

STATE OF NEW YORK

3008--B

IN ASSEMBLY

January 20, 2021

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

AN ACT intentionally omitted (Part A); intentionally omitted (Part B); intentionally omitted (Part C); intentionally omitted (Part D); intentionally omitted (Part E); intentionally omitted (Part F); intentionally omitted (Part G); intentionally omitted (Part H); intentionally omitted (Part I); to amend chapter 393 of the laws of 1994 amending the New York state urban development corporation act relating to the powers of the New York state urban development corporation to make loans, in relation to extending loan powers (Part J); to amend the urban development corporation act, in relation to extending the authority of the New York state urban development corporation to administer the empire state economic development fund (Part K); intentionally omitted (Part L); to amend section 3 of part S of chapter 58 of the laws of 2016, relating to transferring the statutory authority for the promulgation of marketing orders from the department of agriculture and markets to the New York state urban development corporation, in relation to the effectiveness thereof (Part M); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to the effectiveness thereof (Part N); intentionally omitted (Part O); intentionally omitted (Part P); intentionally omitted (Part Q); intentionally omitted (Part R); intentionally omitted (Part S); intentionally omitted (Part T); intentionally omitted (Part U); intentionally omitted (Part V); to authorize the energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY program, as well as climate change related expenses of the department of environmental conservation and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part W); intentionally omitted (Part X); intentionally omitted (Part

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

LBD12573-03-1

Y); intentionally omitted (Part Z); intentionally omitted (Part AA); intentionally omitted (Part BB); to amend chapter 58 of the laws of 2013 amending the environmental conservation law and the state finance law relating to the "Cleaner, Greener NY Act of 2013", in relation to the effectiveness thereof (Part CC); intentionally omitted (Part DD); intentionally omitted (Part EE); intentionally omitted (Part FF); intentionally omitted (Part GG); intentionally omitted (Part HH); to amend chapter 58 of the laws of 2012, amending the public health law, relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to the effectiveness thereof (Part II); intentionally omitted (Part JJ); intentionally omitted (Part KK); to amend the banking law, in relation to the forbearance of residential mortgage payments (Part LL); intentionally omitted (Part MM); to amend subpart H of part C of chapter 20 of the laws of 2015, appropriating money for certain municipal corporations and school districts, in relation to funding to local government entities from the urban development corporation (Part NN); intentionally omitted (Part OO); intentionally omitted (Part PP); intentionally omitted (Part QQ); intentionally omitted (Part RR); intentionally omitted (Part SS); to amend the economic development law and the tax law, in relation to establishing the small business return-to-work tax credit program (Subpart A); to amend the economic development law and the tax law, in relation to establishing the restaurant return-to-work tax credit program (Subpart B); and to amend the tax law and the state finance law, in relation to establishing the New York city musical and theatrical production tax credit (Subpart C) (Part TT); intentionally omitted (Part UU); intentionally omitted (Part VV); to authorize utility and cable television assessments that provide funds to the department of health from cable television assessment revenues and to the department of agriculture and markets, department of environmental conservation, department of state, and the office of parks, recreation and historic preservation from utility assessment revenues; and providing for the repeal of such provisions upon the expiration thereof (Part WW); to amend the transportation law, in relation to increasing the maximum amount of grants and loans under the airport improvement and revitalization grant and loan program (Part XX); to amend the public authorities law, in relation to the use of proceeds collected from the auction or sale of carbon dioxide emissions allowances for disadvantaged communities and job training programs for formerly incarcerated individuals (Part YY); to amend the environmental conservation law, in relation to clean vehicle projects (Part ZZ); to amend the education law, in relation to establishing the digital inclusion grant program (Part AAA); to amend the public service law, in relation to the public service commission reviewing broadband and fiber optic services within the state (Part BBB); and to amend the New York state urban development corporation act, in relation to establishing the small business reopening and relief grant program (Part CCC)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation
2 necessary to implement the state transportation, economic development
3 and environmental conservation budget for the 2021-2022 state fiscal

1 year. Each component is wholly contained within a Part identified as
2 Parts A through CCC. The effective date for each particular provision
3 contained within such Part is set forth in the last section of such
4 Part. Any provision in any section contained within a Part, including
5 the effective date of the Part, which makes a reference to a section "of
6 this act", when used in connection with that particular component, shall
7 be deemed to mean and refer to the corresponding section of the Part in
8 which it is found. Section three of this act sets forth the general
9 effective date of this act.

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PART A

Intentionally Omitted

PART B

Intentionally Omitted

PART C

Intentionally Omitted

PART D

Intentionally Omitted

PART E

Intentionally Omitted

PART F

Intentionally Omitted

PART G

Intentionally Omitted

PART H

Intentionally Omitted

PART I

Intentionally Omitted

PART J

29 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
30 New York state urban development corporation act, relating to the powers
31 of the New York state urban development corporation to make loans, as
32 amended by section 1 of part FF of chapter 58 of the laws of 2020, is
33 amended to read as follows:

34 § 2. This act shall take effect immediately provided, however, that
35 section one of this act shall expire on July 1, [~~2021~~] 2022, at which
36 time the provisions of subdivision 26 of section 5 of the New York state

1 urban development corporation act shall be deemed repealed; provided,
2 however, that neither the expiration nor the repeal of such subdivision
3 as provided for herein shall be deemed to affect or impair in any manner
4 any loan made pursuant to the authority of such subdivision prior to
5 such expiration and repeal.

