxable income
Over $14,400 but not over $30,000	$382 plus 3.215% of excess over $14,400
Over $30,000 but not over $60,000	$883 plus 3.265% of excess over $30,000
Over $60,000	$1,863 plus 3.315% of excess over $60,000

(C) For taxable years beginning in nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $14,400	2.675% of the city taxable income
Over $14,400 but not over $30,000	$385 plus 3.2575% of excess over $14,400
Over $30,000 but not over $60,000	$893 plus 3.3075% of excess over $30,000
Over $60,000	$1,886 plus 3.3575% of excess over $60,000

(D) For taxable years beginning after nineteen hundred ninety-six and before nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $14,400	2.7% of the city taxable income
Over $14,400 but not over $30,000	$389 plus 3.3% of excess over $14,400
Over $30,000 but not over $60,000	$904 plus 3.35% of excess over $30,000
Over $60,000	$1,909 plus 3.4% of excess over $60,000

(E) For taxable years beginning in nineteen hundred ninety-six:

If the city taxable income is:	The tax is:
Not over $9,600	2.6% of the city taxable income
Over $9,600 but not over $18,000	$250 plus 3% of excess over $9,600
Over $18,000 but not over $30,000	$502 plus 3.3% of excess over $18,000
Over $30,000 but not over $72,000	$898 plus 3.35% of excess over $30,000
Over $72,000	$2,305 plus 3.4% of excess over $72,000

(F) For taxable years beginning in nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $9,200	2.25% of the city taxable income
Over $9,200 but not over $17,250	$207 plus 2.85% of excess over $9,200
Over $17,250 but not over $28,750	$436 plus 3.3% of excess over $17,250
Over $28,750 but not over $69,000	$816 plus 3.35% of excess over $28,750
Over $69,000	$2,164 plus 3.4% of excess over $69,000

(G) For taxable years beginning after nineteen hundred eighty-eight and before nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $8,800	2.2% of the city taxable income
Over $8,800 but not over $16,500	$194 plus 2.7% of excess over $8,800
Over $16,500 but not over $27,500	$402 plus 3.2% of excess over $16,500
Over $27,500 but not over $66,000	$754 plus 3.35% of excess over $27,500
Over $66,000	$2,044 plus 3.4% of excess over $66,000

(H) For taxable years beginning in nineteen hundred eighty-eight:

If the city taxable income is:	The tax is:
Not over $2,750	1.5% of the city taxable income
Over $2,750 but not over $9,900	$41 plus 2.2% of excess over $2,750
Over $9,900 but not over $16,500	$198 plus 2.7% of excess over $9,900
Over $16,500 but not over $27,500	$376 plus 3.2% of excess over $16,500
Over $27,500 but not over $66,000	$728 plus 3.4% of excess over $27,500
Over $66,000	$2,037 plus 3.5% of excess over $66,000

(I) For taxable years beginning in nineteen hundred eighty-seven:

If the city taxable income is:	The tax is:
Not over $2,750	1.5% of the city taxable income
Over $2,750 but not over $5,500	$41 plus 1.8% of excess over $2,750
Over $5,500 but not over $9,900	$91 plus 2.2% of excess over $5,500
Over $9,900 but not over $14,300	$188 plus 2.6% of excess over $9,900
Over $14,300 but not over $18,700	$302 plus 3% of excess over $14,300
Over $18,700 but not over $23,100	$434 plus 3.4% of excess over $18,700
Over $23,100 but not over $27,500	$584 plus 3.7% of excess over $23,100
Over $27,500 but not over $66,000	$747 plus 3.9% of excess over $27,500
Over $66,000	$2,249 plus 4.1% of excess over $66,000]

(3) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. The tax under this section for each taxable year on the city taxable income of every city resident individual who is not a married individual who makes a single return jointly with his or her spouse under subdivision (b) of section 11-1751 OF THIS CHAPTER or a city resident head of a household or a city resident surviving spouse, and on the city taxable income of every city resident estate and trust shall be determined in accordance with the following tables:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE:

IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $12,000	2.55% OF THE CITY TAXABLE INCOME
OVER $12,000 BUT NOT OVER $25,000	$306 PLUS 3.1% OF EXCESS OVER $12,000
OVER $25,000 BUT NOT OVER $50,000	$709 PLUS 3.15% OF EXCESS OVER $25,000
OVER $50,000 BUT NOT OVER $500,000	$1,497 PLUS 3.2% OF EXCESS OVER $50,000
OVER $500,000	$15,897 PLUS 3.4% OF EXCESS OVER $500,000

(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand [twelve] TEN:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
Over $25,000 but not over $50,000	$709 plus 3.15% of excess over $25,000
Over $50,000	$1,497 plus 3.2% of excess over $50,000

[(B) For taxable years beginning in two thousand:

If the city taxable income is:	The tax is:
Not over $12,000	2.65% of the city taxable income
Over $12,000 but not over $25,000	$318 plus 3.215% of excess over $12,000
Over $25,000 but not over $50,000	$736 plus 3.265% of excess over $25,000
Over $50,000	$1,552 plus 3.315% of excess over $50,000

(C) For taxable years beginning in nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $12,000	2.675% of the city taxable income
Over $12,000 but not over $25,000	$321 plus 3.2575% of excess over $12,000
Over $25,000 but not over $50,000	$744 plus 3.3075% of excess over $25,000
Over $50,000	$1,571 plus 3.3575% of excess over $50,000

(D) For taxable years beginning after nineteen hundred ninety-six and before nineteen hundred ninety-nine:

If the city taxable income is:	The tax is:
Not over $12,000	2.7% of the city taxable income
Over $12,000 but not over $25,000	$324 plus 3.3% of excess over $12,000
Over $25,000 but not over $50,000	$753 plus 3.35% of excess over $25,000
Over $50,000	$1,591 plus 3.4% of excess over $50,000

(E) For taxable years beginning in nineteen hundred ninety-six:

If the city taxable income is:	The tax is:
Not over $8,000	2.6% of the city taxable income
Over $8,000 but not over $15,000	$208 plus 3% of excess over $8,000
Over $15,000 but not over $25,000	$418 plus 3.3% of excess over $15,000
Over $25,000 but not over $60,000	$748 plus 3.35% of excess over $25,000
Over $60,000	$1,920 plus 3.4% of excess over $60,000

(F) For taxable years beginning in nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $8,000	2.25% of the city taxable income
Over $8,000 but not over $15,000	$180 plus 2.85% of excess over $8,000
Over $15,000 but not over $25,000	$380 plus 3.3% of excess over $15,000
Over $25,000 but not over $60,000	$710 plus 3.35% of excess over $25,000
Over $60,000	$1,883 plus 3.4% of excess

over $60,000

(G) For taxable years beginning after nineteen hundred eighty-eight and before nineteen hundred ninety-five:

If the city taxable income is:	The tax is:
Not over $8,000	2.2% of the city taxable income
Over $8,000 but not over $15,000	$176 plus 2.7% of excess over $8,000
Over $15,000 but not over $25,000	$365 plus 3.2% of excess over $15,000
Over $25,000 but not over $60,000	$685 plus 3.35% of excess over $25,000
Over $60,000	$1,858 plus 3.4% of excess over $60,000

(H) For taxable years beginning in nineteen hundred eighty-eight:

If the city taxable income is:	The tax is:
Not over $2,500	1.5% of the city taxable income
Over $2,500 but not over $9,000	$38 plus 2.2% of excess over $2,500
Over $9,000 but not over $15,000	$181 plus 2.7% of excess over $9,000
Over $15,000 but not over $25,000	$343 plus 3.2% of excess over $15,000
Over $25,000 but not over $60,000	$663 plus 3.4% of excess over $25,000
Over $60,000	$1,853 plus 3.5% of excess over $60,000

(I) For taxable years beginning in nineteen hundred eighty-seven:

If the city taxable income is:	The tax is:
Not over $2,500	1.5% of the city taxable income
Over $2,500 but not over $5,000	$38 plus 1.8% of excess over $2,500
Over $5,000 but not over $9,000	$83 plus 2.2% of excess over $5,000
Over $9,000 but not over $13,000	$171 plus 2.6% of excess over $9,000
Over $13,000 but not over $17,000	$275 plus 3% of excess over $13,000
Over $17,000 but not over $21,000	$395 plus 3.4% of excess over $17,000
Over $21,000 but not over $25,000	$531 plus 3.7% of excess over $21,000
Over $25,000 but not over $60,000	$679 plus 3.9% of excess over $25,000
Over $60,000	$2,044 plus 4.1% of excess over $60,000]

S 4. 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 30 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 2010 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 2010 the withholding tables shall reflect as accurately as practicable the full amount of tax year 2010 liability so that such amount is withheld by December 31, 2010. Any such regulations to implement a change in withholding tables and methods for tax year 2010 shall be adopted and effective as soon as practicable and the commissioner 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 5. 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 any underpayment prior to or 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 6. This act shall take effect immediately.

PART FF

Section 1. Subdivision 3 of section 425 of the real property tax law is amended by adding a new paragraph (b-1) to read as follows:

(B-1) INCOME. FOR FINAL ASSESSMENT ROLLS TO BE USED FOR THE LEVY OF TAXES FOR THE TWO THOUSAND ELEVEN-TWO THOUSAND TWELVE SCHOOL YEAR AND THEREAFTER, THE PARCEL'S AFFILIATED INCOME MAY BE NO GREATER THAN FIVE HUNDRED THOUSAND DOLLARS, AS DETERMINED BY THE COMMISSIONER OF TAXATION AND FINANCE PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-U OF THE TAX LAW, IN ORDER TO BE ELIGIBLE FOR THE BASIC EXEMPTION AUTHORIZED BY THIS SECTION. AS USED HEREIN, THE TERM "AFFILIATED INCOME" SHALL MEAN THE COMBINED INCOME OF ALL OF THE OWNERS OF THE PARCEL WHO RESIDED PRIMARILY THEREON ON THE APPLICABLE TAXABLE STATUS DATE, AND OF ANY OWNERS' SPOUSES RESIDING PRIMARILY THEREON. FOR EXEMPTIONS ON FINAL ASSESSMENT ROLLS TO BE USED FOR THE LEVY OF TAXES FOR THE TWO THOUSAND ELEVEN-TWO THOUSAND TWELVE SCHOOL YEAR, AFFILIATED INCOME SHALL BE DETERMINED BASED UPON THE PARTIES' INCOMES FOR THE INCOME TAX YEAR ENDING IN TWO THOUSAND NINE. IN EACH SUBSEQUENT SCHOOL YEAR, THE APPLICABLE INCOME TAX YEAR

SHALL BE ADVANCED BY ONE YEAR. THE TERM "INCOME" AS USED HEREIN SHALL HAVE THE SAME MEANING AS IN SUBDIVISION FOUR OF THIS SECTION.

S 2. The tax law is amended by adding a new section 171-u to read as follows:

S 171-U. VERIFICATION OF INCOME ELIGIBILITY FOR BASIC STAR EXEMPTION. (1) ON OR AFTER AUGUST FIFTEENTH OF EACH YEAR, BEGINNING IN TWO THOUSAND TEN, THE COMMISSIONER SHALL PROCURE A REPORT OR REPORTS IDENTIFYING ALL PARCELS RECEIVING THE BASIC STAR EXEMPTION AUTHORIZED BY SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW. THE COMMISSIONER IS AUTHORIZED TO DEVELOP PROCEDURES NECESSARY TO ASCERTAIN TO THE BEST OF HIS OR HER ABILITY WHETHER THE PARCELS SATISFY THE INCOME ELIGIBILITY REQUIREMENTS FOR SUCH EXEMPTION. SUCH DETERMINATION SHALL BE BASED UPON THE AFFILIATED INCOME OF THE PARCEL FOR THE APPLICABLE INCOME TAX YEAR, AS DEFINED BY PARAGRAPH (B-1) OF SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW.

(2) THE COMMISSIONER SHALL FURTHER DEVELOP PROCEDURES BY WHICH EACH ASSESSOR SHALL BE NOTIFIED OF HIS OR HER FINDINGS, STATING IN EACH CASE EITHER THAT THE PARCEL DOES OR DOES NOT MEET THE INCOME ELIGIBILITY STANDARD PRESCRIBED BY LAW, OR THAT THE INCOME-ELIGIBILITY OF SUCH PARCEL CANNOT BE ASCERTAINED, WHICHEVER IS APPROPRIATE. THE COMMISSIONER SHALL PROVIDE NO OTHER INFORMATION ABOUT THE INCOME OF ANY PERSON TO AN ASSESSOR. SUCH REPORTS SHALL BE FURNISHED TO ASSESSORS PRIOR TO THE APPLICABLE TAXABLE STATUS DATE OR AS SOON THEREAFTER AS IS POSSIBLE.

(3) UPON RECEIVING SUCH A REPORT, THE ASSESSOR SHALL GRANT THE EXEMPTION TO THOSE PARCELS WHICH THE COMMISSIONER DETERMINED TO BE INCOME-ELIGIBLE (ASSUMING THE ASSESSOR FINDS THAT THE REMAINING ELIGIBILITY REQUIREMENTS CONTINUE TO BE SATISFIED), SHALL DENY THE EXEMPTION TO THOSE WHICH THE COMMISSIONER DETERMINED NOT TO BE INCOME-ELIGIBLE, AND SHALL SOLICIT INCOME DOCUMENTATION FROM THE OWNERS OF THOSE PARCELS AS TO WHICH THE COMMISSIONER WAS UNABLE TO MAKE A DETERMINATION. WHERE THE ASSESSOR DENIES THE EXEMPTION BASED UPON THE COMMISSIONER'S REPORT, A NOTICE OF DENIAL SHALL BE MAILED AS PROVIDED BY PARAGRAPH (B) OF SUBDIVISION SIX OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, GIVING THE FINDINGS OF SUCH DEPARTMENT AS A REASON FOR SUCH DENIAL.

(4) WHERE A STAR EXEMPTION HAS BEEN IMPROPERLY GRANTED ON A FINAL ASSESSMENT ROLL TO A PROPERTY WHERE THE AFFILIATED INCOME EXCEEDS THE LIMITATIONS ESTABLISHED BY PARAGRAPH (B-1) OF SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, THE IMPROPERLY GRANTED EXEMPTION SHALL BE CORRECTED IN THE MANNER PROVIDED BY SUBDIVISION TWELVE OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW.

S 3. Intentionally omitted.

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, 2010.

PART GG

Section 1. Paragraph 30 of subdivision (a) of section 1115 of the tax law, as amended by section 84 of part A of chapter 56 of the laws of 1998, is amended to read as follows:

(30) [Clothing] NOTWITHSTANDING ANY OTHER PROVISION OF LAW: (I) FOR PURPOSES OF THE TAXES IMPOSED BY SECTIONS ELEVEN HUNDRED FIVE, ELEVEN HUNDRED NINE, AND ELEVEN HUNDRED TEN OF THIS ARTICLE, AND FOR PURPOSES ONLY OF TAXES IMPOSED BY A COUNTY, CITY, OR SCHOOL DISTRICT PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THIS

CHAPTER THAT ELECTS THE EXEMPTION DESCRIBED IN THIS SUBPARAGRAPH, FOR THE PERIOD COMMENCING APRIL FIRST, TWO THOUSAND ELEVEN, AND ENDING MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, CLOTHING and footwear for which the receipt or consideration given or contracted to be given is less than [one hundred ten] FIFTY-FIVE dollars per article of clothing, per pair of shoes or other articles of footwear or per item used or consumed to make or repair such clothing and which becomes a physical component part of such clothing.

(II) FOR PURPOSES ONLY OF THE TAXES IMPOSED BY A COUNTY, CITY, OR SCHOOL DISTRICT PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THIS CHAPTER THAT ELECTS THE EXEMPTION DESCRIBED IN THIS SUBPARAGRAPH, CLOTHING AND FOOTWEAR FOR WHICH THE RECEIPT OR CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN IS LESS THAN ONE HUNDRED TEN DOLLARS PER ARTICLE OF CLOTHING, PER PAIR OF SHOES OR OTHER ARTICLES OF FOOTWEAR OR PER ITEM USED OR CONSUMED TO MAKE OR REPAIR SUCH CLOTHING AND WHICH BECOMES A PHYSICAL COMPONENT PART OF SUCH CLOTHING.

S 2. Subdivision (g) of section 1109 of the tax law, as added by section 118-a of part A of chapter 389 of the laws of 1997, paragraph 1 as amended by section 10 of part A of chapter 63 of the laws of 2005, paragraph 2 as amended by section 4 of part KK of chapter 407 of the laws of 1999, and paragraph 3 as amended by section 88 of part A of chapter 56 of the laws of 1998, is amended to read as follows:

(g) Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary: (1) In the event that a county, city or school district located in the metropolitan commuter transportation district imposes taxes pursuant to the authority of subpart B of part I of article twenty-nine of this chapter and elects to provide the clothing and footwear exemption authorized in paragraph one of subdivision (a) of section twelve hundred ten of this chapter, [or a city located in such district in which the taxes provided for in section eleven hundred seven of this article are in effect elects to provide such clothing and footwear exemption from such taxes pursuant to the authority of subdivision (k) of such section twelve hundred ten,] or the taxes provided for in section eleven hundred eight of this article are in effect in a city located in such district, the exemption provided by paragraph thirty of subdivision (a) of section eleven hundred fifteen of this article shall be applicable in such portion of the metropolitan commuter transportation district in which such county, city or school district which elects to provide the clothing and footwear exemption authorized in paragraph one of subdivision (a) of section twelve hundred ten of this chapter is located, [or in a city located in such district in which the taxes provided for in section eleven hundred seven of this article are in effect which elects to provide such exemption] or where the taxes provided for in section eleven hundred eight of this [article] PART are in effect in a city located in such district. The commissioner shall determine and certify to the comptroller the amount of revenue forgone at the rate of three-eighths of one percent under this section in such county, city or school district on account of sales of clothing and footwear in such county, city or school district.