6 § 2. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after July 1, 2021.

8 PART K

9 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
10 of the laws of 1968 constituting the New York state urban development
11 corporation act, as amended by section 1 of part EE of chapter 58 of the
12 laws of 2020, is amended to read as follows:

13 3. The provisions of this section shall expire, notwithstanding any
14 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
15 the laws of 1996 or of any other law, on July 1, ~~2021~~ 2022.

16 § 2. This act shall take effect immediately and shall be deemed to
17 have been in full force and effect on and after July 1, 2021.

18 PART L

19 Intentionally Omitted

20 PART M

21 Section 1. Section 3 of part S of chapter 58 of the laws of 2016,
22 relating to transferring the statutory authority for the promulgation of
23 marketing orders from the department of agriculture and markets to the
24 New York state urban development corporation, as amended by section 1 of
25 part Y of chapter 58 of the laws of 2018, is amended to read as follows:

26 § 3. This act shall take effect on the ninetieth day after it shall
27 have become a law and shall expire and be deemed repealed July 31,
28 ~~2021~~ 2024; provided, however, that any assessment due and payable
29 under such marketing orders shall be remitted to the urban development
30 corporation starting 30 days after such effective date.

31 § 2. This act shall take effect immediately.

32 PART N

33 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
34 executive law relating to permitting the secretary of state to provide
35 special handling for all documents filed or issued by the division of
36 corporations and to permit additional levels of such expedited service,
37 as amended by section 1 of part R of chapter 58 of the laws of 2020, is
38 amended to read as follows:

39 § 2. This act shall take effect immediately, provided however, that
40 section one of this act shall be deemed to have been in full force and
41 effect on and after April 1, 2003 [~~and shall expire March 31, 2021~~].

42 § 2. This act shall take effect immediately and shall be deemed to
43 have been in full force and effect on and after March 31, 2021.

44 PART O

45 Intentionally Omitted

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PART P
Intentionally Omitted
PART Q
Intentionally Omitted
PART R
Intentionally Omitted
PART S
Intentionally Omitted
PART T
Intentionally Omitted
PART U
Intentionally Omitted
PART V
Intentionally Omitted
PART W

16 Section 1. Expenditures of moneys by the New York state energy
17 research and development authority for services and expenses of the
18 energy research, development and demonstration program, including
19 grants, the energy policy and planning program, the zero emissions vehi-
20 cle and electric vehicle rebate program, and the Fuel NY program shall
21 be subject to the provisions of this section. Notwithstanding the
22 provisions of subdivision 4-a of section 18-a of the public service law,
23 all moneys committed or expended in an amount not to exceed \$22,700,000
24 shall be reimbursed by assessment against gas corporations, as defined
25 in subdivision 11 of section 2 of the public service law and electric
26 corporations as defined in subdivision 13 of section 2 of the public
27 service law, where such gas corporations and electric corporations have
28 gross revenues from intrastate utility operations in excess of \$500,000
29 in the preceding calendar year, and the total amount assessed shall be
30 allocated to each electric corporation and gas corporation in proportion
31 to its intrastate electricity and gas revenues in the calendar year
32 2019. Such amounts shall be excluded from the general assessment
33 provisions of subdivision 2 of section 18-a of the public service law.
34 The chair of the public service commission shall bill such gas and/or
35 electric corporations for such amounts on or before August 10, 2021 and
36 such amounts shall be paid to the New York state energy research and
37 development authority on or before September 10, 2021. Upon receipt, the
38 New York state energy research and development authority shall deposit
39 such funds in the energy research and development operating fund estab-
40 lished pursuant to section 1859 of the public authorities law. The New
41 York state energy research and development authority is authorized and

1 directed to: (1) transfer up to \$4 million to the state general fund for
2 climate change related services and expenses of the department of envi-
3 ronmental conservation, \$150,000 to the state general fund for services
4 and expenses of the department of agriculture and markets, and \$825,000
5 to the University of Rochester laboratory for laser energetics from the
6 funds received; and (2) commencing in 2016, provide to the chair of the
7 public service commission and the director of the budget and the chairs
8 and secretaries of the legislative fiscal committees, on or before
9 August first of each year, an itemized record, certified by the presi-
10 dent and chief executive officer of the authority, or his or her desig-
11 nee, detailing any and all expenditures and commitments ascribable to
12 moneys received as a result of this assessment by the chair of the
13 department of public service pursuant to section 18-a of the public
14 service law. This itemized record shall include an itemized breakdown
15 of the programs being funded by this section and the amount committed to
16 each program. The authority shall not commit for any expenditure, any
17 moneys derived from the assessment provided for in this section, until
18 the chair of such authority shall have submitted, and the director of
19 the budget shall have approved, a comprehensive financial plan encom-
20 passing all moneys available to and all anticipated commitments and
21 expenditures by such authority from any source for the operations of
22 such authority. Copies of the approved comprehensive financial plan
23 shall be immediately submitted by the chair to the chairs and secre-
24 taries of the legislative fiscal committees. Any such amount not commit-
25 ted by such authority to contracts or contracts to be awarded or other-
26 wise expended by the authority during the fiscal year shall be refunded
27 by such authority on a pro-rata basis to such gas and/or electric corpo-
28 rations, in a manner to be determined by the department of public
29 service, and any refund amounts must be explicitly lined out in the
30 itemized record described above.