(2) Commencing with the sales tax quarterly period which commences on March first, two thousand, the commissioner shall make such determinations and certifications on the twelfth day of the month following the month in which sales tax quarterly returns are due under section eleven hundred thirty-six of this article with respect to such quarterly period for as long as such clothing and footwear exemptions from such taxes imposed pursuant to the authority of article twenty-nine OF THIS CHAPTER

or by section [eleven hundred seven or] eleven hundred eight OF THIS PART are in effect. Neither the commissioner nor the comptroller shall be held liable for any inaccuracy in such determinations and certifications. Such determinations and certifications may be based on such information as may be available to the commissioner at the time such determinations and certifications must be made under this subdivision and may be estimated on the basis of percentages or other indices calculated from distributions from prior periods. The commissioner shall be authorized to require such information as the commissioner deems necessary to comply with the requirements of this subdivision from persons required to file returns under such section eleven hundred thirty-six OF THIS ARTICLE.

(3) By the fifteenth day of the month in which the commissioner has made the certifications to the comptroller described in paragraph two of this subdivision, the comptroller shall bill any county, city or school district in such metropolitan commuter transportation district which provides such clothing and footwear exemption, [and any city in such district in which the taxes imposed by section eleven hundred seven are in effect which has elected to provide such clothing and footwear exemption,] and any city in such district in which the taxes imposed by section eleven hundred eight OF THIS PART are in effect, an amount equal to one-half of the amount certified to the comptroller by the commissioner in respect of such county, city or school district; and such county, city or school district shall pay the amount of such bill to the comptroller by the twenty-fifth day of such month. The comptroller shall deposit any such amounts received in the mass transportation operating assistance fund established by section eighty-eight-a of the state finance law to the credit of the metropolitan mass transportation operating assistance account therein.

(4) In the event that a county, city or school district imposing tax pursuant to the authority of subpart B of part I of article twenty-nine of this chapter does not pay in full a bill described in paragraph three of this subdivision by the twenty-fifth day of the month described in paragraphs two and three of this subdivision, the comptroller shall deduct any amount not paid from the amount of the next payment or payments due such county, city or school district pursuant to subdivision (c) of section twelve hundred sixty-one of this chapter until such amount not paid has been recovered. The comptroller shall deposit the amounts so deducted and recovered in the mass transportation operating assistance fund to be credited as provided in paragraph three of this subdivision.

(5) [In the event that a city in which the taxes imposed by section eleven hundred seven of this article are in effect does not pay in full a bill described in paragraph three of this subdivision by the twenty-fifth day of the month described in paragraphs two and three of this subdivision, the comptroller shall deduct any amount not paid from the amount of the next payment or payments due such city, with respect to taxes, penalty and interest imposed pursuant to the authority of section twelve hundred twelve-a of this chapter, pursuant to subdivision (c) of section twelve hundred sixty-one of this chapter, until such amount not paid has been recovered. The comptroller shall deposit the amounts so deducted and recovered in the mass transportation operating assistance fund to be credited as provided in paragraph three of this subdivision.

(6)] In the event that a city in which the taxes imposed by section eleven hundred eight of this article are in effect does not pay in full a bill described in paragraph three of this subdivision by the twenty-

fifth day of the month described in paragraphs two and three of this subdivision, the comptroller shall deduct any amount not paid from the amount of any other moneys due such city from the comptroller, not otherwise pledged, dedicated or encumbered pursuant to other state law, until such amount not paid has been recovered. The comptroller shall deposit the amounts so deducted and recovered in the mass transportation operating assistance fund to be credited as provided in paragraph three of this subdivision.

[(7)] (6) The commissioner shall certify the amount of any over calculation or under calculation of any certification required to be made to the comptroller under paragraph three of this subdivision as soon after its discovery as reasonably possible and subsequent bills to a city, county or school district to which the over calculation or under calculation relates shall be adjusted accordingly, provided that the comptroller may adjust such number of subsequent bills as the comptroller shall consider reasonable in view of the amount of the adjustment and all other facts and circumstances.

[(8)] (7) On the same date that the comptroller is required to bill a county, city or school district an amount as provided in paragraph three of this subdivision, the comptroller shall, after having first made any deposits required by section ninety-two-r of the state finance law and only to the extent that there are moneys remaining after having made such required deposits, withdraw from the state treasury, to the debit of the general fund, an amount equal to the total of the amounts required to be billed to counties, cities and school districts pursuant to such subdivision three and deposit such total amount in the mass transportation operating assistance fund to be credited as provided in such paragraph three. The amount of any over calculation or under calculation determined in paragraph [seven] SIX of this subdivision shall likewise be applied to the amounts required to be deposited under this paragraph, so that the amounts deposited under this paragraph equal the total of the amounts required to be billed to counties, cities and school districts under such paragraph three, as adjusted, pursuant to paragraph [seven] SIX of this subdivision.

S 2-a. Subdivision (g) of section 1109 of the tax law is amended by adding a new paragraph 8 to read as follows:

(8) NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBDIVISION OR OTHER PROVISIONS OF LAW: (I) FOR THE PERIOD COMMENCING OCTOBER FIRST, TWO THOUSAND TEN, AND ENDING MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN, THERE SHALL BE NO EXEMPTION FOR CLOTHING AND FOOTWEAR FROM THE TAXES IMPOSED BY THIS SECTION, AND THE COMMISSIONER SHALL NOT DETERMINE OR CERTIFY ANY AMOUNT OF REVENUE FOREGONE UNDER THE FOREGOING PROVISIONS OF THIS SUBDIVISION AND THE COMPTROLLER SHALL NOT BILL ANY COUNTY, CITY, OR SCHOOL DISTRICT LOCATED IN SUCH DISTRICT THAT EXEMPTS FOR CLOTHING AND FOOTWEAR FROM ITS TAXES IMPOSED PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THIS CHAPTER.

(II) FOR THE PERIOD COMMENCING APRIL FIRST, TWO THOUSAND ELEVEN, AND ENDING MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, WHILE THE EXEMPTION FOR CLOTHING AND FOOTWEAR DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH THIRTY OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE APPLIES TO THE TAXES IMPOSED BY THIS SECTION, THE COMPTROLLER SHALL, AFTER HAVING FIRST MADE ANY DEPOSITS REQUIRED BY SECTION NINETY-TWO-R OF THE STATE FINANCE LAW AND ONLY TO THE EXTENT THAT THERE ARE MONEYS REMAINING AFTER HAVING MADE SUCH REQUIRED DEPOSITS, WITHDRAW FROM THE STATE TREASURY, TO THE DEBIT OF THE GENERAL FUND, AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE REVENUES FOREGONE UNDER THIS SECTION ON ACCOUNT

OF SUCH EXEMPTION FROM THE TAXES IMPOSED BY THIS SECTION, SUCH AMOUNT OF REVENUE FOREGONE DETERMINED AND CALCULATED AS PROVIDED IN THE FOREGOING PROVISIONS OF THIS SUBDIVISION, AND DEPOSIT SUCH TOTAL AMOUNT IN THE MASS TRANSPORTATION OPERATING ASSISTANCE FUND ESTABLISHED BY SECTION EIGHTY-EIGHT-A OF THE STATE FINANCE LAW TO THE CREDIT OF THE METROPOLITAN MASS TRANSPORTATION OPERATING ASSISTANCE ACCOUNT THEREIN. HOWEVER, IF DURING SUCH PERIOD A COUNTY, CITY, OR SCHOOL DISTRICT LOCATED IN SUCH DISTRICT PROVIDES THE EXEMPTION FOR CLOTHING AND FOOTWEAR DESCRIBED IN EITHER SUBPARAGRAPH (I) OR (II) OF PARAGRAPH THIRTY OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE FROM ITS TAXES IMPOSED PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THIS CHAPTER, THEN THE COMMISSIONER SHALL DETERMINE AND CALCULATE THE AMOUNT OF REVENUE FOREGONE IN SUCH COUNTY, CITY OR SCHOOL DISTRICT ON ACCOUNT OF THE EXEMPTIONS OF BOTH THE STATE AND THE COUNTY, CITY OR SCHOOL DISTRICT AND THE STATE AND THE COUNTY, CITY OR SCHOOL DISTRICT SHALL EACH BE RESPONSIBLE FOR FIFTY PERCENT OF SUCH REVENUE FOREGONE IN ACCORDANCE WITH THE FOREGOING PROVISIONS OF THIS SUBDIVISION.

S 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by chapter 306 of the laws of 2005, subparagraph (i) as amended by section 34 of part S-1 of chapter 57 of the laws of 2009 and subparagraph (ii) as amended by chapter 144 of the laws of 2006, is amended to read as follows:

(1) [(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) 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.

[(ii) Notwithstanding any other provision of the law to the contrary, any county, imposing the taxes authorized by this subdivision, having a population of not less than one hundred thirty-nine thousand and not more than one hundred forty thousand, determined in accordance with the two thousand decennial federal census, may by local law, ordinance or resolution elect to exempt from such local sales and compensating use taxes clothing and footwear, as defined in paragraph fifteen of subdivision (b) of section eleven hundred one of this chapter, for which the receipt or consideration given or contracted to be given is less than one hundred ten dollars per article of clothing, per pair of shoes or other articles of footwear or per item used or consumed to make or repair such clothing and which becomes a physical component part of such clothing. Every such county shall comply with the provisions of subdivisions (d) and (e) of this section, including such provisions applicable to providing or repealing the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter.]

S 4. Subdivision (k) of section 1210 of the tax law is REPEALED.

S 5. Notwithstanding any provision of state or local law, ordinance or resolution to the contrary: (a) A county, city, or school district imposing sales and compensating use taxes pursuant to the authority of subpart B of part one of article 29 of this chapter may, regardless of whether it does or does not provide the clothing and footwear exemption as it exists before this act shall have become a law, elect the exemption for clothing and footwear described in subparagraph (i) of paragraph thirty of subdivision (a) of section 1115 of the tax law, as amended by section one of this act, for the period commencing April 1, 2011, and ending March 31, 2012, and may also elect to continue to provide the then-to-exist clothing and footwear exemption after that period, by amending its local law, ordinance, or resolution imposing such taxes in exactly the manner and format prescribed by the commissioner of taxation and finance, without any additions or deletions whatsoever, and otherwise in accordance with the provisions of subdivisions (d) and (e) of section 1210 or section 1211 or subdivisions (e) and (f) of section 1212 of the tax law.

(b) Nothing in this act shall be construed as limiting the authority of a county, city, or school district which imposes sales and compensating use taxes pursuant to the authority of subdivision (a) of section 1210 or section 1211 or 1212 of the tax law from continuing to provide the exemption for clothing and footwear costing less than 110 dollars per item, or to elect or repeal that exemption, in exactly the manner and format prescribed by the commissioner of taxation and finance, without any additions or deletions whatsoever, and otherwise in accordance with the provisions of subdivisions (d) and (e) of section 1210 or section 1211 or subdivisions (e) and (f) of section 1212 of the tax law.

S 6. This act shall take effect October 1, 2010, and shall apply in accordance with applicable transitional provisions in sections 1106 and 1217 of the tax law; provided that section one of this act shall expire April 1, 2012, whereupon paragraph 30 of subdivision (a) of section 1115 of the tax law shall be restored to read as it did before this act shall have become a law and such restored provision shall apply on and after April 1, 2012, in accordance with applicable transitional provisions in sections 1106 and 1217 of the tax law, and further that section two-a of

this act shall expire April 1, 2012, and be deemed repealed; provided, further, that section five of this act shall take effect immediately.

PART HH

Section 1. Subsection (a) of section 615 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(a) General. If federal taxable income of a resident individual is determined by itemizing deductions from his federal adjusted gross income, he may elect to deduct his New York itemized deduction in lieu of his New York standard deduction. The New York itemized deduction of a resident individual means the total amount of his deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the laws of the United States for the taxable year, with the modifications specified in this section, except as provided for under [subsection] SUBSECTIONS (f) AND (G) of this section.

S 2. Subsection (f) of section 615 of the tax law, as amended by section 1 of part W-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(f) [The] EXCEPT AS PROVIDED UNDER SUBSECTION (G) OF THIS SECTION, 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 3. Section 615 of the tax law is amended by adding a new subsection (g) to read as follows:

(G)(1) WITH RESPECT TO AN INDIVIDUAL WHOSE NEW YORK ADJUSTED GROSS INCOME IS OVER ONE MILLION DOLLARS AND NO MORE THAN TEN MILLION DOLLARS, THE NEW YORK ITEMIZED DEDUCTION SHALL BE AN AMOUNT EQUAL TO FIFTY PERCENT OF ANY CHARITABLE CONTRIBUTION DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE AND BEFORE TWO THOUSAND THIRTEEN. WITH RESPECT TO AN INDIVIDUAL WHOSE NEW YORK ADJUSTED GROSS INCOME IS OVER ONE MILLION DOLLARS, THE NEW YORK ITEMIZED DEDUCTION SHALL BE AN AMOUNT EQUAL TO FIFTY PERCENT OF ANY CHARITABLE CONTRIBUTION DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE OR AFTER TWO THOUSAND TWELVE.

(2) WITH RESPECT TO AN INDIVIDUAL WHOSE NEW YORK ADJUSTED GROSS INCOME IS OVER TEN MILLION DOLLARS, THE NEW YORK ITEMIZED DEDUCTION SHALL BE AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF ANY CHARITABLE CONTRIBUTION DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE AND ENDING BEFORE TWO THOUSAND THIRTEEN.

S 4. Clause (ii) of subparagraph (B) of paragraph 3 of subsection (c) of section 685 of the tax law, as separately amended by section 2 of part W-1 and section 4 of part Z-1 of chapter 57 of the laws of 2009, 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. 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. PROVIDED, HOWEVER, THAT THE TAX SHOWN ON SUCH RETURN FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE SHALL BE CALCULATED AS IF PARAGRAPH TWO OF SUBSECTION (G) OF SECTION SIX HUNDRED FIFTEEN OF THIS ARTICLE WAS IN EFFECT FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE AND ENDING BEFORE TWO THOUSAND THIRTEEN.

S 5. Subdivision (a) of section 11-1715 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) General. If federal taxable income of a city resident individual is determined by itemizing deductions from his federal adjusted gross income, such resident individual may elect to deduct his city itemized deduction in lieu of his city standard deduction. The city itemized deduction of a city resident individual means the total amount of his deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the laws of the United States for the taxable year, with the modifications specified in this section, except as provided for under [subdivision] SUBDIVISIONS (f) AND (G) of this section.

S 6. Subdivision (f) of section 11-1715 of the administrative code of the city of New York, as amended by section 3 of part W-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(f) [The] EXCEPT AS OTHERWISE PROVIDED UNDER SUBDIVISION (G) OF THIS SECTION, 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 7. Section 11-1715 of the administrative code of the city of New York is amended by adding a new subdivision (g) to read as follows:

(G) (1) WITH RESPECT TO AN INDIVIDUAL WHOSE NEW YORK ADJUSTED GROSS INCOME IS OVER ONE MILLION DOLLARS BUT NO MORE THAN TEN MILLION DOLLARS, THE NEW YORK ITEMIZED DEDUCTION SHALL BE AN AMOUNT EQUAL TO FIFTY PERCENT OF ANY CHARITABLE CONTRIBUTION DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE AND BEFORE TWO THOUSAND THIRTEEN. WITH RESPECT TO AN INDIVIDUAL WHOSE NEW YORK ADJUSTED GROSS INCOME IS OVER ONE MILLION DOLLARS, THE NEW YORK ITEMIZED DEDUCTION SHALL BE AN AMOUNT EQUAL TO FIFTY PERCENT OF ANY CHARITABLE CONTRIBUTION DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE OR AFTER TWO THOUSAND TWELVE.

(2) WITH RESPECT TO AN INDIVIDUAL WHOSE NEW YORK ADJUSTED GROSS INCOME IS OVER TEN MILLION DOLLARS, THE NEW YORK ITEMIZED DEDUCTION SHALL BE AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF ANY CHARITABLE CONTRIBUTION DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE.

S 8. 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 section 4 of part W-1 of chapter 57 of the laws of 2009, 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. PROVIDED, HOWEVER, THAT THE TAX SHOWN ON SUCH RETURN FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE SHALL BE CALCULATED AS IF PARAGRAPH TWO OF SUBDIVISION (G) OF SECTION 11-1715 OF THIS CHAPTER WAS IN EFFECT FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE.

S 9. For taxable years beginning on or after January 1, 2010 and before January 1, 2011, no addition to tax under 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 shall be imposed with respect to any underpayment attributable to the amendments made by this act of any estimated taxes that are required to be paid prior to the effective date of this act, provided that the taxpayer timely made those payments.

S 9-a. Notwithstanding any other provision of law, the governing body of a city of one million or more may elect not to impose the limitation on charitable contributions as provided for in sections five, six, seven and eight of this act.

S 10. This act shall take effect immediately.

PART II

Section 1. Subdivision 2 of section 1309 of the abandoned property law, as amended by chapter 591 of the laws of 1979, is amended to read as follows:

2. Any amount held or owing by any such organization for the payment of a money order, or for the payment of any instrument drawn or issued to effect the payment therefor, sold by such organization on or after January first, nineteen hundred thirty shall be deemed abandoned property when such amount has remained unpaid to the person entitled thereto for [seven] FIVE years and

(a) the last known address of such entitled person, according to the records of such organization is located within this state, or

(b) such organization is incorporated in this state and such last known address cannot be obtained from the records of such organization and the records of such organization do not disclose the place of sale of the money order or instrument, or

(c) such organization is incorporated in this state and such last known address is located in a state not having in effect a statute under which such amount is payable to such state as unclaimed, abandoned or escheated property, or

(d) such organization is incorporated in this state or another state or foreign country and such last known address is not shown on the

records of such organization and such records disclosed that the place of sale of the money order or instrument was in this state.

Payment to the state comptroller pursuant to paragraph (b) of this subdivision shall be subject to the right of any other state, the laws of which provide for escheat or custodial taking of such amount, to recover such amount upon proof that the last known address of the person entitled thereto or place of sale of the money order or instrument was within that other state's borders.

Payment to the state comptroller pursuant to paragraph (c) of this subdivision shall be subject to the right of the state of last known address to recover such amount if and when the law of the state of such last known address makes provision for escheat or custodial taking of such amount.

S 2. Section 1315 of the abandoned property law, as amended by chapter 166 of the laws of 1991, subdivision 1 as amended by section 6 and subdivision 1-a as added by section 7 of part T of chapter 62 of the laws of 2006 and subdivision 4 as added by section 3 of part P of chapter 62 of the laws of 2003, is amended to read as follows:

S 1315. Miscellaneous unclaimed property. This section shall encompass the following miscellaneous unclaimed property not otherwise covered by any other section of law. Such property shall be paid or delivered to the state comptroller at such times and shall be accompanied by reports in such form as the state comptroller may prescribe. 1. [Any unclaimed amount for services not rendered or for goods not delivered, which amount was received after July first, nineteen hundred seventy-four, or in the case of a public utility company as that term is defined in subdivision twenty-three of section two of the public service law, on or after July first, nineteen hundred eighty, and any] ANY unclaimed amount representing unredeemed gift certificates sold after December thirty-first, nineteen hundred eighty-three, including gift certificates for merchandise only in which case the face value of such certificate shall be deemed the amount deemed abandoned, and owing in this state, or held by any corporation (other than a public corporation), joint stock company, individual, association of two or more individuals, committee or business trust in this state, and which has remained unclaimed by the owner of such amount for five years, shall be deemed abandoned property.

1-a. Any amount representing outstanding checks issued on and after July first, nineteen hundred seventy-four in payment for goods or for services, and owing in this state, or held by any corporation (other than a public corporation), joint stock company, individual, association of two or more individuals, committee or business trust in this state, and which has remained unclaimed by the owner of such amount for three years, shall be deemed abandoned property.

1-B. ANY UNCLAIMED AMOUNT FOR SERVICES NOT RENDERED OR FOR GOODS NOT DELIVERED, WHICH AMOUNT WAS RECEIVED AFTER JULY FIRST, NINETEEN HUNDRED SEVENTY-FOUR, OR IN THE CASE OF A PUBLIC UTILITY COMPANY AS THAT TERM IS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION TWO OF THE PUBLIC SERVICE LAW, ON OR AFTER JULY FIRST, NINETEEN HUNDRED EIGHTY WHICH HAS REMAINED UNCLAIMED BY THE OWNER OF SUCH AMOUNT FOR THREE YEARS, SHALL BE DEEMED ABANDONED PROPERTY.

2. Except as otherwise provided by law, any amount representing unclaimed money or securities and held in escrow or otherwise by any corporation (other than a public corporation), joint stock company, individual, association of two or more individuals, committee or business trust, to ensure the performance of any duty or obligation, shall be deemed abandoned property when:

a. such amount is held or owing in this state, and

b. such amount has remained unclaimed by the person or persons entitled thereto for five years, except

c. where the duty or obligation for which such amount was deposited has not been performed and such performance is still required, such amounts shall not be deemed abandoned property.

3. Any amount representing an unpaid lottery prize determined by the division of the lottery pursuant to section sixteen hundred fourteen of the tax law to have been abandoned shall be deemed abandoned property and shall be paid to the state comptroller.

4. Any amount representing an unpaid check or draft issued by the state of New York which shall have remained unpaid after one year from the date of issuance in accordance with section one hundred two of the state finance law shall be deemed abandoned property and shall be paid to the state comptroller.

S 3. This act shall take effect immediately.

PART JJ

Intentionally omitted.

PART KK

Section 1. Subdivision 6 of section 208 of the tax law, as amended by section 2 of part M of chapter 407 of the laws of 1999, is amended to read as follows:

6. The term "investment income" means income, including capital gains in excess of capital losses, from investment capital, to the extent included in computing entire net income, less, (a) in the discretion of the commissioner, any deductions allowable in computing entire net income which are directly or indirectly attributable to investment capital or investment income, [and] (b) such portion of any net operating loss deduction allowable in computing entire net income, as the investment income, before such deduction, bears to entire net income, before such deduction, AND (C) ANY IF CAPITAL GAIN INCLUDED IN FEDERAL TAXABLE INCOME THAT HAS TO BE RECHARACTERIZED AS BUSINESS INCOME PURSUANT TO PARAGRAPH (R) OF SUBDIVISION NINE OF THIS SECTION; provided, however, that in no case shall investment income exceed entire net income;

S 2. Paragraph (f) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 6 to read as follows:

(6) THE NET OPERATING LOSS DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL REVENUE CODE SHALL FOR PURPOSES OF THIS PARAGRAPH BE DETERMINED TAKING INTO CONSIDERATION THE RE-CHARACTERIZATION OF INCOME PURSUANT TO PARAGRAPH (R) OF THIS SUBDIVISION.

S 3. Subdivision 9 of section 208 of the tax law is amended by adding a new paragraph (r) to read as follows:

(R) SPECIAL RULE FOR CORPORATE PARTNERS PERFORMING INVESTMENT MANAGEMENT SERVICES. IN THE CASE OF A TAXPAYER THAT IS A PARTNER WHO PERFORMS INVESTMENT MANAGEMENT SERVICES (AS DEFINED IN SUBSECTION (H) OF SECTION SIX HUNDRED THIRTY-ONE OF THIS CHAPTER) FOR THE PARTNERSHIP, THE TAXPAYER WILL NOT BE TREATED AS A PARTNER FOR PURPOSES OF THIS ARTICLE WITH RESPECT TO THE AMOUNT OF THE PARTNER'S DISTRIBUTIVE SHARE OF INCOME, GAIN, LOSS AND DEDUCTION (INCLUDING ANY GUARANTEED PAYMENTS) WHICH IS IN EXCESS OF THE AMOUNT THAT SUCH DISTRIBUTIVE SHARE WOULD HAVE BEEN IF THE PARTNER HAD PERFORMED NO INVESTMENT MANAGEMENT SERVICES. INSTEAD, SUCH EXCESS AMOUNT SHALL BE TREATED AS AN AMOUNT RECEIVED FROM A TRADE OR

BUSINESS CARRIED ON BY THE TAXPAYER, AND NOTWITHSTANDING ANY STATE OR FEDERAL LAW TO THE CONTRARY, SUCH EXCESS AMOUNT SHALL BE CHARACTERIZED AS A PAYMENT FOR SERVICES RENDERED. FOR PURPOSES OF THIS PARAGRAPH, THE AMOUNT OF THE DISTRIBUTIVE SHARE THAT WOULD HAVE BEEN DETERMINED IF THE PARTNER PERFORMED NO SERVICES, SHALL NOT BE LESS THAN ZERO.

S 4. Paragraph (a) of subdivision 3 of section 210 of the tax law is amended by adding a new subparagraph (6-a) to read as follows:

(6-A) RULE FOR INVESTMENT MANAGEMENT SERVICES TO A PARTNERSHIP OR OTHER ENTITY. FOR PURPOSES OF SUBPARAGRAPH TWO OF THIS PARAGRAPH, THE AMOUNT OF DISTRIBUTIVE SHARE OF PARTNERSHIP INCOME, GAIN, LOSS OR DEDUCTION (INCLUDING ANY GUARANTEED PAYMENTS) RECEIVED AS A PARTNER BY A CORPORATION WHICH RENDERS INVESTMENT MANAGEMENT SERVICES TO A PARTNERSHIP OR OTHER ENTITY, AS DEFINED IN SUBSECTION (H) OF SECTION SIX HUNDRED THIRTY-ONE OF THIS CHAPTER, WHICH IS IN EXCESS OF THE AMOUNT THAT SUCH DISTRIBUTIVE SHARE WOULD HAVE BEEN IF THE PARTNER HAD PERFORMED NO INVESTMENT MANAGEMENT SERVICES, SHALL BE TREATED AS A BUSINESS RECEIPT THAT ARISES FROM THE PERFORMANCE OF SERVICES. FOR PURPOSES OF THIS SUBPARAGRAPH, THE AMOUNT OF THE DISTRIBUTIVE SHARE THAT WOULD HAVE BEEN DETERMINED IF THE PARTNER PERFORMED NO SERVICES, SHALL NOT BE LESS THAN ZERO.

S 5. Subsection (b) of section 617 of the tax law, as amended by chapter 606 of the laws of 1984, is amended to read as follows:

(b) Character of items. Each item of partnership and S corporation income, gain, loss, or deduction shall have the same character for a partner or shareholder under this article as for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for a partner or shareholder as if realized directly from the source from which realized by the partnership or S corporation or incurred in the same manner as incurred by the partnership or S corporation. SEE SUBSECTIONS (F) AND (G) OF SECTION SIX HUNDRED THIRTY-TWO FOR SPECIAL RULES FOR PARTNERS AND SHAREHOLDERS PERFORMING INVESTMENT MANAGEMENT SERVICES.

S 6. Subsection (d) of section 631 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(d) Purchase and sale for own account.-- (1) A nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of his trade or business, shall not be deemed to carry on a business, trade, profession or occupation in this state solely by reason of the purchase and sale of property or the purchase, sale or writing of stock option contracts, or both, for his own account.

(2) THIS SUBSECTION SHALL NOT APPLY TO A PARTNER OR SHAREHOLDER PERFORMING INVESTMENT MANAGEMENT SERVICES AS DESCRIBED UNDER SUBSECTION (H) OF THIS SECTION.

S 7. Section 631 of the tax law is amended by adding a new subsection (h) to read as follows:

(H) INVESTMENT MANAGEMENT SERVICES. (1) FOR PURPOSES OF THIS SECTION, THE TERM "INVESTMENT MANAGEMENT SERVICES" TO A PARTNERSHIP, S CORPORATION OR OTHER ENTITY MEANS PROVIDING A SUBSTANTIAL QUANTITY OF ANY OF THE FOLLOWING SERVICES TO THE PARTNERSHIP, S CORPORATION OR OTHER ENTITY:

(I) ADVISING THE PARTNERSHIP, S CORPORATION, OR ENTITY AS TO THE ADVISABILITY OF INVESTING IN, PURCHASING, OR SELLING ANY SPECIFIED ASSET, OR

(II) MANAGING, ACQUIRING, OR DISPOSING OF ANY SPECIFIED ASSET, OR

(III) ARRANGING FINANCING WITH RESPECT TO ACQUIRING SPECIFIED ASSETS, OR

(IV) ANY ACTIVITY IN SUPPORT OF ANY SERVICE DESCRIBED IN SUBPARAGRAPHS (I) THROUGH (III) OF THIS PARAGRAPH.

(2) FOR PURPOSES OF THIS SUBSECTION, THE TERM "SPECIFIED ASSET" MEANS SECURITIES (AS DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (C)(2) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE LAST SENTENCE THEREOF), REAL ESTATE HELD FOR RENTAL OR INVESTMENT, INTERESTS IN PARTNERSHIPS, COMMODITIES (AS DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (E)(2) OF THE INTERNAL REVENUE CODE), OR OPTIONS OR DERIVATIVE CONTRACTS WITH RESPECT TO ANY OF THE FORGOING.

(3) A PARTNER OR SHAREHOLDER WILL NOT BE DEEMED TO BE PROVIDING INVESTMENT MANAGEMENT SERVICES UNDER THIS SUBSECTION IF AT LEAST EIGHTY PERCENT OF THE AVERAGE FAIR MARKET VALUE OF THE SPECIFIED ASSETS OF THE PARTNERSHIP, S CORPORATION OR OTHER ENTITY DURING THE TAXABLE YEAR CONSIST OF REAL ESTATE.

S 8. Section 632 of the tax law is amended by adding two new subsections (f) and (g) to read as follows:

(F) SPECIAL RULE FOR PARTNERS PERFORMING INVESTMENT MANAGEMENT SERVICES. IN THE CASE OF A PARTNER WHO PERFORMS INVESTMENT MANAGEMENT SERVICES FOR THE PARTNERSHIP, THE PARTNER WILL NOT BE TREATED AS A PARTNER FOR PURPOSES OF THIS ARTICLE WITH RESPECT TO THE AMOUNT OF THE PARTNER'S DISTRIBUTIVE SHARE OF INCOME, GAIN, LOSS AND DEDUCTION (INCLUDING ANY GUARANTEED PAYMENTS) WHICH IS IN EXCESS OF THE AMOUNT SUCH DISTRIBUTIVE SHARE WOULD HAVE BEEN IF THE PARTNER HAD PERFORMED NO INVESTMENT MANAGEMENT SERVICES. INSTEAD, SUCH EXCESS AMOUNT SHALL BE TREATED AS AN AMOUNT RECEIVED FROM A TRADE, BUSINESS, PROFESSION OR OCCUPATION CARRIED ON IN THE PARTNER'S OWN CAPACITY FOR PURPOSES OF THIS ARTICLE. NOTWITHSTANDING ANY STATE OR FEDERAL LAW TO THE CONTRARY, SUCH EXCESS AMOUNT SHALL BE CHARACTERIZED AS A PAYMENT FOR SERVICES RENDERED FOR PURPOSES OF THIS ARTICLE, AND FOR PURPOSES OF SECTION SIX HUNDRED THIRTY-ONE OF THIS ARTICLE SHALL BE ALLOCATED IN ACCORDANCE WITH THE RULES AND REGULATIONS APPLICABLE TO:

(1) INDIVIDUALS RENDERING PERSONAL SERVICES IN THE CASE OF AN INDIVIDUAL PARTNER, OR

(2) A BUSINESS CARRIED ON IN NEW YORK IN THE CASE OF A PARTNER THAT IS A PARTNERSHIP, ESTATE OR TRUST, OR

(3) A CORPORATION UNDER ARTICLES NINE-A AND THIRTY-TWO OF THIS CHAPTER IN THE CASE OF A PARTNER THAT IS AN S CORPORATION.

FOR PURPOSES OF THIS SUBSECTION, THE AMOUNT OF THE DISTRIBUTIVE SHARE THAT WOULD HAVE BEEN DETERMINED IF THE PARTNER PERFORMED NO SERVICES, SHALL NOT BE LESS THAN ZERO.

(G) SPECIAL RULE FOR SHAREHOLDERS PERFORMING INVESTMENT MANAGEMENT SERVICES. IN THE CASE OF A SHAREHOLDER WHO PERFORMS INVESTMENT MANAGEMENT SERVICES FOR THE S CORPORATION, THE SHAREHOLDER WILL NOT BE TREATED AS A SHAREHOLDER FOR PURPOSES OF THIS ARTICLE WITH RESPECT TO THE AMOUNT OF THE SHAREHOLDER'S PRO RATA SHARE OF INCOME, GAIN, LOSS AND DEDUCTION WHICH IS IN EXCESS OF THE AMOUNT SUCH PRO RATA SHARE WOULD HAVE BEEN IF THE SHAREHOLDER HAD PERFORMED NO INVESTMENT MANAGEMENT SERVICES. INSTEAD, SUCH EXCESS AMOUNT SHALL BE TREATED AS AN AMOUNT RECEIVED FROM A TRADE, BUSINESS, PROFESSION OR OCCUPATION CARRIED ON IN THE SHAREHOLDER'S OWN CAPACITY FOR PURPOSES OF THIS ARTICLE. NOTWITHSTANDING ANY STATE OR FEDERAL LAW TO THE CONTRARY, SUCH EXCESS AMOUNT SHALL BE CHARACTERIZED AS A PAYMENT FOR SERVICES RENDERED FOR PURPOSES OF THIS ARTICLE, AND FOR PURPOSES OF SECTION SIX HUNDRED THIRTY-ONE OF THIS ARTICLE SHALL BE ALLOCATED IN ACCORDANCE WITH THE RULES AND REGULATIONS APPLICABLE TO:

(1) INDIVIDUALS RENDERING PERSONAL SERVICES IN THE CASE OF AN INDIVIDUAL SHAREHOLDER, OR

(2) A BUSINESS CARRIED ON IN NEW YORK IN THE CASE OF A SHAREHOLDER THAT IS AN ESTATE OR TRUST.