31 § 2. This act shall take effect immediately and shall be deemed to
32 have been in full force and effect on and after April 1, 2021.

33 PART X
34 Intentionally Omitted
35 PART Y
36 Intentionally Omitted
37 PART Z
38 Intentionally Omitted
39 PART AA
40 Intentionally Omitted
41 PART BB
42 Intentionally Omitted
43 PART CC

1 Section 1. Section 12 of part F of chapter 58 of the laws of 2013
2 amending the environmental conservation law and the state finance law
3 relating to the "Cleaner, Greener NY Act of 2013", as amended by chapter
4 65 of the laws of 2019, is amended to read as follows:

5 § 12. This act shall take effect immediately and shall be deemed to
6 have been in full force and effect on and after April 1, 2013; provided,
7 however, that the amendments to subdivision 5-a of section 27-1015 of
8 the environmental conservation law, as added by section nine of this
9 act, shall expire and be deemed repealed on April 1, [~~2021~~] 2023.

10 § 2. This act shall take effect immediately.

11 PART DD

12 Intentionally Omitted

13 PART EE

14 Intentionally Omitted

15 PART FF

16 Intentionally omitted

17 PART GG

18 Intentionally Omitted

19 PART HH

20 Intentionally Omitted

21 PART II

22 Section 1. Section 2 of part BB of chapter 58 of the laws of 2012
23 amending the public authorities law, relating to authorizing the dormi-
24 tory authority to enter into certain design and construction management
25 agreements, as amended by section 1 of part B of chapter 58 of the laws
26 of 2019, is amended to read as follows:

27 § 2. This act shall take effect immediately and shall expire and be
28 deemed repealed April 1, [~~2021~~] 2024.

29 § 2. The dormitory authority of the state of New York shall provide a
30 report providing information regarding any project undertaken pursuant
31 to a design and construction management agreement, as authorized by part
32 BB of chapter 58 of the laws of 2012, between the dormitory authority of
33 the state of New York and the department of environmental conservation
34 and/or the office of parks, recreation and historic preservation to the
35 governor, the temporary president of the senate and speaker of the
36 assembly. Such report shall include but not be limited to a description
37 of each such project, the project identification number of each such
38 project, if applicable, the projected date of completion, the status of
39 the project, the total cost or projected cost of each such project, and
40 the location, including the names of any county, town, village or city,
41 where each such project is located or proposed. In addition, such a
42 report shall be provided to the aforementioned parties by the first day
43 of March of each year that the authority to enter into such agreements
44 pursuant to part BB of chapter 58 of the laws of 2012 is in effect.

1 § 3. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after April 1, 2021.

3 PART JJ

4 Intentionally Omitted

5 PART KK

6 Intentionally Omitted

7 PART LL

8 Section 1. Paragraph (a) of subdivision 1 of section 9-x of the bank-
9 ing law, as amended by section 1 of part C of chapter 126 of the laws of
10 2020, is amended to read as follows:

11 (a) "Covered period" means March 7, 2020 until the later of December
12 31, 2021 or the date on which none of the provisions that closed or
13 otherwise restricted public or private businesses or places of public
14 accommodation, or required postponement or cancellation of all non-es-
15 sential gatherings of individuals of any size for any reason in Execu-
16 tive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11,
17 202.13 or 202.14, as extended by Executive Orders 202.28 and 202.31 and
18 as further extended by any future Executive Order, issued in response to
19 the COVID-19 pandemic continue to apply in the county of the qualified
20 mortgagor's residence;

21 § 2. This act shall take effect immediately.