FOR PURPOSES OF THIS SUBSECTION, THE AMOUNT OF THE PRO RATA SHARE THAT WOULD HAVE BEEN DETERMINED IF THE SHAREHOLDER PERFORMED NO SERVICES, SHALL NOT BE LESS THAN ZERO.

S 9. For taxable years beginning on or after January 1, 2010 and before January 1, 2011, (i) no addition to tax under subsection (c) of section 685 or subsection (c) of section 1085 of the tax law shall be imposed with respect to any underpayment attributable to the amendments made by this part of any estimated taxes that are required to be paid prior to the enactment of this part, provided that the taxpayer timely made those payments; and (ii) the required installment of estimated tax described in clause (ii) of subparagraph (B) of paragraph 3 of subsection (c) of section 685 of the tax law, and the exception to addition for underpayment of estimated tax described in paragraph one or two of subsection (d) of section 1085 of the tax law, in relation to the preceding year's return, shall be calculated as if the amendments made by this part had been in effect for that entire preceding year.

S 10. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2010.

PART LL

Intentionally omitted.

PART MM

Section 1. Section 18 of part FF-1 of chapter 57 of the laws of 2008 relating to the taxation of captive real estate investment trusts and captive regulated investment companies is amended to read as follows:

S 18. This act shall take effect immediately and shall apply to taxable years beginning after 2007 [and before 2011; provided however the provisions of this act shall be deemed repealed January 1, 2011 for taxable years beginning on or after January 1, 2011].

S 2. This act shall take effect immediately.

PART NN

Section 1. Subdivision 9 of section 2 of the tax law, as added by section 1 of part FF-1 of chapter 57 of the laws of 2008, is amended to read as follows:

9. "Captive REIT" means a REIT [(a)] that is not regularly traded on an established securities market, and ([b)] more than fifty percent of the voting stock of which is owned or controlled, directly or indirectly, by a single [corporation] ENTITY TREATED AS AN ASSOCIATION TAXABLE AS A CORPORATION UNDER THE INTERNAL REVENUE CODE that is not exempt from federal income tax and is not a REIT. Any voting stock in a REIT that is held in a segregated asset account of a life insurance corporation (as described in section 817 of the internal revenue code) shall not be taken into account for purposes of determining whether a REIT is a captive REIT. NONE OF THE FOLLOWING ENTITIES SHALL BE CONSIDERED AN ASSOCIATION TAXABLE AS A CORPORATION FOR PURPOSES OF THIS SUBDIVISION:

(A) ANY LISTED AUSTRALIAN PROPERTY TRUST (MEANING AN AUSTRALIAN UNIT TRUST REGISTERED AS A "MANAGED INVESTMENT SCHEME" UNDER THE AUSTRALIAN

CORPORATIONS ACT IN WHICH THE PRINCIPAL CLASS OF UNITS IS LISTED ON A RECOGNIZED STOCK EXCHANGE IN AUSTRALIA AND IS REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET), OR AN ENTITY ORGANIZED AS A TRUST, PROVIDED THAT A LISTED AUSTRALIAN PROPERTY TRUST OWNS OR CONTROLS, DIRECTLY OR INDIRECTLY, SEVENTY-FIVE PERCENT OR MORE OF THE VOTING POWER OR VALUE OF THE BENEFICIAL INTERESTS OR SHARES OF SUCH TRUST; OR

(B) ANY QUALIFIED FOREIGN ENTITY, MEANING A CORPORATION, TRUST, ASSOCIATION OR PARTNERSHIP ORGANIZED OUTSIDE THE LAWS OF THE UNITED STATES AND WHICH SATISFIES THE FOLLOWING CRITERIA:

(I) AT LEAST SEVENTY-FIVE PERCENT OF THE ENTITY'S TOTAL ASSET VALUE AT THE CLOSE OF ITS TAXABLE YEAR IS REPRESENTED BY REAL ESTATE ASSETS (AS DEFINED AT SUBPARAGRAPH (B) OF PARAGRAPH (5) OF SUBSECTION (C) OF SECTION EIGHT HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE, THEREBY INCLUDING SHARES OR CERTIFICATES OF BENEFICIAL INTEREST IN ANY REAL ESTATE INVESTMENT TRUST), CASH AND CASH EQUIVALENTS, AND UNITED STATES GOVERNMENT SECURITIES;

(II) THE ENTITY IS NOT SUBJECT TO TAX ON AMOUNTS DISTRIBUTED TO ITS BENEFICIAL OWNERS, OR IS EXEMPT FROM ENTITY-LEVEL TAXATION;

(III) THE ENTITY DISTRIBUTES AT LEAST EIGHT-FIVE PERCENT OF ITS TAXABLE INCOME (AS COMPUTED IN THE JURISDICTION IN WHICH IT IS ORGANIZED) TO THE HOLDERS OF ITS SHARES OR CERTIFICATES OF BENEFICIAL INTEREST ON AN ANNUAL BASIS;

(IV) NOT MORE THAN TEN PERCENT OF THE VOTING POWER OR VALUE IN SUCH ENTITY IS HELD DIRECTLY OR INDIRECTLY OR CONSTRUCTIVELY BY A SINGLE ENTITY OR INDIVIDUAL, OR THE SHARES OR BENEFICIAL INTERESTS OF SUCH ENTITY ARE REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET; AND

(V) THE ENTITY IS ORGANIZED IN A COUNTRY WHICH HAS A TAX TREATY WITH THE UNITED STATES.

S 2. This act shall take effect immediately.

PART OO

Section 1. Section 66-h of the public service law, as amended by section 15 of part SS-1 of chapter 57 of the laws of 2008, is amended to read as follows:

S 66-h. Certain electric corporations; payment equivalent to tax. The commission shall require each electric corporation that purchases electricity from an energy business as defined in subdivision (c) of section three hundred one-i of the tax law (1) that is a co-generation facility, as such term is defined in subdivision two-a of section two of this chapter, or (2) that is a qualifying facility, as such term is defined by section two hundred one of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) that is a co-generation facility, or (3) that has executed or will execute a contract for the sale of electricity through negotiation with an electric corporation or an auction conducted by an electric corporation pursuant to a competitive bidding plan approved by the commission, to pay, in addition to payments made for such purchased electricity under a contract with such electric corporation, (I) an amount equal to the tax imposed under article thirteen-A of the tax law with respect to each Mcf of natural gas used to generate such electricity and [the] (II) WITH RESPECT TO CONTRACTS FOR THE SALE OF ELECTRICITY AND/OR STEAM EXECUTED PRIOR TO JANUARY FIRST, TWO THOUSAND, ANY sales and compensating use taxes imposed on [such] NATURAL gas USED IN THE PRODUCTION OF ELECTRICITY AND/OR STEAM by or pursuant to the authority of section eleven hundred seven or subdivision (a) of section twelve hundred ten of the tax law, unless such sales and compensating

use taxes imposed are otherwise accounted for in the payments the electric corporation makes under that contract; provided, however, that any such amount paid by such electric corporation shall be recovered through a fuel adjustment mechanism authorized by the commission; provided, further, that such amount shall not be recovered from charges for residential use provided by such electric corporation.

S 2. This act shall take effect immediately.

PART PP

Section 1. Section 24 of part A of chapter 57 of the laws of 2009 amending the education law and other laws relating 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, and maximum class size, is amended to read as follows:

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 AND 2010-2011 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] YEARS.

S 2. This act shall take effect immediately.

PART QQ

Section 1. Paragraph f of subdivision 1 of section 3609-a of the education law, as added by section 21 of part A of a chapter of the laws of 2010 amending the education law and other laws relating to contracts for excellence, as proposed in legislative bills numbers S.6607-B and A.9707-C, is amended to read as follows:

f. Gap elimination adjustment offset for two thousand ten--two thousand eleven. Notwithstanding any other provision of law to the contrary, the commissioner shall increase payments due to each district for the two thousand ten--two thousand eleven school year pursuant to this section by an amount equal to the product of [forty-one] FORTY hundredths [(0.41)] AND FORTY-FIVE HUNDRED THOUSANDTHS (0.40045) multiplied by the net gap elimination adjustment computed for such district pursuant to paragraph e of this subdivision, and such amount shall be added to moneys apportioned for the purposes of payments made pursuant to this section.

S 2. This act shall take effect on the same date and in the same manner as section 21 of part A of a chapter of the laws of 2010 amending the education law and other laws relating to contracts for excellence, as proposed in legislative bills numbers S.6607-B and A.9707-C, takes effect.

PART RR

Section 1. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the dormitory authority for a capital appropriation for $20,400,000 authorized by chapter 100 of the laws of 2010 to the department of education for payment of services and expenses related to implementing a state longitudinal data system.

S 2. The public authorities law is amended by adding a new section 1680-p to read as follows:

S 1680-P. LONGITUDINAL DATA SYSTEM. 1. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, THE AUTHORITY IS HEREBY AUTHORIZED TO ISSUE BONDS OR NOTES IN ONE OR MORE SERIES FOR THE PURPOSE OF FUNDING PROJECT COSTS FOR THE IMPLEMENTATION OF A STATE LONGITUDINAL DATA SYSTEM. THE AGGREGATE PRINCIPAL AMOUNT OF BONDS AUTHORIZED TO BE ISSUED PURSUANT TO THIS SECTION SHALL NOT EXCEED TWENTY MILLION FOUR HUNDRED THOUSAND DOLLARS, EXCLUDING BONDS ISSUED TO FUND ONE OR MORE DEBT SERVICE RESERVE FUNDS, TO PAY COSTS OF ISSUANCE OF SUCH BONDS, AND BONDS

OR NOTES ISSUED TO REFUND OR OTHERWISE REPAY SUCH BONDS OR NOTES PREVIOUSLY ISSUED. SUCH BONDS AND NOTES OF THE AUTHORITY SHALL NOT BE A DEBT OF THE STATE, AND THE STATE SHALL NOT BE LIABLE THEREON, NOR SHALL THEY BE PAYABLE OUT OF ANY FUNDS OTHER THAN THOSE APPROPRIATED BY THE STATE TO THE AUTHORITY FOR PRINCIPAL, INTEREST, AND RELATED EXPENSES PURSUANT TO A SERVICE CONTRACT AND SUCH BONDS AND NOTES SHALL CONTAIN ON THE FACE THEREOF A STATEMENT TO SUCH EFFECT. EXCEPT FOR PURPOSES OF COMPLYING WITH THE INTERNAL REVENUE CODE, ANY INTEREST INCOME EARNED ON BOND PROCEEDS SHALL ONLY BE USED TO PAY DEBT SERVICE ON SUCH BONDS.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN ORDER TO ASSIST THE AUTHORITY IN UNDERTAKING THE FINANCING OF CONSTRUCTION OF A STATE LONGITUDINAL DATA SYSTEM BUT NOT LIMITED TO THE DEVELOPMENT AND PURCHASE OF COMPUTER HARDWARE, SOFTWARE, AND RELATED EQUIPMENT, SUCH AMOUNT SHALL INCLUDE EXPENSES MADE BY THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK AND THE DEPARTMENT OF EDUCATION, THE DIRECTOR OF THE BUDGET IS HEREBY AUTHORIZED TO ENTER INTO ONE OR MORE SERVICE CONTRACTS WITH THE AUTHORITY, NONE OF WHICH SHALL EXCEED THIRTY YEARS IN DURATION, UPON SUCH TERMS AND CONDITIONS AS THE DIRECTOR OF THE BUDGET AND THE AUTHORITY AGREE, SO AS TO ANNUALLY PROVIDE TO THE AUTHORITY, IN THE AGGREGATE, A SUM NOT TO EXCEED THE PRINCIPAL, INTEREST, AND RELATED EXPENSES REQUIRED FOR SUCH BONDS AND NOTES. ANY SERVICE CONTRACT ENTERED INTO PURSUANT TO THIS SECTION SHALL PROVIDE THAT THE OBLIGATION OF THE STATE TO PAY THE AMOUNT THEREIN PROVIDED SHALL NOT CONSTITUTE A DEBT OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION AND SHALL BE DEEMED EXECUTORY ONLY TO THE EXTENT OF MONIES AVAILABLE AND THAT NO LIABILITY SHALL BE INCURRED BY THE STATE BEYOND THE MONIES AVAILABLE FOR SUCH PURPOSE, SUBJECT TO ANNUAL APPROPRIATION BY THE LEGISLATURE. ANY SUCH CONTRACT OR ANY PAYMENTS MADE OR TO BE MADE THEREUNDER MAY BE ASSIGNED AND PLEDGED BY THE AUTHORITY AS SECURITY FOR ITS BONDS AND NOTES, AS AUTHORIZED BY THIS SECTION.

S 3. This act shall take effect immediately.

PART SS

Section 1. Subparagraph (i) of paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law, as amended by section 8 of part II of a chapter of the laws of 2010 amending the vehicle and traffic law and the public officers law relating to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo devices, as proposed in legislative bill numbers S.6609-B and A.9909-C, is amended to read as follows:

(i) If at the time of application for a registration or renewal thereof there is a certification from a court, parking violations bureau, traffic and parking violations agency or administrative tribunal of appropriate jurisdiction or administrative tribunal of appropriate jurisdiction that the registrant or his or her representative failed to appear on the return date or any subsequent adjourned date or failed to comply with the rules and regulations of an administrative tribunal following entry of a final decision in response to a total of three or more summonses or other process in the aggregate, issued within an eighteen month period, charging either that: (i) such motor vehicle was parked, stopped or standing, or that such motor vehicle was operated for hire by the registrant or his or her agent without being licensed as a motor vehicle for hire by the appropriate local authority, in violation of any of the provisions of this chapter or of any law, ordinance, rule

or regulation made by a local authority; or (ii) the registrant was liable in accordance with section eleven hundred eleven-a of this chapter or section eleven hundred eleven-b of this chapter for a violation of subdivision (d) of section eleven hundred eleven of this chapter; or (iii) the registrant was liable in accordance with section eleven hundred eleven-c of this chapter for a violation of a bus lane restriction as [as] defined in such section, the commissioner or his or her agent shall deny the registration or renewal application until the applicant provides proof from the court, traffic and parking violations agency or administrative tribunal wherein the charges are pending that an appearance or answer has been made or in the case of an administrative tribunal that he or she has complied with the rules and regulations of said tribunal following entry of a final decision. Where an application is denied pursuant to this section, the commissioner may, in his or her discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. Such denial shall only remain in effect as long as the summonses remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following entry of a final decision.

S 2. Paragraph 7 of subdivision (c) of section 1111-c of the vehicle and traffic law, as added by section 9 of part II of a chapter of the laws of 2010 amending the vehicle and traffic law and the public officers law relating to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo devices, as proposed in legislative bill numbers S.6609-B and A.9909-C, is amended to read as follows:

7. "designated bus lane" shall mean [an exclusive bus only traffic lane] A LANE DEDICATED FOR THE EXCLUSIVE USE OF BUSES WITH THE EXCEPTIONS ALLOWED UNDER 4-12(M) AND 4-08(A)(3) OF TITLE 34 OF THE RULES OF THE CITY OF NEW YORK.

S 3. This act shall take effect on the same date and in the same manner as section 14 of part II of a chapter of the laws of 2010 amending the vehicle and traffic law and the public officers law relating to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo devices, as proposed in legislative bill numbers S.6609-B and A.9909-C, takes effect.

PART TT

Section 1. The retirement and social security law is amended by adding a new section 19-a to read as follows:

S 19-A. EMPLOYER CONTRIBUTIONS FOR THE TWO THOUSAND TEN - TWO THOUSAND ELEVEN FISCAL YEAR AND SUBSEQUENT FISCAL YEARS. A. IN ADDITION TO THE DEFINITIONS IN SECTION TWO OF THIS ARTICLE, WHEN USED IN THIS SECTION:

(1) "AMORTIZING EMPLOYER" SHALL MEAN AN EMPLOYER THAT ELECTS TO AMORTIZE A PORTION OF THE EMPLOYER'S ANNUAL BILL PURSUANT TO PARAGRAPH ONE OF SUBDIVISION D OF THIS SECTION FOR THE TWO THOUSAND TEN - TWO THOUSAND ELEVEN FISCAL YEAR, OR ANY SUBSEQUENT FISCAL YEAR, REGARDLESS OF WHETHER THE EMPLOYER HAS SUBSEQUENTLY PAID IN FULL ALL SUCH AMORTIZED AMOUNTS.

(2) "AMOUNT ELIGIBLE FOR AMORTIZATION" FOR A GIVEN FISCAL YEAR SHALL MEAN THE AMOUNT BY WHICH AN EMPLOYER'S ACTUARIAL CONTRIBUTION FOR SUCH FISCAL YEAR EXCEEDS THE EMPLOYER'S GRADED CONTRIBUTION FOR THE SAME FISCAL YEAR, LESS ANY AMOUNT FROM THE EMPLOYER CONTRIBUTION RESERVE FUND APPLIED TO REDUCE THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM FOR THE FISCAL YEAR, PROVIDED, HOWEVER, THAT IF THE EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE FOR THE FISCAL YEAR IS LESS THAN NINE AND ONE-HALF PERCENT, THEN THE AMOUNT ELIGIBLE FOR AMORTIZATION SHALL BE ZERO.