22 PART MM

23 Intentionally Omitted

24 PART NN

25 Section 1. Section 1 of subpart H of part C of chapter 20 of the laws
26 of 2015, appropriating money for certain municipal corporations and
27 school districts, as amended by section 1 of part AAA of chapter 59 of
28 the laws of 2018, is amended to read as follows:

29 Section 1. Contingent upon available funding, and not to exceed
30 [~~\$69,000,000~~] \$140,000,000 from existing uncommitted funds from the New
31 York state energy research and development authority legacy programs and
32 moneys from the urban development corporation shall be available for a
33 local government entity, which for the purposes of this section shall
34 mean a county, city, town, village, school district or special district,
35 where (i) on or after June 25, 2015, an electric generating facility
36 located within such local government entity has ceased operations, and
37 (ii) the closing of such facility has caused a reduction in the real
38 property tax collections or payments in lieu of taxes of at least twenty
39 percent owed by such electric generating facility. Such moneys attribut-
40 able to the cessation of operations, shall be paid annually on a first
41 come, first served basis by the urban development corporation to such
42 local government entity within a reasonable time upon confirmation from
43 the state office of real property tax services or the local industrial
44 development authority established pursuant to titles eleven and fifteen
45 of article eight of the public authorities law, or the local industrial
46 development agency established pursuant to article eighteen-A of the

1 general municipal law that such cessation has resulted in a reduction in
 2 the real property tax collections or payments in lieu of taxes,
 3 provided, however, that the urban development corporation shall not
 4 provide assistance to such local government entity for more than seven
 5 years, and shall award payments reflecting the loss of revenues due to
 6 the cessation of operations as follows:

7	Award Year	Maximum Potential Award
8	1	no more than eighty percent of loss of revenues
9	2	no more than seventy percent of loss of revenues
10	3	no more than sixty percent of loss of revenues
11	4	no more than fifty percent of loss of revenues
12	5	no more than forty percent of loss of revenues
13	6	no more than thirty percent of loss of revenues
14	7	no more than twenty percent of loss of revenues

15 A local government entity shall be eligible for only one payment of
 16 funds hereunder per year. A local government entity may seek assistance
 17 under the electric generation facility cessation mitigation fund once a
 18 generator has submitted its notice to the federally designated electric
 19 bulk system operator (BSO) serving the state of New York of its intent
 20 to retire the facility or of its intent to voluntarily remove the facil-
 21 ity from service subject to any return-to-service provisions of any
 22 tariff, and that the facility also is ineligible to participate in the
 23 markets operated by the BSO. The date of submission of a local govern-
 24 ment entity's application for assistance shall establish the order in
 25 which assistance is paid to program applicants, except that in no event
 26 shall assistance be paid to a local government entity until such time
 27 that an electric generating facility has retired or become ineligible to
 28 participate in the markets operated by the BSO. For purposes of this
 29 section, any local government entity seeking assistance under the elec-
 30 tric generation facility cessation mitigation fund must submit an attes-
 31 tation to the department of public service that a facility is no longer
 32 producing electricity and is no longer participating in markets operated
 33 by the BSO. After receipt of such attestation, the department of public
 34 service shall confirm such information with the BSO. In the case that
 35 the BSO confirms to the department of public service that the facility
 36 is no longer producing electricity and participating in markets operated
 37 by such BSO, it shall be deemed that the electric generating facility
 38 located within the local government entity has ceased operation. The
 39 department of public service shall provide such confirmation to the
 40 urban development corporation upon receipt. The determination of the
 41 amount of such annual payment shall be determined by the president of
 42 the urban development corporation based on the amount of the differen-
 43 tial between the annual real property taxes and payments in lieu of
 44 taxes imposed upon the facility, exclusive of interest and penalties,
 45 during the last year of operations and the current real property taxes
 46 and payments in lieu of taxes imposed upon the facility, exclusive of
 47 interest and penalties. The total amount awarded from this program shall
 48 not exceed [~~\$69,000,000~~] \$140,000,000.

49 § 2. Section 4 of subpart H of part C of chapter 20 of the laws of
 50 2015, appropriating money for certain municipal corporations and school
 51 districts, is amended to read as follows:

52 § 4. This act shall take effect immediately and shall expire and be
 53 deemed repealed by July 1, 2025; provided, however, a local government
 54 which has not completed its seven years of assistance prior to such date

1 may continue to receive funding until such seven year time frame is
2 complete.

3 § 3. Subpart H of part C of chapter 20 of the laws of 2015, appropri-
4 ating money for certain municipal corporations and school districts, is
5 amended by adding a new section 3-a to read as follows:

6 § 3-a. Notwithstanding any provision of law to the contrary, the New
7 York State energy research and development authority shall make avail-
8 able \$20,000,000 from its existing uncommitted legacy program funds for
9 a school district where an electric generating facility, which repres-
10 ented over 40% of the taxes levied by the school district pursuant to
11 the 2003-2004 assessment roll, ceased to serve as a base load facility
12 and, beginning with the taxes levied pursuant to the 2015-16 assessment
13 roll, represented 1.4% of such school district's tax levy.

14 § 4. This act shall take effect immediately; provided, however, that
15 the amendments to subpart H of part C of chapter 20 of the laws of 2015
16 made by sections one and three of this act shall not affect the repeal
17 of such subpart and shall be deemed repealed therewith.