(3) "EMPLOYER'S ACTUARIAL CONTRIBUTION" FOR A GIVEN FISCAL YEAR SHALL MEAN AN EMPLOYER'S ANNUAL BILL FOR SUCH FISCAL YEAR EXCLUSIVE OF DEFICIENCY CONTRIBUTIONS AND PAYMENTS ON ACCOUNT OF GROUP TERM LIFE INSURANCE, ADJUSTMENTS RELATING TO PRIOR FISCAL YEARS' OBLIGATIONS, RETIREMENT INCENTIVES AND PRIOR AMORTIZATIONS.

(4) "EMPLOYER'S ANNUAL BILL" SHALL MEAN FOR A GIVEN FISCAL YEAR THE SUM OF THE FOLLOWING AMOUNTS: (I) AN EMPLOYER'S NORMAL CONTRIBUTIONS FOR THE FISCAL YEAR DETERMINED IN ACCORDANCE WITH PARAGRAPH ONE OF SUBDIVISION B OF SECTION TWENTY-THREE OF THIS ARTICLE AND THE COMPREHENSIVE STRUCTURAL REFORM PROGRAM IMPLEMENTED PURSUANT TO SUBDIVISION B OF SECTION TWENTY-THREE-A OF THIS ARTICLE, INCLUDING THE PROVISIONS OF SUBDIVISION B OF SECTION TWENTY-THREE-A OF THIS ARTICLE RELATING TO THE REQUIRED MINIMUM ANNUAL CONTRIBUTION OF FOUR AND ONE-HALF PERCENT OF PENSIONABLE SALARIES; (II) THE EMPLOYER'S DEFICIENCY CONTRIBUTIONS AND ADMINISTRATION CONTRIBUTIONS FOR THE FISCAL YEAR DETERMINED IN ACCORDANCE WITH PARAGRAPHS TWO AND THREE OF SUBDIVISION B OF SECTION TWENTY-THREE OF THIS ARTICLE; AND (III) ANY PAYMENTS BY THE EMPLOYER DUE IN THE FISCAL YEAR ON ACCOUNT OF GROUP TERM LIFE INSURANCE, ADJUSTMENTS RELATING TO PRIOR FISCAL YEARS' OBLIGATIONS, RETIREMENT INCENTIVES AND PRIOR AMORTIZATIONS.

(5) "EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR SHALL MEAN AN EMPLOYER'S ACTUARIAL CONTRIBUTION FOR SUCH FISCAL YEAR DIVIDED BY THE EMPLOYER'S PROJECTED PAYROLL FOR THE SAME FISCAL YEAR.

(6) "EMPLOYER CONTRIBUTION RESERVE FUND" OR "FUND" SHALL MEAN THE EMPLOYER CONTRIBUTION RESERVE FUND ESTABLISHED PURSUANT TO SUBDIVISION E OF THIS SECTION.

(7) "EMPLOYER'S GRADED CONTRIBUTION" FOR A GIVEN FISCAL YEAR SHALL MEAN THE AMOUNT DETERMINED BY APPLYING THE SYSTEM GRADED CONTRIBUTION RATE FOR SUCH FISCAL YEAR TO AN EMPLOYER'S PROJECTED PAYROLL FOR THE SAME FISCAL YEAR.

(8) "EMPLOYER'S GRADED PAYMENT" FOR A GIVEN FISCAL YEAR SHALL MEAN THE AMOUNT BY WHICH AN EMPLOYER'S GRADED CONTRIBUTION FOR SUCH FISCAL YEAR EXCEEDS THE EMPLOYER'S ACTUARIAL CONTRIBUTION FOR THE SAME FISCAL YEAR.

(9) "PRIOR AMORTIZATION" SHALL MEAN WITH RESPECT TO A GIVEN FISCAL YEAR ANY PAYMENT DUE IN SUCH FISCAL YEAR ON ACCOUNT OF AN OBLIGATION FROM A PRIOR FISCAL YEAR THAT AN EMPLOYER IS PERMITTED TO PAY TO THE RETIREMENT SYSTEM ON AN AMORTIZED BASIS.

(10) "SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR SHALL MEAN THE SUM OF ALL EMPLOYERS' ACTUARIAL CONTRIBUTIONS FOR SUCH FISCAL YEAR DIVIDED BY THE SUM OF ALL EMPLOYERS' PROJECTED PAYROLL FOR THE SAME FISCAL YEAR.

(11) "SYSTEM GRADED CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR SHALL MEAN THE GRADED CONTRIBUTION RATE FOR THE RETIREMENT SYSTEM AS A WHOLE DETERMINED FOR SUCH FISCAL YEAR PURSUANT TO SUBDIVISION C OF THIS SECTION.

B. NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER OR ANY OTHER LAW TO THE CONTRARY, THE COMPTROLLER, IN HIS OR HER DISCRETION, SHALL HAVE AUTHORITY TO IMPLEMENT THIS SECTION. IF THE COMPTROLLER ELECTS TO IMPLEMENT THIS SECTION, THE PROVISIONS OF THIS SECTION SHALL APPLY TO THE PAYMENT OF EMPLOYER CONTRIBUTIONS FOR THE FISCAL YEAR COMMENCING ON APRIL FIRST, TWO THOUSAND TEN, AND FOR SUBSEQUENT FISCAL YEARS.

C. FOR EACH FISCAL YEAR TO WHICH THE PROVISIONS OF THIS SECTION APPLY, THE COMPTROLLER SHALL DETERMINE A GRADED CONTRIBUTION RATE FOR THE RETIREMENT SYSTEM AS A WHOLE IN THE MANNER PROVIDED IN THIS SUBDIVISION.

(1) FOR THE TWO THOUSAND TEN - TWO THOUSAND ELEVEN FISCAL YEAR THE SYSTEM GRADED CONTRIBUTION RATE SHALL BE NINE AND ONE-HALF PERCENT.

(2) FOR THE TWO THOUSAND ELEVEN - TWO THOUSAND TWELVE FISCAL YEAR, AND SUBSEQUENT FISCAL YEARS, SYSTEM GRADED CONTRIBUTION RATES SHALL BE DETERMINED AS FOLLOWS:

(I) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN FISCAL YEAR IS AT LEAST NINE AND ONE-HALF PERCENT AND EXCEEDS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY MORE THAN ONE PERCENTAGE POINT, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR PLUS ONE PERCENTAGE POINT, PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE SYSTEM GRADED CONTRIBUTION RATE BE LESS THAN NINE AND ONE-HALF PERCENT;

(II) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN FISCAL YEAR IS AT LEAST NINE AND ONE-HALF PERCENT AND EITHER EQUALS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR OR EXCEEDS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY ONE PERCENTAGE POINT OR LESS, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR SUCH FISCAL YEAR, PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE SYSTEM GRADED CONTRIBUTION RATE BE LESS THAN NINE AND ONE-HALF PERCENT;

(III) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN FISCAL YEAR IS LESS THAN NINE AND ONE-HALF PERCENT AND GREATER THAN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM ACTUARIAL CONTRIBUTION RATE FOR SUCH FISCAL YEAR;

(IV) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN FISCAL YEAR IS SMALLER THAN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY MORE THAN ONE PERCENTAGE POINT, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR MINUS ONE PERCENTAGE POINT; AND

(V) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN FISCAL YEAR EITHER EQUALS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR OR IS SMALLER THAN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY ONE PERCENTAGE POINT OR LESS, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM ACTUARIAL CONTRIBUTION RATE FOR SUCH FISCAL YEAR.

D. (1) FOR ANY GIVEN FISCAL YEAR FOR WHICH AN EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE EXCEEDS THE SYSTEM GRADED CONTRIBUTION RATE, THE EMPLOYER SHALL PAY TO THE RETIREMENT SYSTEM AN AMOUNT EQUAL TO THE EMPLOYER'S ANNUAL BILL FOR SUCH YEAR OR, IN LIEU OF PAYING THE ENTIRE ANNUAL BILL, THE EMPLOYER MAY PAY AN AMOUNT EQUAL TO THE EMPLOYER'S ANNUAL BILL LESS ALL OR A PORTION OF THE EMPLOYER'S AMOUNT ELIGIBLE FOR AMORTIZATION FOR THE FISCAL YEAR. IF IN ACCORDANCE WITH THIS PARAGRAPH

THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM IS LESS THAN THE ENTIRE AMOUNT OF THE EMPLOYER'S ANNUAL BILL, THEN THE DIFFERENCE BETWEEN THE EMPLOYER'S ANNUAL BILL, AND THE AMOUNT ACTUALLY PAID BY THE EMPLOYER TO THE RETIREMENT SYSTEM EXCLUSIVE OF ANY AMOUNT FROM THE EMPLOYER CONTRIBUTION RESERVE FUND APPLIED TO REDUCE THE EMPLOYER'S PAYMENT, SHALL BE THE AMOUNT AMORTIZED FOR THE FISCAL YEAR. THE AMOUNT AMORTIZED FOR THE FISCAL YEAR SHALL BE PAID TO THE RETIREMENT SYSTEM IN EQUAL ANNUAL INSTALLMENTS OVER A TEN-YEAR PERIOD, WITH INTEREST ON THE UNPAID BALANCE AT A RATE DETERMINED BY THE COMPTROLLER WHICH APPROXIMATES A MARKET RATE OF RETURN ON TAXABLE FIXED RATE SECURITIES WITH SIMILAR TERMS ISSUED BY COMPARABLE ISSUERS, AND WITH THE FIRST INSTALLMENT DUE IN THE IMMEDIATELY SUCCEEDING FISCAL YEAR.

(2) FOR ANY GIVEN FISCAL YEAR FOR WHICH THE SYSTEM GRADED CONTRIBUTION RATE EQUALS OR EXCEEDS AN AMORTIZING EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE, THE AMORTIZING EMPLOYER SHALL PAY TO THE RETIREMENT SYSTEM AN AMOUNT EQUAL TO THE EMPLOYER'S ANNUAL BILL FOR SUCH YEAR PLUS THE EMPLOYER'S GRADED PAYMENT FOR THE FISCAL YEAR.

(I) IF THE AMORTIZING EMPLOYER'S ANNUAL BILL FOR THE FISCAL YEAR DOES NOT INCLUDE AN AMOUNT ATTRIBUTABLE TO A PRIOR AMORTIZATION, THEN THE EMPLOYER'S GRADED PAYMENT SHALL BE PAID INTO THE EMPLOYER CONTRIBUTION RESERVE FUND PROVIDED FOR IN SUBDIVISION E OF THIS SECTION AND CREDITED TO AN ACCOUNT WITHIN SUCH FUND ESTABLISHED FOR THE EMPLOYER.

(II) IF THE AMORTIZING EMPLOYER'S ANNUAL BILL FOR THE FISCAL YEAR INCLUDES AN AMOUNT ATTRIBUTABLE TO A PRIOR AMORTIZATION, THE EMPLOYER'S GRADED PAYMENT SHALL BE USED FIRST TO ELIMINATE THE AMOUNT OF THE EMPLOYER'S UNPAID PRIOR AMORTIZATION BALANCES IN CHRONOLOGICAL ORDER STARTING WITH THE OLDEST PRIOR AMORTIZATION BALANCE. WHEN IN ANY FISCAL YEAR THE EMPLOYER'S GRADED PAYMENT ELIMINATES ALL BALANCES OWED ON THE EMPLOYER'S PRIOR AMORTIZATIONS, ANY REMAINING PORTION OF THE EMPLOYER'S GRADED PAYMENT FOR SUCH FISCAL YEAR, AND THE EMPLOYER'S GRADED PAYMENT IN ANY SUBSEQUENT FISCAL YEAR IN WHICH THE AMORTIZING EMPLOYER HAS NO UNPAID PRIOR AMORTIZATIONS, SHALL BE PAID INTO THE EMPLOYER CONTRIBUTION RESERVE FUND PROVIDED FOR IN SUBDIVISION E OF THIS SECTION AND CREDITED TO AN ACCOUNT WITHIN SUCH FUND ESTABLISHED FOR THE EMPLOYER.

(3) NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS PROHIBITING AN EMPLOYER FROM PRE-PAYING ANY PRIOR AMORTIZATION.

E. (1) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THERE SHALL BE MAINTAINED SEPARATE AND APART FROM THE OTHER FUNDS OF THE RETIREMENT SYSTEM AN EMPLOYER CONTRIBUTION RESERVE FUND, THE ASSETS OF WHICH SHALL NOT BE USED OR INVESTED IN A MANNER CONTRARY TO THE PROVISIONS OF THIS SUBDIVISION. THE FUND SHALL CONSIST OF ALL EMPLOYER CONTRIBUTIONS REQUIRED TO BE DEPOSITED INTO THE FUND PURSUANT TO SUBDIVISION D OF THIS SECTION. WITHIN SUCH FUND THERE SHALL BE A SEPARATE ACCOUNT FOR EACH EMPLOYER MAKING SUCH CONTRIBUTIONS AND PAYMENTS.

(2) FOR ANY GIVEN FISCAL YEAR FOR WHICH (I) THE SYSTEM ACTUARIAL CONTRIBUTION RATE EXCEEDS NINE AND ONE-HALF PERCENT OF PAYROLL, AND (II) AN EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE EXCEEDS THE SYSTEM GRADED CONTRIBUTION RATE, THE BALANCE IN THE EMPLOYER'S ACCOUNT WITHIN SUCH FUND SHALL BE APPLIED TO REDUCE THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM FOR SUCH FISCAL YEAR IN AN AMOUNT NOT TO EXCEED THE DIFFERENCE BETWEEN THE EMPLOYER'S ACTUARIAL CONTRIBUTION AND THE EMPLOYER'S GRADED CONTRIBUTION FOR THE FISCAL YEAR.

(3) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH TWO OF THIS SUBDIVISION, IF AT THE CLOSE OF ANY GIVEN FISCAL YEAR THE BALANCE OF AN EMPLOYER'S ACCOUNT WITHIN THE FUND EXCEEDS ONE HUNDRED PERCENT OF THE EMPLOYER'S PAYROLL FOR SUCH FISCAL YEAR, THE EXCESS SHALL BE APPLIED TO REDUCE

THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM FOR THE NEXT SUCCEEDING FISCAL YEAR.

(4) THE ASSETS OF THE FUND SHALL BE INVESTED IN ONLY THE FOLLOWING TYPES OF INVESTMENTS:

(I) OBLIGATIONS OF THE UNITED STATES OF AMERICA OR IN OBLIGATIONS GUARANTEED BY AGENCIES OF THE UNITED STATES OF AMERICA WHERE THE PAYMENT OF PRINCIPAL AND INTEREST ARE GUARANTEED BY THE UNITED STATES OF AMERICA OR IN OBLIGATIONS OF THE STATE OF NEW YORK;

(II) GENERAL OBLIGATION BONDS AND NOTES OF ANY STATE OTHER THAN THIS STATE, PROVIDED THAT SUCH BONDS AND NOTES RECEIVE THE HIGHEST RATING OF AT LEAST ONE INDEPENDENT RATING AGENCY;

(III) OBLIGATIONS OF, OR INSTRUMENTS ISSUED BY OR FULLY GUARANTEED AS TO PRINCIPAL AND INTEREST BY, ANY AGENCY OR INSTRUMENTALITY OF THE UNITED STATES ACTING PURSUANT TO A GRANT OF AUTHORITY FROM THE CONGRESS OF THE UNITED STATES, INCLUDING, BUT NOT LIMITED TO, ANY FEDERAL HOME LOAN BANK OR BANKS, THE TENNESSEE VALLEY AUTHORITY, THE FEDERAL NATIONAL MORTGAGE ASSOCIATION, THE FEDERAL HOME LOAN MORTGAGE CORPORATION AND THE UNITED STATES POSTAL SERVICE;

(IV) CERTIFICATE OF DEPOSITS THAT ARE FULLY SECURED BY THE ISSUER BY DEPOSITING WITH THE COMPTROLLER DIRECT OR INDIRECT OBLIGATIONS OF THE UNITED STATES OR ITS AGENCIES OR A LETTER OF CREDIT ISSUED BY THE FEDERAL HOME LOAN BANK; AND

(V) OBLIGATIONS OF ANY CORPORATION ORGANIZED UNDER THE LAWS OF ANY STATE IN THE UNITED STATES MATURING WITHIN TWO HUNDRED SEVENTY DAYS PROVIDED THAT SUCH OBLIGATIONS RECEIVE THE HIGHEST RATING OF TWO INDEPENDENT RATING SERVICES DESIGNATED BY THE COMPTROLLER.

(5) AT THE CLOSE OF EACH FISCAL YEAR, THE AMOUNT OF INTEREST AND EARNINGS ATTRIBUTABLE TO EACH EMPLOYER'S ACCOUNT SHALL BE COMPUTED BY THE ACTUARY AND CERTIFIED TO THE COMPTROLLER, WHO SHALL THEREUPON CREDIT EACH EMPLOYER'S ACCOUNT IN ACCORDANCE THEREWITH.