18 PART OO

19 Intentionally Omitted

20 PART PP

21 Intentionally Omitted

22 PART QQ

23 Intentionally Omitted

24 PART RR

25 Intentionally Omitted

26 PART SS

27 Intentionally Omitted

28 PART TT

29 Section 1. This act enacts into law components of legislation relating
30 to the pandemic recovery and restart program. Each component is wholly
31 contained within a Subpart identified as Subparts A through C. The
32 effective date for each particular provision contained within such
33 Subpart is set forth in the last section of such Subpart. Any provision
34 in any section contained within a Subpart, including the effective date
35 of the Subpart, which makes reference to a section "of this act", when
36 used in connection with that particular component, shall be deemed to
37 mean and refer to the corresponding section of the Subpart in which it
38 is found. Section three of this act sets forth the general effective
39 date of this act.

40 SUBPART A

41 Section 1. The economic development law is amended by adding a new
42 article 24 to read as follows:

ARTICLE 24

SMALL BUSINESS RETURN-TO-WORK TAX CREDIT PROGRAM

Section 460. Short title.

461. Statement of legislative findings and declaration.

462. Definitions.

463. Eligibility criteria.

464. Application and approval process.

465. Small business return-to-work tax credit.

466. Powers and duties of the commissioner.

467. Maintenance of records.

468. Reporting.

469. Cap on tax credit.

§ 460. Short title. This article shall be known and may be cited as the "small business return-to-work tax credit program act".

§ 461. Statement of legislative findings and declaration. It is hereby found and declared that New York state needs, as a matter of public policy, to create financial incentives for small businesses in industries that have suffered economic harm as a result of the COVID-19 pandemic to expeditiously rehire workers and increase total small business employment. The small business return-to-work tax credit program is created to provide financial incentives to economically harmed small businesses to offer relief, expedite their hiring efforts, and reduce the duration and severity of the current economic difficulties.

§ 462. Definitions. For the purposes of this article:

1. "Accommodation sector" means establishments that provide lodging or short-term accommodations for travelers, vacationers, and others.

2. "Arts, entertainment, and recreation sector" means establishments that operate facilities or provide services to meet varied cultural, entertainment, and recreational interests of their patrons. This sector comprises: (a) establishments that are involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (b) establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest; and (c) establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure-time interests.

3. "Average full-time employment" shall mean the average number of full-time equivalent positions employed by a business entity in an eligible industry during a given period.

4. "Average starting full-time employment" shall be calculated as the average number of full-time equivalent positions employed by a business entity in an eligible industry between January first, two thousand twenty-one, and March thirty-first, two thousand twenty-one.

5. "Average ending full-time employment" shall be calculated as the average number of full-time equivalent positions employed by a business entity in an eligible industry between April first, two thousand twenty-one, and either August thirty-first, two thousand twenty-one, or December thirty-first, two thousand twenty-one, whichever date the business entity chooses to use.

6. "Certificate of tax credit" means the document issued to a business entity by the department after the department has verified that the business entity has met all applicable eligibility criteria in this article. The certificate shall specify the exact amount of the tax credit under this article that a business entity may claim, pursuant to section four hundred sixty-five of this article.

1 7. "Commissioner" shall mean the commissioner of the department of
2 economic development.

3 8. "Department" shall mean the department of economic development.

4 9. "Eligible industry" means a business entity operating predominantly
5 in one of the following business sectors:

6 (a) accommodations; or

7 (b) arts, entertainment, and recreation.

8 10. "Net employee increase" means an increase of at least one full-
9 time equivalent employee between the average starting full-time employ-
10 ment and the average ending full-time employment of a business entity.

11 § 463. Eligibility criteria. 1. To be eligible for a tax credit under
12 the small business return-to-work tax credit program, a business entity
13 must:

14 (a) be a small business as defined in section one hundred thirty-one
15 of this chapter and have fewer than one hundred full-time job equiv-
16 alents in New York state as of April first, two thousand twenty-one;

17 (b) operate a business location in New York state that charges admis-
18 sion and/or accepts payment for goods and/or services from in-person
19 customers;

20 (c) operate predominantly in an eligible industry as defined in subdivi-
21 sion nine of section four hundred sixty-two of this article; provided,
22 however, that the department, in its regulations promulgated pursuant to
23 this article, shall have the authority to list certain sectors of those
24 industries as ineligible;

25 (d) have experienced economic harm as a result of the COVID-19 emer-
26 gency as evidenced by a year-to-year decrease of at least forty percent
27 in New York state between the second quarter of two thousand nineteen
28 and the second quarter of two thousand twenty or the third quarter of
29 two thousand nineteen and the third quarter of two thousand twenty for
30 one or both of: (i) gross receipts or (ii) average full-time employment;
31 and

32 (e) have demonstrated a net employee increase.

33 2. A business entity must be in substantial compliance with any emer-
34 gency restrictions or public health orders impacting the industry sector
35 or other laws and regulations as determined by the commissioner. In
36 addition, a business entity may not owe past due state taxes or local
37 property taxes unless the business entity is making payments and comply-
38 ing with an approved binding payment agreement entered into with the
39 taxing authority.

40 § 464. Application and approval process. 1. A business entity must
41 submit a complete application as prescribed by the commissioner.

42 2. The commissioner shall establish procedures and a timeframe for
43 business entities to submit applications. As part of the application,
44 each business entity must:

45 (a) provide evidence in a form and manner prescribed by the commis-
46 sioner of their business eligibility;

47 (b) agree to allow the department of taxation and finance to share the
48 business entity's tax information with the department. However, any
49 information shared as a result of this program shall not be available
50 for disclosure or inspection under the state freedom of information law;

51 (c) agree to allow the department of labor to share its tax and
52 employer information with the department. However, any information
53 shared as a result of this program shall not be available for disclosure
54 or inspection under the state freedom of information law;

55 (d) allow the department and its agents access to any and all books
56 and records the department may require to monitor compliance;

1 (e) certify, under penalty of perjury, that it is in substantial
2 compliance with all emergency orders or public health regulations
3 currently required of such entity, and local, and state tax laws; and
4 (f) agree to provide any additional information required by the
5 department relevant to this article.

6 3. After reviewing a business entity's completed final application and
7 determining that the business entity meets the eligibility criteria as
8 set forth in this article, the department may issue to that business
9 entity a certificate of tax credit. A business entity may claim the tax
10 credit in the taxable year that includes December thirty-first, two
11 thousand twenty-one.

12 § 465. Small business return-to-work tax credit. 1. A business entity
13 in the small business return-to-work tax credit program that meets the
14 eligibility requirements of section four hundred sixty-three of this
15 article may be eligible to claim a credit equal to five thousand dollars
16 per each full-time equivalent net employee increase as defined in subdivi-
17 sion ten of section four hundred sixty-two of this article.

18 2. A business entity, including a partnership, limited liability
19 company and subchapter S corporation, may not receive in excess of fifty
20 thousand dollars in tax credits under this program.

21 3. The credit shall be allowed as provided in section forty-five,
22 subdivision fifty-five of section two hundred ten-B and subsection (kkk)
23 of section six hundred six of the tax law.

24 § 466. Powers and duties of the commissioner. 1. The commissioner may
25 promulgate regulations establishing an application process and eligibil-
26 ity criteria, that will be applied consistent with the purposes of this
27 article, so as not to exceed the annual cap on tax credits set forth in
28 section four hundred sixty-nine of this article which, notwithstanding
29 any provisions to the contrary in the state administrative procedure
30 act, may be adopted on an emergency basis.

31 2. The commissioner shall, in consultation with the department of
32 taxation and finance, develop a certificate of tax credit that shall be
33 issued by the commissioner to eligible businesses. Such certificate
34 shall contain such information as required by the department of taxation
35 and finance.

36 3. The commissioner shall solely determine the eligibility of any
37 applicant applying for entry into the program and shall remove any busi-
38 ness entity from the program for failing to meet any of the requirements
39 set forth in section four hundred sixty-three of this article, or for
40 failing to meet the requirements set forth in subdivision one of section
41 four hundred sixty-four of this article.

42 § 467. Maintenance of records. Each business entity participating in
43 the program shall keep all relevant records for their duration of
44 program participation for at least three years.

45 § 468. Reporting. Each business entity participating in this program
46 must submit a performance report to the department at a time prescribed
47 in regulations by the commissioner. The commissioner shall on or before
48 the first day of each month starting on May first, two thousand twenty-
49 one or the first day of the month after the program is launched, and on
50 every first day of the month thereafter, a report to the governor, the
51 temporary president of the senate, the speaker of the assembly, the
52 chair of the senate finance committee, and the chair of the assembly
53 ways and means committee, setting forth the activities undertaken by the
54 program. Such report shall include, but not be limited to, the following
55 in each reporting period: total amount of advance payments dispersed and
56 tax credit claimed; total number of participants approved and their

1 regional location; total amount of advance payments dispersed and cred-
2 its claimed, and average amount of advance payment dispersed and tax
3 credits claimed; name of advance payment recipients and tax credit
4 claimed; total number of net new, retained, or rehired jobs created; and
5 such other information as the commissioner determines necessary and
6 appropriate to effectuate the purpose of the program. Such reports shall
7 be included on the department's website and any publicly accessible
8 database that list economic development programs.

9 § 469. Cap on tax credit. The total amount of tax credits listed on
10 certificates of tax credit issued by the commissioner pursuant to this
11 article may not exceed fifty million dollars.

12 § 2. The tax law is amended by adding a new section 45 to read as
13 follows:

14 § 45. Small business return-to-work tax credit. (a) Allowance of cred-
15 it. A taxpayer subject to tax under article nine-A or twenty-two of this
16 chapter shall be allowed a credit against such tax, pursuant to the
17 provisions referenced in subdivision (f) of this section. The amount of
18 the credit is equal to the amount determined pursuant to section four
19 hundred sixty-five of the economic development law. No cost or expense
20 paid or incurred by the taxpayer which is included as part of the calcu-
21 lation of this credit shall be the basis of any other tax credit allowed
22 under this chapter.