(6) THE ASSETS OF THE FUND SHALL BE EXCLUDED FROM THE ANNUAL VALUATION OF THE ASSETS AND LIABILITIES OF THE FUNDS OF THE RETIREMENT SYSTEM REQUIRED BY SECTION ELEVEN OF THIS TITLE. THE ASSETS OF THE FUND SHALL NOT BE USED TO FINANCE INCREASES IN PENSION BENEFITS.

S 2. The opening paragraph and paragraph 1 of subdivision b of section 23 of the retirement and social security law, as amended by chapter 210 of the laws of 1990 and clause (ii) of subparagraph (a) of paragraph 1 as amended by chapter 947 of the laws of 1990, are amended to read as follows:

Each employer shall make [two] THREE contributions annually. They shall be known as the normal contribution [as defined in subparagraph (a) of paragraph one of this subdivision and], the deficiency contribution [as defined in paragraph two of this subdivision], AND THE ADMINISTRATION CONTRIBUTION. The rates thereof shall be computed by the actuary.

1. [(a)] Normal contribution. The rate of such contribution shall be applied to the members' annual compensation as of the end of the fiscal year. Such rate shall be a uniform and constant rate per centum of annual compensation [when determined by dividing the valuation costs by the payroll amount used in the valuation. Notwithstanding any provision of law to the contrary, the valuation costs consist of:

(i) the normal cost, which shall be the actuarial present value of the employer provided benefits accrued during the year, based upon the projected future salary on which benefits are expected to be paid, by prorating each employee's projected benefit over his or her total years of service;

(ii) the supplemental cost, which shall be the cost of providing supplemental retirement allowance payments pursuant to subdivision e of section seventy-eight of this article;

(iii) the administrative cost, which shall be the expenses of the retirement system pursuant to paragraph three of subdivision b of this section;

(iv) the prior service cost, which shall be equal to the interest on the unfunded actuarial accrued liability or surplus plus a portion of the unfunded liability or surplus, said portion to be equal to the unfunded liability or surplus divided by the average future years of service of active employees; and

(v) the annual amortization cost, which shall be equal to the amount of the annual amortization payment required to be paid into the system's pension accumulation fund under sections sixteen-a and seventeen-a of this article.

Provided, however, in no event shall the amount of contribution be less than zero.

(b) The comptroller is authorized to make appropriate adjustments for those participating employers that have paid an amount in excess of the minimum annual amortization payment required by section seventeen-a of this article. The excess payment shall accumulate with interest earned at the rate used in the annual actuarial valuation and be applied against future pension contribution requirements to insure equitable treatment of all participating employers.

(c) In any year in which no contribution is required to the pension accumulation fund, any adjustment reducing a prior year's contribution resulting from the enactment of section sixteen-b of this chapter, shall be credited with interest earned at the rate used in the annual actuarial valuation and applied against future pension contributions]. WHEN APPLIED TO THE COMPENSATION OF THE AVERAGE NEW ENTRANT DURING THE REMAINING PERIOD OF HIS OR HER MEMBERSHIP, SUCH RATE SHALL BE COMPUTED TO BE SUFFICIENT TO PROVIDE ALL THE BENEFITS, OTHER THAN THOSE ON ACCOUNT OF PRIOR SERVICE, GRANTED BY THIS ARTICLE AND WHICH ARE PAYABLE FROM FUNDS CONTRIBUTED TO THE PENSION ACCUMULATION FUND.

Such rate shall be computed each year by means of an actuarial valuation as prescribed in section eleven of this [chapter] ARTICLE AND AS AUTHORIZED BY SECTION TWENTY-THREE-A OF THIS TITLE.

S 3. The retirement and social security law is amended by adding a new section 319-a to read as follows:

S 319-A. EMPLOYER CONTRIBUTIONS FOR THE TWO THOUSAND TEN - TWO THOUSAND ELEVEN FISCAL YEAR AND SUBSEQUENT FISCAL YEARS. A. IN ADDITION TO THE DEFINITIONS IN SECTION THREE HUNDRED TWO OF THIS ARTICLE, WHEN USED IN THIS SECTION:

(1) "AMORTIZING EMPLOYER" SHALL MEAN AN EMPLOYER THAT ELECTS TO AMORTIZE A PORTION OF THE EMPLOYER'S ANNUAL BILL PURSUANT TO PARAGRAPH ONE OF SUBDIVISION D OF THIS SECTION FOR THE TWO THOUSAND TEN - TWO THOUSAND ELEVEN FISCAL YEAR, OR ANY SUBSEQUENT FISCAL YEAR, REGARDLESS OF WHETHER THE EMPLOYER HAS SUBSEQUENTLY PAID IN FULL ALL SUCH AMORTIZED AMOUNTS.

(2) "AMOUNT ELIGIBLE FOR AMORTIZATION" FOR A GIVEN FISCAL YEAR SHALL MEAN THE AMOUNT BY WHICH AN EMPLOYER'S ACTUARIAL CONTRIBUTION FOR SUCH FISCAL YEAR EXCEEDS THE EMPLOYER'S GRADED CONTRIBUTION FOR THE SAME FISCAL YEAR, LESS ANY AMOUNT FROM THE EMPLOYER CONTRIBUTION RESERVE FUND APPLIED TO REDUCE THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM FOR THE FISCAL YEAR, PROVIDED, HOWEVER, THAT IF THE EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE FOR THE FISCAL YEAR IS LESS THAN SEVENTEEN AND

ONE-HALF PERCENT, THEN THE AMOUNT ELIGIBLE FOR AMORTIZATION SHALL BE ZERO.

(3) "EMPLOYER'S ACTUARIAL CONTRIBUTION" FOR A GIVEN FISCAL YEAR SHALL MEAN AN EMPLOYER'S ANNUAL BILL FOR SUCH FISCAL YEAR EXCLUSIVE OF THE DEFICIENCY CONTRIBUTIONS AND PAYMENTS ON ACCOUNT OF GROUP TERM LIFE INSURANCE, ADJUSTMENTS RELATING TO PRIOR FISCAL YEARS' OBLIGATIONS, RETIREMENT INCENTIVES AND PRIOR AMORTIZATIONS.

(4) "EMPLOYER'S ANNUAL BILL" SHALL MEAN FOR A GIVEN FISCAL YEAR THE SUM OF THE FOLLOWING AMOUNTS: (I) AN EMPLOYER'S NORMAL CONTRIBUTIONS FOR THE FISCAL YEAR DETERMINED IN ACCORDANCE WITH PARAGRAPH ONE OF SUBDIVISION B OF SECTION THREE HUNDRED TWENTY-THREE OF THIS ARTICLE AND THE COMPREHENSIVE STRUCTURAL REFORM PROGRAM IMPLEMENTED PURSUANT TO SUBDIVISION B OF SECTION THREE HUNDRED TWENTY-THREE-A OF THIS ARTICLE, INCLUDING THE PROVISIONS OF SUBDIVISION B OF SECTION THREE HUNDRED TWENTY-THREE-A OF THIS ARTICLE RELATING TO THE REQUIRED MINIMUM ANNUAL CONTRIBUTION OF FOUR AND ONE-HALF PERCENT OF PENSIONABLE SALARIES; (II) THE EMPLOYER'S DEFICIENCY CONTRIBUTIONS AND ADMINISTRATION CONTRIBUTIONS FOR THE FISCAL YEAR DETERMINED IN ACCORDANCE WITH PARAGRAPHS TWO AND THREE OF SUBDIVISION B OF SECTION THREE HUNDRED TWENTY-THREE OF THIS ARTICLE; AND (III) ANY PAYMENTS BY THE EMPLOYER DUE IN THE FISCAL YEAR ON ACCOUNT OF GROUP TERM LIFE INSURANCE, ADJUSTMENTS RELATING TO PRIOR FISCAL YEARS' OBLIGATIONS, RETIREMENT INCENTIVES AND PRIOR AMORTIZATIONS.

(5) "EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR SHALL MEAN AN EMPLOYER'S ACTUARIAL CONTRIBUTION FOR SUCH FISCAL YEAR DIVIDED BY THE EMPLOYER'S PROJECTED PAYROLL FOR THE SAME FISCAL YEAR.

(6) "EMPLOYER CONTRIBUTION RESERVE FUND" OR "FUND" SHALL MEAN THE EMPLOYER CONTRIBUTION RESERVE FUND ESTABLISHED PURSUANT TO SUBDIVISION E OF THIS SECTION.

(7) "EMPLOYER'S GRADED CONTRIBUTION" FOR A GIVEN FISCAL YEAR SHALL MEAN THE AMOUNT DETERMINED BY APPLYING THE EMPLOYER'S GRADED CONTRIBUTION RATE FOR SUCH FISCAL YEAR TO AN EMPLOYER'S PROJECTED PAYROLL FOR THE SAME FISCAL YEAR.

(8) "EMPLOYER'S GRADED CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR SHALL MEAN (I) THE SYSTEM GRADED CONTRIBUTION RATE FOR SUCH FISCAL YEAR, OR (II) IN THE CASE OF AN INDIVIDUAL EMPLOYER FOR WHICH A GRADED CONTRIBUTION RATE HAS BEEN DETERMINED PURSUANT TO PARAGRAPH THREE OF SUBDIVISION C OF THIS SECTION, THE GRADED CONTRIBUTION RATE FOR THE INDIVIDUAL EMPLOYER FOR SUCH FISCAL YEAR.

(9) "EMPLOYER'S GRADED PAYMENT" FOR A GIVEN FISCAL YEAR SHALL MEAN THE AMOUNT BY WHICH AN EMPLOYER'S GRADED CONTRIBUTION FOR SUCH FISCAL YEAR EXCEEDS THE EMPLOYER'S ACTUARIAL CONTRIBUTION FOR THE SAME FISCAL YEAR.

(10) "PRIOR AMORTIZATION" SHALL MEAN WITH RESPECT TO A GIVEN FISCAL YEAR ANY PAYMENT DUE IN SUCH FISCAL YEAR ON ACCOUNT OF AN OBLIGATION FROM A PRIOR FISCAL YEAR THAT AN EMPLOYER IS PERMITTED TO PAY TO THE RETIREMENT SYSTEM ON AN AMORTIZED BASIS.

(11) "SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR SHALL MEAN THE SUM OF ALL EMPLOYERS' ACTUARIAL CONTRIBUTIONS FOR SUCH FISCAL YEAR, DIVIDED BY THE SUM OF ALL EMPLOYERS' PROJECTED PAYROLL FOR THE SAME FISCAL YEAR.

(12) "SYSTEM GRADED CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR SHALL MEAN THE GRADED CONTRIBUTION RATE FOR THE RETIREMENT SYSTEM AS A WHOLE DETERMINED FOR SUCH FISCAL YEAR PURSUANT TO PARAGRAPH ONE OR TWO OF SUBDIVISION C OF THIS SECTION.

B. NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER OR ANY OTHER LAW TO THE CONTRARY, THE COMPTROLLER, IN HIS OR HER DISCRETION, SHALL HAVE AUTHORITY TO IMPLEMENT THIS SECTION. IF THE COMPTROLLER ELECTS TO IMPLEMENT THIS SECTION, THE PROVISIONS OF THIS SECTION SHALL APPLY TO THE PAYMENT OF EMPLOYER CONTRIBUTIONS FOR THE FISCAL YEAR COMMENCING ON APRIL FIRST, TWO THOUSAND TEN, AND FOR SUBSEQUENT FISCAL YEARS.

C. FOR EACH FISCAL YEAR TO WHICH THE PROVISIONS OF THIS SECTION APPLY, THE COMPTROLLER SHALL DETERMINE A GRADED CONTRIBUTION RATE FOR THE RETIREMENT SYSTEM AS A WHOLE IN THE MANNER PROVIDED IN THIS SUBDIVISION.

(1) FOR THE TWO THOUSAND TEN - TWO THOUSAND ELEVEN FISCAL YEAR THE SYSTEM GRADED CONTRIBUTION RATE SHALL BE SEVENTEEN AND ONE-HALF PERCENT.

(2) FOR THE TWO THOUSAND ELEVEN - TWO THOUSAND TWELVE FISCAL YEAR, AND SUBSEQUENT FISCAL YEARS, SYSTEM GRADED CONTRIBUTION RATES SHALL BE DETERMINED AS FOLLOWS:

(I) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN FISCAL YEAR IS AT LEAST SEVENTEEN AND ONE-HALF PERCENT AND EXCEEDS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY MORE THAN ONE PERCENTAGE POINT, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR PLUS ONE PERCENTAGE POINT, PROVIDED HOWEVER, THAT IN NO EVENT SHALL THE SYSTEM GRADED CONTRIBUTION RATE BE LESS THAN SEVENTEEN AND ONE-HALF PERCENT;

(II) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN FISCAL YEAR IS AT LEAST SEVENTEEN AND ONE-HALF PERCENT AND EITHER EQUALS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR OR EXCEEDS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY ONE PERCENTAGE POINT OR LESS, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR SUCH FISCAL YEAR, PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE SYSTEM GRADED CONTRIBUTION RATE BE LESS THAN SEVENTEEN AND ONE-HALF PERCENT;

(III) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN FISCAL YEAR IS LESS THAN SEVENTEEN AND ONE-HALF PERCENT AND GREATER THAN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM ACTUARIAL CONTRIBUTION RATE FOR SUCH FISCAL YEAR;

(IV) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN FISCAL YEAR IS SMALLER THAN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY MORE THAN ONE PERCENTAGE POINT, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR MINUS ONE PERCENTAGE POINT; AND

(V) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN FISCAL YEAR EITHER EQUALS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR OR IS SMALLER THAN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY ONE PERCENTAGE POINT OR LESS, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM ACTUARIAL CONTRIBUTION RATE FOR SUCH FISCAL YEAR.

(3) THE COMPTROLLER SHALL DETERMINE A GRADED CONTRIBUTION RATE FOR INDIVIDUAL EMPLOYERS AS PROVIDED IN THIS PARAGRAPH.

(I) IF THE ACTUARIAL CONTRIBUTION RATE FOR AN EMPLOYER FOR A GIVEN FISCAL YEAR IS EQUAL TO OR GREATER THAN FIFTY PERCENT OF THE SYSTEM ACTUARIAL CONTRIBUTION RATE FOR SUCH YEAR, AND LESS THAN OR EQUAL TO SEVENTY-FIVE PERCENT OF SUCH SYSTEM ACTUARIAL CONTRIBUTION RATE, THEN THE GRADED CONTRIBUTION RATE FOR THE EMPLOYER FOR THE FISCAL YEAR SHALL

EQUAL SEVENTY-FIVE PERCENT OF THE SYSTEM GRADED CONTRIBUTION FOR SUCH YEAR.

(II) IF THE ACTUARIAL CONTRIBUTION RATE FOR AN EMPLOYER FOR A GIVEN FISCAL YEAR IS LESS THAN FIFTY PERCENT OF THE SYSTEM ACTUARIAL CONTRIBUTION RATE FOR SUCH YEAR, THEN THE GRADED CONTRIBUTION RATE FOR THE EMPLOYER FOR THE FISCAL YEAR SHALL EQUAL FIFTY PERCENT OF THE SYSTEM GRADED CONTRIBUTION RATE FOR SUCH YEAR.

D. (1) FOR ANY GIVEN FISCAL YEAR FOR WHICH AN EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE EXCEEDS THE GRADED CONTRIBUTION RATE, THE EMPLOYER SHALL PAY TO THE RETIREMENT SYSTEM AN AMOUNT EQUAL TO THE EMPLOYER'S ANNUAL BILL FOR SUCH YEAR OR, IN LIEU OF PAYING THE ENTIRE ANNUAL BILL, THE EMPLOYER MAY PAY AN AMOUNT EQUAL TO THE EMPLOYER'S ANNUAL BILL LESS ALL OR A PORTION OF THE EMPLOYER'S AMOUNT ELIGIBLE FOR AMORTIZATION FOR THE FISCAL YEAR. IF IN ACCORDANCE WITH THIS PARAGRAPH THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM IS LESS THAN THE ENTIRE AMOUNT OF THE EMPLOYER'S ANNUAL BILL, THEN THE DIFFERENCE BETWEEN THE EMPLOYER'S ANNUAL BILL, AND THE AMOUNT ACTUALLY PAID BY THE EMPLOYER TO THE RETIREMENT SYSTEM EXCLUSIVE OF ANY AMOUNT FROM THE EMPLOYER CONTRIBUTION RESERVE FUND APPLIED TO REDUCE THE EMPLOYER'S PAYMENT, SHALL BE THE AMOUNT AMORTIZED FOR THE FISCAL YEAR. THE AMOUNT AMORTIZED FOR THE FISCAL YEAR SHALL BE PAID TO THE RETIREMENT SYSTEM IN EQUAL ANNUAL INSTALLMENTS OVER A TEN-YEAR PERIOD, WITH INTEREST ON THE UNPAID BALANCE AT A RATE DETERMINED BY THE COMPTROLLER WHICH APPROXIMATES A MARKET RATE OF RETURN ON TAXABLE FIXED RATE SECURITIES WITH SIMILAR TERMS ISSUED BY COMPARABLE ISSUERS, AND WITH THE FIRST INSTALLMENT DUE IN THE IMMEDIATELY SUCCEEDING FISCAL YEAR.