23 (b) Eligibility. To be eligible for the small business return-to-work
24 tax credit, the taxpayer shall have been issued a certificate of tax
25 credit by the department of economic development pursuant to subdivision
26 two of section four hundred sixty-four of the economic development law,
27 which certificate shall set forth the amount of the credit that may be
28 claimed for the taxable year. The taxpayer shall be allowed to claim
29 only the amount listed on the certificate of tax credit for that taxable
30 year. A taxpayer that is a partner in a partnership, member of a limited
31 liability company or shareholder in a subchapter S corporation that has
32 received a certificate of tax credit shall be allowed its pro rata share
33 of the credit earned by the partnership, limited liability company or
34 subchapter S corporation.

35 (c) Tax return requirement and advance payment option. (1) The taxpay-
36 er shall be required to attach to its tax return in the form prescribed
37 by the commissioner, proof of receipt of its certificate of tax credit
38 issued by the commissioner of the department of economic development.
39 (2) Taxpayers who choose to use August thirty-first, two thousand twen-
40 ty-one as the last date to calculate their average ending full-time
41 employment and have received their certificate of tax credit by November
42 fifteenth, two thousand twenty-one shall have the option to request an
43 advance payment of the amount of tax credit they are allowed under this
44 section. A taxpayer shall submit such request to the department in the
45 manner prescribed by the commissioner after it has been issued a certif-
46 icate of tax credit by the department of economic development pursuant
47 to subdivision two of section four hundred sixty-four of the economic
48 development law, or such certificate has been issued to a partnership,
49 limited liability company or subchapter S corporation in which it is a
50 partner, member or shareholder, respectively, but such request shall be
51 submitted no later than November fifteenth, two thousand twenty-one. For
52 those taxpayers who have requested an advance payment and for whom the
53 commissioner has determined eligible for this credit, the commissioner
54 shall advance a payment of the tax credit allowed to the taxpayer.
55 However, in the case of a taxpayer subject to article nine-A of this
56 chapter, such payment shall be equal to the amount of credit allowed to

1 the taxpayer less twenty-five dollars. Such twenty-five dollars shall
2 represent a partial payment of tax owed by the taxpayer under article
3 nine-A, including any fixed dollar minimum owed under paragraph (d) of
4 subdivision one of section two hundred ten of this chapter. When a
5 taxpayer files its return for the taxable year, such taxpayer shall
6 properly reconcile the advance payment and any partial payment of fixed
7 dollar minimum tax, if applicable, on the taxpayer's return.

8 (d) Information sharing. Notwithstanding any provision of this chap-
9 ter, employees of the department of economic development and the depart-
10 ment shall be allowed and are directed to share and exchange:

11 (1) information derived from tax returns or reports that is relevant
12 to a taxpayer's eligibility to participate in the small business
13 return-to-work tax credit program;

14 (2) information regarding the credit applied for, allowed or claimed
15 pursuant to this section and taxpayers that are applying for the credit
16 or that are claiming the credit; and

17 (3) information contained in or derived from credit claim forms
18 submitted to the department and applications for admission into the
19 small business return-to-work tax credit program. Except as provided in
20 paragraph two of this subdivision, all information exchanged between the
21 department of economic development and the department shall not be
22 subject to disclosure or inspection under the state's freedom of infor-
23 mation law.

24 (e) Credit recapture. If a certificate of tax credit issued by the
25 department of economic development under article twenty-four of the
26 economic development law is revoked by such department, the amount of
27 credit described in this section and claimed by the taxpayer prior to
28 that revocation shall be added back to tax in the taxable year in which
29 any such revocation becomes final.

30 (f) Cross references. For application of the credit provided for in
31 this section, see the following provisions of this chapter:

32 (1) article 9-A: section 210-B, subdivision 55;

33 (2) article 22: section 606, subsection (kkk).

34 § 3. Section 210-B of the tax law is amended by adding a new subdivi-
35 sion 55 to read as follows:

36 55. Small business return-to-work tax credit. (a) Allowance of credit.
37 A taxpayer shall be allowed a credit, to be computed as provided in
38 section forty-five of this chapter, against the taxes imposed by this
39 article.

40 (b) Application of credit. The credit allowed under this subdivision
41 for the taxable year shall not reduce the tax due for such year to less
42 than the amount prescribed in paragraph (d) of subdivision one of
43 section two hundred ten of this article. However, if the amount of
44 credit allowed under this subdivision for the taxable year reduces the
45 tax to such amount or if the taxpayer otherwise pays tax based on the
46 fixed dollar minimum amount, any amount of credit thus not deductible in
47 such taxable year shall be treated as an overpayment of tax to be cred-
48 ited or refunded in accordance with the provisions of section one thou-
49 sand eighty-six of this chapter. Provided, however, the provisions of
50 subsection (c) of section one thousand eighty-eight of this chapter
51 notwithstanding, no interest will be paid thereon.

52 § 4. Section 606 of the tax law is amended by adding a new subsection
53 (kkk) to read as follows:

54 (kkk) Small business return-to-work tax credit. (1) Allowance of cred-
55 it. A taxpayer shall be allowed a credit, to be computed as provided in

section forty-five 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 the taxable year exceeds 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 will be paid thereon.