(2) FOR ANY GIVEN FISCAL YEAR FOR WHICH THE SYSTEM GRADED CONTRIBUTION RATE EQUALS OR EXCEEDS AN AMORTIZING EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE, THE AMORTIZING EMPLOYER SHALL PAY TO THE RETIREMENT SYSTEM AN AMOUNT EQUAL TO THE EMPLOYER'S ANNUAL BILL FOR SUCH YEAR PLUS THE EMPLOYER'S GRADED PAYMENT FOR THE FISCAL YEAR.

(I) IF THE AMORTIZING EMPLOYER'S ANNUAL BILL FOR THE FISCAL YEAR DOES NOT INCLUDE AN AMOUNT ATTRIBUTABLE TO A PRIOR AMORTIZATION, THEN THE EMPLOYER'S GRADED PAYMENT SHALL BE PAID INTO THE EMPLOYER CONTRIBUTION RESERVE FUND PROVIDED FOR IN SUBDIVISION E OF THIS SECTION AND CREDITED TO AN ACCOUNT WITHIN SUCH FUND ESTABLISHED FOR THE EMPLOYER.

(II) IF THE AMORTIZING EMPLOYER'S ANNUAL BILL FOR THE FISCAL YEAR INCLUDES AN AMOUNT ATTRIBUTABLE TO A PRIOR AMORTIZATION, THE EMPLOYER'S GRADED PAYMENT SHALL BE USED FIRST TO ELIMINATE THE AMOUNT OF THE EMPLOYER'S UNPAID PRIOR AMORTIZATION BALANCES IN CHRONOLOGICAL ORDER STARTING WITH OLDEST PRIOR AMORTIZATION BALANCE. WHEN IN ANY FISCAL YEAR THE EMPLOYER'S GRADED PAYMENT ELIMINATES ALL BALANCES OWED ON THE EMPLOYER'S PRIOR AMORTIZATIONS, ANY REMAINING PORTION OF THE EMPLOYER'S GRADED PAYMENT FOR SUCH FISCAL YEAR, AND THE EMPLOYER'S GRADED PAYMENT IN ANY SUBSEQUENT FISCAL YEAR IN WHICH THE AMORTIZING EMPLOYER HAS NO UNPAID PRIOR AMORTIZATIONS, SHALL BE PAID INTO THE EMPLOYER CONTRIBUTION RESERVE FUND PROVIDED FOR IN SUBDIVISION E OF THIS SECTION AND CREDITED TO AN ACCOUNT WITHIN SUCH FUND ESTABLISHED FOR THE EMPLOYER.

(3) NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS PROHIBITING AN EMPLOYER FROM PRE-PAYING ANY PRIOR AMORTIZATION.

E. (1) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THERE SHALL BE MAINTAINED SEPARATE AND APART FROM THE OTHER FUNDS OF THE RETIREMENT SYSTEM AN EMPLOYER CONTRIBUTION RESERVE FUND, THE ASSETS OF WHICH SHALL NOT BE USED OR INVESTED IN A MANNER CONTRARY TO THE PROVISIONS OF THIS SUBDIVISION. THE FUND SHALL CONSIST OF ALL EMPLOYER CONTRIBUTIONS REQUIRED TO BE DEPOSITED INTO THE FUND PURSUANT TO SUBDIVISION D OF THIS SECTION.

WITHIN SUCH FUND THERE SHALL BE A SEPARATE ACCOUNT FOR EACH EMPLOYER MAKING SUCH CONTRIBUTIONS AND PAYMENTS.

(2) FOR ANY GIVEN FISCAL YEAR FOR WHICH (I) THE SYSTEM ACTUARIAL CONTRIBUTION RATE EXCEEDS SEVENTEEN AND ONE-HALF PERCENT OF PAYROLL, AND (II) FOR WHICH AN EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE EXCEEDS THE GRADED CONTRIBUTION RATE, THE BALANCE IN THE EMPLOYER'S ACCOUNT WITHIN SUCH FUND SHALL BE APPLIED TO REDUCE THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM FOR SUCH FISCAL YEAR IN AN AMOUNT NOT TO EXCEED THE DIFFERENCE BETWEEN THE EMPLOYER'S ACTUARIAL CONTRIBUTION AND THE EMPLOYER'S GRADED CONTRIBUTION FOR THE FISCAL YEAR.

(3) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH TWO OF THIS SUBDIVISION, IF AT THE CLOSE OF ANY GIVEN FISCAL YEAR THE BALANCE OF AN EMPLOYER'S ACCOUNT WITHIN THE FUND EXCEEDS ONE HUNDRED PERCENT OF THE EMPLOYER'S PAYROLL FOR SUCH FISCAL YEAR, THE EXCESS SHALL BE APPLIED TO REDUCE THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM FOR THE NEXT SUCCEEDING FISCAL YEAR.

(4) THE ASSETS OF THE FUND SHALL BE INVESTED IN ONLY THE FOLLOWING TYPES OF INVESTMENTS:

(I) OBLIGATIONS OF THE UNITED STATES OF AMERICA OR IN OBLIGATIONS GUARANTEED BY AGENCIES OF THE UNITED STATES OF AMERICA WHERE THE PAYMENT OF PRINCIPAL AND INTEREST ARE GUARANTEED BY THE UNITED STATES OF AMERICA OR IN OBLIGATIONS OF THE STATE OF NEW YORK;

(II) GENERAL OBLIGATION BONDS AND NOTES OF ANY STATE OTHER THAN THIS STATE, PROVIDED THAT SUCH BONDS AND NOTES RECEIVE THE HIGHEST RATING OF AT LEAST ONE INDEPENDENT RATING AGENCY;

(III) OBLIGATIONS OF, OR INSTRUMENTS ISSUED BY OR FULLY GUARANTEED AS TO PRINCIPAL AND INTEREST BY, ANY AGENCY OR INSTRUMENTALITY OF THE UNITED STATES ACTING PURSUANT TO A GRANT OF AUTHORITY FROM THE CONGRESS OF THE UNITED STATES, INCLUDING, BUT NOT LIMITED TO, ANY FEDERAL HOME LOAN BANK OR BANKS, THE TENNESSEE VALLEY AUTHORITY, THE FEDERAL NATIONAL MORTGAGE ASSOCIATION, THE FEDERAL HOME LOAN MORTGAGE CORPORATION AND THE UNITED STATES POSTAL SERVICE;

(IV) CERTIFICATE OF DEPOSITS THAT ARE FULLY SECURED BY THE ISSUER BY DEPOSITING WITH THE COMPTROLLER DIRECT OR INDIRECT OBLIGATIONS OF THE UNITED STATES OR ITS AGENCIES OR A LETTER OF CREDIT ISSUED BY THE FEDERAL HOME LOAN BANK; AND

(V) OBLIGATIONS OF ANY CORPORATION ORGANIZED UNDER THE LAWS OF ANY STATE IN THE UNITED STATES MATURING WITHIN TWO HUNDRED SEVENTY DAYS PROVIDED THAT SUCH OBLIGATIONS RECEIVE THE HIGHEST RATING OF TWO INDEPENDENT RATING SERVICES DESIGNATED BY THE COMPTROLLER.

(5) AT THE CLOSE OF EACH FISCAL YEAR, THE AMOUNT OF INTEREST AND EARNINGS ATTRIBUTABLE TO EACH EMPLOYER'S ACCOUNT SHALL BE COMPUTED BY THE ACTUARY AND CERTIFIED TO THE COMPTROLLER, WHO SHALL THEREUPON CREDIT EACH EMPLOYER'S ACCOUNT IN ACCORDANCE THEREWITH.

(6) THE ASSETS OF THE FUND SHALL BE EXCLUDED FROM THE ANNUAL VALUATION OF THE ASSETS AND LIABILITIES OF THE FUNDS OF THE RETIREMENT SYSTEM REQUIRED BY SECTION THREE HUNDRED ELEVEN OF THIS TITLE. THE ASSETS OF THE FUND SHALL NOT FINANCE INCREASES IN PENSION BENEFITS.

S 4. The opening paragraph and paragraph 1 of subdivision b of section 323 of the retirement and social security law, as amended by chapter 210 of the laws of 1990 and clause (ii) of subparagraph (a) of paragraph 1 as amended by chapter 947 of the laws of 1990, are amended to read as follows:

Each employer shall make [two] THREE contributions annually. They shall be known as the normal contribution [as defined in subparagraph (a) of paragraph one of this subdivision and], the deficiency contrib-

ution [as defined in paragraph two of this subdivision], AND THE ADMINISTRATION CONTRIBUTION. The rates thereof shall be computed by the actuary.

1. [(a)] Normal contribution. The rate of such contribution shall be applied to the members' annual compensation as of the end of the fiscal year. Such rate shall be a uniform and constant rate per centum of annual compensation [when determined by dividing the valuation costs by the payroll amount used in the valuation. Notwithstanding any provision of law to the contrary, the valuation costs consist of:

(i) the normal cost, which shall be the actuarial present value of the employer provided benefits accrued during the year, based upon the projected future salary on which benefits are expected to be paid, by prorating each employee's projected benefit over his or her total years of service;

(ii) the supplemental cost, which shall be the cost of providing supplemental retirement allowance payments pursuant to subdivision e of section three hundred seventy-eight of this article;

(iii) the administrative cost, which shall be the expenses of the retirement system pursuant to paragraph three of subdivision b of this section;

(iv) the prior service cost, which shall be equal to the interest on the unfunded actuarial accrued liability or surplus plus a portion of the unfunded liability or surplus, said portion to be equal to the unfunded liability or surplus divided by the average future years of service of active employees; and

(v) the annual amortization cost, which shall be equal to the amount of the annual amortization payment required to be paid into the system's pension accumulation fund under section three hundred sixteen-a and three hundred seventeen-a of this article.

Provided, however, in no event shall the amount of contribution cost be less than zero.

(b) The comptroller is authorized to make appropriate adjustments for those participating employers that have paid an amount in excess of the minimum annual amortization payment required by section three hundred seventeen-a of this article. The excess payment shall accumulate with interest earned at the rate used in the annual actuarial valuation and be applied against future pension contribution requirements to insure equitable treatment of all participating employers.

(c) In any year in which no contribution is required to the pension accumulation fund, any adjustment reducing a prior year's contribution resulting from the enactment of section three hundred sixteen-b of this chapter, shall be credited with interest earned at the rate used in the annual actuarial valuation and applied against future pension contributions]. WHEN APPLIED TO THE COMPENSATION OF THE AVERAGE NEW ENTRANT DURING THE REMAINING PERIOD OF HIS OR HER MEMBERSHIP, SUCH RATE SHALL BE COMPUTED TO BE SUFFICIENT TO PROVIDE ALL THE BENEFITS, OTHER THAN THOSE ON ACCOUNT OF PRIOR SERVICE, GRANTED BY THIS ARTICLE AND WHICH ARE PAYABLE FROM FUNDS CONTRIBUTED TO THE PENSION ACCUMULATION FUND.

Such rate shall be computed each year by means of an actuarial valuation as prescribed in section three hundred eleven of this [chapter] ARTICLE AND AS AUTHORIZED BY SECTION THREE HUNDRED TWENTY-THREE-A OF THIS TITLE.

S 5. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend the Retirement and Social Security Law as it pertains to employer bills of the New York State and Local Employees

Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS).

This bill puts in place a program that allows ERS and PFRS employers, if they choose to participate, to amortize a portion of their bill with their respective Retirement System when employer contributions rates rise above certain levels. If they do this, then when rates are falling below certain levels and they have paid off all outstanding amortizations, the employer will be required to pay additional monies into a reserve fund that will be used when employer contribution rates begin to rise in the future.

If this bill is enacted, we estimate that there would be a small administrative cost to the System to revise the current billing processes.

This estimate, dated February 2, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-104, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

PART UU

Section 1. The New York state urban development corporation shall submit for approval to the director of the budget a comprehensive financial plan for the corporation and its subsidiaries for expenditures, regardless of source, including but not limited to those from the debt service account, the excess debt service account, the housing repair and modernization fund account, the interest income account, and the economic development income account, in such detail as the director of the budget may require. The director of the budget shall file copies of such financial plan with the senate finance committee, the assembly ways and means committee and the department of audit and control in both paper and electronic format.

S 2. 1. Notwithstanding any provision of law to the contrary, the New York state urban development corporation shall establish accounts and subaccounts within the treasury of such corporation which shall reflect and consist of all funds made available to such corporation, at any time, from any sources for its corporate purposes. Such account shall consist of, but not be limited to, the following:

(i) general and administrative accounts, which shall consist of all funds made available for the operational expenses of such corporation;

(ii) general and administrative accounts of certain subsidiary corporations, which shall consist of all funds made available for the operational expenses of the mortgage loan enforcement and administration corporation and the 42nd street development project, incorporated, provided, however, that such subsidiary shall be established as a separate account;

(iii) debt service account, which shall consist of all funds made available for debt service payments on the outstanding general obligations of the corporation where the original issue of such bonds or notes was prior to April 1, 1976, and including any refinancing or renewal of such bonds and notes, provided such account shall not, in any manner, reduce any debt service reserve fund below a level agreed to pursuant to a statute, covenant or other contract between the corporation and such bondholders or noteholders;

(iv) excess debt service account, which shall consist of all funds made available from the net savings achieved as a result of the refund-

ing of the corporation's general purpose bonds authorized pursuant to resolution number 96-ud-526 of the public authorities control board. Net savings shall be determined by the difference between annual debt service payments which would have been required pursuant to the refunded bonds and the annual debt service payments for the corporation's corporate purpose bonds issued to accomplish such refunding;

(v) housing repair and modernization fund account, which shall consist of funds made available from the excess debt service account to assist in maintaining the residential and commercial portfolios of the corporation as determined by the chairman of the corporation or his designee;

(vi) buildout account, which shall consist of all funds made available for the payment of expenses associated with final settlements on remaining issues of construction costs and mortgage amounts on residential and nonresidential projects financed by the corporation;

(vii) project repair account, which shall consist of all funds made available for the maintenance, servicing or repairing of real property in the residential, industrial and commercial portfolios of such corporations;

(viii) economic development income account, which shall consist of all payments, including payments to compensate for any funds, time or other costs provided by the corporation in relation to nonresidential projects and all other reimbursable corporate service income from economic development projects and payments which are provided to such corporation for purposes of repayment of funds in respect to any contract or other agreements entered into by the corporation which are attributable to any economic development project of the corporation, provided, however, that such account shall not include funds representing repayments which are to be returned to the development of such project pursuant to any contract or other agreement entered into by the corporation;

(ix) economic development program and project accounts, which shall consist of all funds made available for specific economic development programs and projects excluding any program or project authorized by a resolution or other action of the corporation prior to April 1, 1976, and excluding any residential project, provided, however, that each specified program and project shall be established as a separate account unless otherwise authorized pursuant to an appropriation;

(x) new communities and community support account, which shall consist of all funds made available for, and all income received from the Audubon and Radisson communities;

(xi) Roosevelt Island operating corporation account, which shall consist of all funds made available for, and all income received from the Roosevelt Island community;

(xii) interest income account, which shall consist of all moneys earned by the corporation from investment of any funds available in the accounts and subaccounts within the treasury of the corporation; and

(xiii) mortgage servicing fee account, which shall consist of all funds made available to the mortgage loan enforcement and administration corporation for the payment of fees to the housing special revenue account of the miscellaneous special revenue fund associated with the provision of mortgage servicing activities by the division of housing and community renewal.

2. The amounts deposited in any such account may be interchanged with any other account for purposes of investment and may be commingled, provided, however, that such interchange may not increase or decrease any account, other than the debt service account, and the interest income account, by more than five percent in the aggregate in the entire

period of any fiscal year of the corporation. Provided further, that in addition to any other specific exception provided for in this section, the following exemptions to the above interchange provision shall apply for the purposes of the debt service account, the interest income account, the project repair account, the mortgage servicing fee account, the general and administrative account of the mortgage loan enforcement and administration corporation, excess debt service account, housing repair and modernization fund account, Roosevelt Island operating corporation account and the economic development income account:

(i) Interchange from the debt service account to any other account shall be unlimited, but all such transfers from the debt service account shall be repaid quarterly to such account on or before June 30, 2010, September 30, 2010, December 31, 2010 and March 31, 2011, except for: (A) $30,762,000 which shall be transferred to the general and administrative account from the debt service account during the state fiscal year commencing April 1, 2010, and such amount of $30,762,000 shall not be repaid to the debt service account; (B) $2,000,000 which shall be transferred to the general and administrative account of the 42nd street development project, incorporated and which shall be repaid pursuant to a repayment agreement as set out in paragraph (vi) of this subdivision.

(ii) Interchange from the excess debt service account shall be unlimited, but all such transfers from the excess debt service account shall be repaid quarterly to such account on or before June 30, 2010, September 30, 2010, December 31, 2010, and March 31, 2011, except for: (A) an amount sufficient to fund the housing repair and modernization fund account to assist in maintaining the residential and commercial portfolios of the corporation as determined by the chairman of the corporation or his designee; (B) an amount necessary to invest in the job development authority, as certified by the chairman of the authority or his designee, to provide funds in order to pay lawful debts of the authority provided that the corporation shall not make any payment or investment for the benefit of the authority unless and until it has independently verified that the authority does not have sufficient funds available to pay its lawfully incurred debts and obligations, and with any net savings which remain and are available; (C) all remaining balances of funds contained in the excess debt service account shall be remitted to the credit of the state of New York general fund not later than March 31, 2010.

(iii) Interchange from the interest income account, other than to the general and administrative account of the mortgage loan enforcement and administration corporation, may be unlimited.

(iv) Interchange to the project repair account from any account may be unlimited, and the corporation shall transfer up to $10,000,000 to such account from any account during the fiscal year commencing April 1, 2010, and such amount up to $10,000,000 shall not be repaid.

(v) Interchange between the general and administrative account of the mortgage loan enforcement and administration corporation and any other account shall comply with the provisions specified herein, except that up to $1,700,000 shall be transferred to such subsidiary corporation during the fiscal year commencing April 1, 2010 and any such amount shall not be repaid.

(vi) An advance up to $2,000,000 may be made from the debt service account to the general and administrative account of the 42nd street development project, incorporated, provided, however, that before such advance is made the New York state urban development corporation shall enter into an agreement with the director of the budget providing for

repayment of such advance. Subject to the approval of the director of the budget, and notification of the chairs of the assembly ways and means and the senate finance committees in both paper and electronic format, the corporation is hereby authorized to expend revenues of the project for services and expenses of the corporation. The total amount expended by the 42nd street development project, incorporated shall not exceed $2,000,000 and any unexpended project revenues shall be used to reduce the total advance provided to the project from the debt service account.

(vii) Interchange from the debt service account to the mortgage servicing fee account of the mortgage loan enforcement and administration corporation shall comply with the provisions specified herein, except that up to $2,838,000 shall be transferred to such mortgage servicing fee account during the fiscal year commencing April 1, 2010 and such amount shall not be repaid. Prior to the allocation of any moneys from the debt service account to the 42nd street development project, incorporated, and the mortgage loan enforcement and administration corporation for the fiscal year commencing April 1, 2010, each corporation shall submit for approval to the director of the budget, a comprehensive financial plan for each corporation for such fiscal year, in such detail as the director of the budget shall require in both paper and electronic format. The financial plan shall be submitted to the budget director on or before May 15, 2010. A report for each plan and any plan update, if necessary, shall be submitted to the director of the budget on or before August 15, 2010, November 15, 2010 and February 15, 2011. Each such report shall provide the actual revenue and expenditures for the preceding quarters ending June 30, 2010, September 30, 2010 and December 31, 2010, in such detail as the director of the budget shall require. Further, any plan update shall revise, where necessary, the revenue and expenditure plan for each corporation for the remainder of the fiscal year beginning April 1, 2010. No transfer to the general administrative account of the corporation shall occur prior to the approval of the financial plan and unless in compliance with the approved financial plan.

The director of the budget shall file copies of such financial plans, quarterly reports and any plan updates with the department of audit and control and the senate finance committee and the assembly ways and means committee in both paper and electronic format. Interchange made to the debt service account shall not be repaid if such payment would reduce any debt service or debt service reserve requirements below any amount required pursuant to a covenant, contract or other agreements with the bondholders and noteholders. No payments or deposits shall be made from any debt service reserve fund established pursuant to the provisions of section 20 of the New York state urban development corporation act to any account of the corporation other than the debt service account; and such payment or deposit shall only occur if deemed necessary to meet the payments specified in the debt service account described herein.

Provided further, (a) that such investment shall be made pursuant to the provisions of subdivision 22 of section 5 of the New York state urban development corporation act; (b) that such investment shall be made in a fashion which shall enable the corporation to timely meet its obligations; (c) that such investment shall be specified in each account in respect to the amount contributed, and that upon termination of such investment each account shall be reimbursed. Such account and subaccount shall be included in detailed quarterly reports of the corporation commencing with the quarterly report for the period immediately preced-

ing April 1, 2010 which set forth the status of all such accounts, including for each account and subaccount the amount in such accounts at the beginning of such quarter (from and including the entire period of the first day of the operative calendar year), the payments of such accounts, the payments from such accounts and the amount in such accounts at the close of such quarter (to and including the entire period of the last day of the operative calendar year). Such detailed quarterly report shall be prepared and submitted within 30 days of the close of each fiscal quarter of the corporation to the director of the budget, and the chair of the senate finance committee and the chair of the assembly ways and means committee in both paper and electronic format. Such accounts and subaccounts shall be detailed in the annual report of the corporation.

No disbursements or payments shall be made from the economic development income account or the interest income account except upon a request for the transfer of such funds to the director of the budget who shall file such request and approval thereof with the department of audit and control and copies thereof with the senate finance committee and the assembly ways and means committee in both paper and electronic format, except that such prior approval shall not be required in respect to repayments to the state. Any amounts in any debt service reserve funds, any inconsistent provisions of law notwithstanding, established by the corporation pursuant to the provisions of section 20 of the New York state urban development corporation act, which would not reduce the amount of such fund or funds to less than (1) the maximum amount of principal and interest maturing and becoming due in 2010 or (2) any amount required pursuant to a covenant, contract or other agreement with bondholders and noteholders shall be paid by the corporation to the state comptroller for deposit to the credit of the general fund of the state on or before March 1, 2011. In the event that the corporation shall fail to make such payment, the comptroller shall withhold from any appropriations otherwise available to the corporation, the amount sufficient to pay to the general fund the amounts required to be paid by the corporation pursuant to the foregoing provisions. The state comptroller shall create accounts for each item of appropriation.

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, 2010; and provided further that sections one and two of this act shall expire and be deemed repealed March 31, 2011.

PART VV

Section 1. The state finance law is amended by adding a new section 97-jjjj to read as follows:

S 97-JJJJ. EDUCATION ASSESSMENT ACCOUNT. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT OF THE MISCELLANEOUS SPECIAL REVENUE FUND TO BE KNOWN AS THE "EDUCATION ASSESSMENT ACCOUNT".

2. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, THE STATE COMPTROLLER IS HEREBY AUTHORIZED AND DIRECTED TO RECEIVE FOR DEPOSIT TO THE CREDIT OF THE EDUCATION ASSESSMENT ACCOUNT ALL REVENUES RECEIVED PURSUANT TO AN APPROPRIATION FOR SUCH ACCOUNT, INCLUDING BUT NOT LIMITED TO FUNDS TRANSFERRED FROM ANOTHER ACCOUNT.

3. MONEYS OF THIS ACCOUNT, FOLLOWING APPROPRIATION BY THE LEGISLATURE, SHALL BE AVAILABLE TO THE STATE EDUCATION DEPARTMENT FOR SERVICES AND EXPENSES RELATING TO STATE ASSESSMENTS OF ELEMENTARY AND SECONDARY

SCHOOL STUDENTS, INCLUDING BUT NOT LIMITED TO THE STATE HIGH SCHOOL EQUIVALENCY DIPLOMA EXAMINATION. MONEYS OF THIS ACCOUNT SHALL ONLY BE AVAILABLE FOR EXPENDITURE PURSUANT TO APPROVAL OF AN EXPENDITURE PLAN BY THE DIRECTOR OF THE BUDGET.

S 2. This act shall take effect immediately.

PART WW

Section 1. Paragraph 34 of subdivision (b) of section 1101 of the tax law, as added by section 1 of part U-1 of chapter 57 of the laws of 2009, is amended 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 (I) a taxicab [and], (II) a bus, AND (III), IN A CITY OF ONE MILLION OR MORE IN THIS STATE, AN AFFILIATED LIVERY VEHICLE, 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. "AFFILIATED LIVERY VEHICLE" MEANS A FOR-HIRE MOTOR VEHICLE WITH A SEATING CAPACITY OF UP TO SIX PERSONS, INCLUDING THE DRIVER, OTHER THAN A BLACK CAR OR LUXURY LIMOUSINE, THAT IS AUTHORIZED AND LICENSED BY THE TAXI AND LIMOUSINE COMMISSION OF A CITY OF ONE MILLION OR MORE TO BE DISPATCHED BY A BASE STATION LOCATED IN SUCH A CITY AND REGULATED BY SUCH TAXI AND LIMOUSINE COMMISSION; AND THE CHARGES FOR SERVICE PROVIDED BY AN AFFILIATED LIVERY VEHICLE ARE ON THE BASIS OF FLAT RATE, TIME, MILEAGE, OR ZONES AND NOT ON A GARAGE TO GARAGE BASIS.

S 2. Section 1213 of the tax law, as amended by section 5 of part U-1 of chapter 57 of the laws of 2009, 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] PURSUANT TO THE AUTHORITY OF this article shall be due the jurisdiction or jurisdictions where the service commenced.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 1, 2009, and shall apply in accordance with applicable transitional provisions in sections 1106 and 1217 of the tax law.

PART XX

Section 1. Section 71 of the correction law is amended by adding a new subdivision 8 to read as follows:

8. (A) IN EACH YEAR IN WHICH THE FEDERAL DECENNIAL CENSUS IS TAKEN BUT IN WHICH THE UNITED STATES BUREAU OF THE CENSUS DOES NOT IMPLEMENT A POLICY OF REPORTING INCARCERATED PERSONS AT EACH SUCH PERSON'S RESIDENTIAL ADDRESS PRIOR TO INCARCERATION, THE DEPARTMENT OF CORRECTIONAL SERVICES SHALL BY JULY FIRST OF THAT SAME YEAR DELIVER TO THE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT THE FOLLOWING INFORMATION FOR EACH INCARCERATED PERSON SUBJECT TO THE JURISDICTION OF THE DEPARTMENT AND LOCATED IN THIS STATE ON THE DATE FOR WHICH THE DECENNIAL CENSUS REPORTS POPULATION:

(I) A UNIQUE IDENTIFIER, NOT INCLUDING THE NAME, FOR EACH SUCH PERSON;

(II) THE STREET ADDRESS OF THE CORRECTIONAL FACILITY IN WHICH SUCH PERSON WAS INCARCERATED AT THE TIME OF SUCH REPORT;

(III) THE RESIDENTIAL ADDRESS OF SUCH PERSON PRIOR TO INCARCERATION (IF ANY); AND

(IV) ANY ADDITIONAL INFORMATION AS THE TASK FORCE MAY SPECIFY PURSUANT TO LAW.

(B) THE DEPARTMENT SHALL PROVIDE THE INFORMATION SPECIFIED IN PARAGRAPH (A) OF THIS SUBDIVISION IN SUCH FORM AS THE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT SHALL SPECIFY.

S 2. Section 83-m of the legislative law is amended by adding a new subdivision 13 to read as follows:

13. (A) THE TASK FORCE SHALL SPECIFY THE FORM IN WHICH THE DEPARTMENT OF CORRECTIONAL SERVICES SHALL PROVIDE SUCH INFORMATION REQUIRED TO BE REPORTED TO THE TASK FORCE PURSUANT TO SUBDIVISION EIGHT OF SECTION SEVENTY-ONE OF THE CORRECTION LAW.

(B) UPON RECEIPT OF SUCH INFORMATION FOR EACH INCARCERATED PERSON SUBJECT TO THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONAL SERVICES, THE TASK FORCE SHALL DETERMINE THE CENSUS BLOCK CORRESPONDING TO THE STREET ADDRESS OF EACH SUCH PERSON'S RESIDENTIAL ADDRESS PRIOR TO INCARCERATION (IF ANY), AND THE CENSUS BLOCK CORRESPONDING TO THE STREET ADDRESS OF THE CORRECTIONAL FACILITY IN WHICH SUCH PERSON WAS HELD SUBJECT TO THE JURISDICTION OF SUCH DEPARTMENT. UNTIL SUCH TIME AS THE UNITED STATES BUREAU OF THE CENSUS SHALL IMPLEMENT A POLICY OF REPORTING EACH SUCH INCARCERATED PERSON AT SUCH PERSON'S RESIDENTIAL ADDRESS PRIOR TO INCARCERATION, THE TASK FORCE SHALL USE SUCH DATA TO DEVELOP A DATA-

BASE IN WHICH ALL INCARCERATED PERSONS SHALL BE, WHERE POSSIBLE, ALLOCATED FOR REDISTRICTING PURPOSES, SUCH THAT EACH GEOGRAPHIC UNIT REFLECTS INCARCERATED POPULATIONS AT THEIR RESPECTIVE RESIDENTIAL ADDRESSES PRIOR TO INCARCERATION RATHER THAN AT THE ADDRESSES OF SUCH CORRECTIONAL FACILITIES. FOR ALL INCARCERATED PERSONS WHOSE RESIDENTIAL ADDRESS PRIOR TO INCARCERATION WAS OUTSIDE OF THE STATE, OR FOR WHOM THE TASK FORCE CANNOT IDENTIFY THEIR PRIOR RESIDENTIAL ADDRESS, AND FOR ALL PERSONS CONFINED IN A FEDERAL CORRECTIONAL FACILITY ON CENSUS DAY, THE TASK FORCE SHALL CONSIDER THOSE PERSONS TO HAVE BEEN COUNTED AT AN ADDRESS UNKNOWN AND PERSONS AT SUCH UNKNOWN ADDRESS SHALL NOT BE INCLUDED IN SUCH DATA SET CREATED PURSUANT TO THIS PARAGRAPH. THE TASK FORCE SHALL DEVELOP AND MAINTAIN SUCH AMENDED POPULATION DATA SET AND SHALL MAKE SUCH AMENDED DATA SET AVAILABLE TO LOCAL GOVERNMENTS, AS DEFINED IN SUBDIVISION EIGHT OF SECTION TWO OF THE MUNICIPAL HOME RULE LAW, AND FOR THE DRAWING OF ASSEMBLY AND SENATE DISTRICTS. THE ASSEMBLY AND SENATE DISTRICTS SHALL BE DRAWN USING SUCH AMENDED POPULATION DATA SET.

(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE INFORMATION REQUIRED TO BE PROVIDED PURSUANT TO SUBDIVISION EIGHT OF SECTION SEVENTY-ONE OF THE CORRECTION LAW SHALL BE TREATED AS CONFIDENTIAL AND SHALL NOT BE DISCLOSED BY THE TASK FORCE EXCEPT AS AGGREGATED BY CENSUS BLOCK FOR PURPOSE SPECIFIED IN THIS SUBDIVISION.

S 3. The opening paragraph, subclause (i.) of clause (a.) and clause (c.) of subparagraph 13 of paragraph a of subdivision 1 of section 10 of the municipal home rule law, as added by chapter 834 of the laws of 1969, are amended to read as follows:

The apportionment of its legislative body and, only in connection with such action taken pursuant to this subparagraph, the composition and membership of such body, the terms of office of members thereof, the units of local government or other areas from which representatives are to be chosen and the voting powers of individual members of such legislative body. [The] EXCEPT FOR THE EQUAL APPORTIONMENT REQUIREMENTS IN SUBCLAUSE (I.) OF CLAUSE (A.) AND CLAUSE (C.) OF THIS SUBPARAGRAPH, WHICH SHALL APPLY GENERALLY TO ANY LOCAL GOVERNMENT, THE power granted by this subparagraph shall be in addition to and not in substitution for any other power and the provisions of this subparagraph shall apply only to local governments which adopt a plan of apportionment thereunder.

(i.) The plan shall provide substantially equal weight for [all] the [voters] POPULATION of that local government in the allocation of representation in the local legislative body.

(c.) As used in this subparagraph the term "population" shall mean residents, citizens, or registered voters. FOR SUCH PURPOSES, NO PERSON SHALL BE DEEMED TO HAVE GAINED OR LOST A RESIDENCE, OR TO HAVE BECOME A RESIDENT OF A LOCAL GOVERNMENT, AS DEFINED IN SUBDIVISION EIGHT OF SECTION TWO OF THIS CHAPTER, BY REASON OF BEING SUBJECT TO THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONAL SERVICES AND PRESENT IN A STATE CORRECTIONAL FACILITY PURSUANT TO SUCH JURISDICTION. A population base for such a plan of apportionment shall utilize the latest statistical information obtainable from an official enumeration done at the same time for all the residents, citizens, or registered voters of the local government. Such a plan may allocate, by extrapolation or any other rational method, such latest statistical information to representation areas or units of local government, provided that any plan containing such an allocation shall have annexed thereto as an appendix, a detailed explanation of the allocation.

S 4. Severability. If any section, subdivision, paragraph, subparagraph, clause or other part of this act or its application is held to be invalid by final judgment of a court of competent jurisdiction, such invalidity shall not be deemed to impair or otherwise affect the validity of the remaining provisions or applications of this act that can be given effect without such invalid provision or application, but such invalidity shall be confined to the section, subdivision, paragraph, subparagraph, clause or other part of this act or its application directly held invalid thereby, which are declared to be severable from the remainder of this act. It is declared to be the intent of the legislature that this act would have been enacted but for any such invalid provision or application thereof.

S 5. This act shall take effect immediately; provided, however, that the amendments to section 83-m of the legislative law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART YY

Section 1. Subdivision 2-b of section 470 of the tax law, as added by section 16 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

2-b. "Little cigar." Any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco, other than natural leaf tobacco wrapper, and weighing not more than four pounds per thousand OR WITH A CELLULOSE ACETATE OR OTHER INTEGRATED FILTER.

S 2. This act shall take effect on the same date and same manner as section 16 of part D of chapter 134 of the laws of 2010, takes effect.

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 YY of this act shall be as specifically set forth in the last section of such Parts.