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

<u>(xlvi) Small business</u>	<u>Amount of credit under</u>
<u>return-to-work tax</u>	<u>subdivision fifty-five</u>
<u>credit under subsection (kkk)</u>	<u>of section two hundred ten-B</u>

§ 6. This act shall take effect immediately.

SUBPART B

Section 1. The economic development law is amended by adding a new article 25 to read as follows:

ARTICLE 25

RESTAURANT RETURN-TO-WORK TAX CREDIT PROGRAM

Section 470. Short title.

471. Statement of legislative findings and declaration.

472. Definitions.

473. Eligibility criteria.

474. Application and approval process.

475. Restaurant return-to-work tax credit.

476. Powers and duties of the commissioner.

477. Maintenance of records.

478. Reporting.

479. Cap on tax credit.

§ 470. Short title. This article shall be known and may be cited as the "restaurant return-to-work tax credit program act".

§ 471. Statement of legislative findings and declaration. It is hereby found and declared that New York state needs, as a matter of public policy, to create financial incentives for restaurants that have suffered economic harm as a result of the COVID-19 pandemic to expeditiously rehire workers and increase total employment. The restaurant return-to-work tax credit program is created to provide financial incentives to economically harmed restaurants to offer relief, expedite their hiring efforts, and reduce the duration and severity of the current economic difficulties.

§ 472. Definitions. For the purposes of this article:

1. "Average full-time employment" shall mean the average number of full-time equivalent positions employed by a business entity in an eligible industry during a given period.

2. "Average starting full-time employment" shall be calculated as the average number of full-time equivalent positions employed by a business entity in an eligible industry between January first, two thousand twenty-one, and March thirty-first, two thousand twenty-one.

3. "Average ending full-time employment" shall be calculated as the average number of full-time equivalent positions employed by a business entity in an eligible industry between April first, two thousand twenty-one, and either August thirty-first, two thousand twenty-one, or

1 December thirty-first, two thousand twenty-one, whichever date the busi-
2 ness entity chooses to use.

3 4. "Certificate of tax credit" means the document issued to a business
4 entity by the department after the department has verified that the
5 business entity has met all applicable eligibility criteria in this
6 article. The certificate shall specify the exact amount of the tax cred-
7 it under this article that a business entity may claim, pursuant to
8 section four hundred seventy-five of this article.

9 5. "Commissioner" shall mean commissioner of the department of econom-
10 ic development.

11 6. "Department" shall mean the department of economic development.

12 7. "Eligible industry" means a business entity operating predominantly
13 in the COVID-19 impacted food services sector.

14 8. "Net employee increase" means an increase of at least one full-time
15 equivalent employee between the average starting full-time employment
16 and the average ending full-time employment of a business entity.

17 9. "COVID-19 impacted food services sector" means:

18 (a) independently owned establishments that are located inside the
19 city of New York and have been subjected to a ban on indoor dining for
20 over six months and are primarily organized to prepare and provide
21 meals, and/or beverages to customers for consumption, including for
22 immediate indoor on-premises consumption, as further defined in regu-
23 lations pursuant to this article; and

24 (b) independently owned establishments that are located outside of the
25 city of New York in an area which has been and/or remains designated by
26 the department of health as either an orange zone or red zone pursuant
27 to Executive Order 202.68 as amended, and for which such designation was
28 or has been in effect and resulted in additional restrictions on indoor
29 dining for at least thirty consecutive days, and are primarily organized
30 to prepare and provide meals, and/or beverages to customers for consump-
31 tion, including for immediate indoor on-premises consumption, as further
32 defined in regulations pursuant to this article.

33 § 473. Eligibility criteria. 1. To be eligible for a tax credit under
34 the restaurant return-to-work tax credit program, a business entity
35 must:

36 (a) be a small business as defined in section one hundred thirty-one
37 of this chapter and have fewer than one hundred full-time job equiv-
38 alents in New York state as of April first, two thousand twenty-one;

39 (b) operate a business location in New York state that is primarily
40 organized to accept payment for meals and/or beverages including from
41 in-person customers;

42 (c) operate predominantly in the COVID-19 impacted food services
43 sector; provided, however, that the department, in its regulations
44 promulgated pursuant to this article, shall have the authority to list
45 certain types of establishments as ineligible;

46 (d) have experienced economic harm as a result of the COVID-19 emer-
47 gency as evidenced by a year-to-year decrease of at least forty percent
48 in New York state between the second quarter of two thousand nineteen
49 and the second quarter of two thousand twenty or the third quarter of
50 two thousand nineteen and the third quarter of two thousand twenty for
51 one or both of: (i) gross receipts or (ii) average full-time employment;
52 and

53 (e) have demonstrated a net employee increase.

54 2. A business entity must be in substantial compliance with any public
55 health or other emergency orders or regulations related to the entity's
56 sector or other laws and regulations as determined by the commissioner.

1 In addition, a business entity may not owe past due state taxes or local
2 property taxes unless the business entity is making payments and comply-
3 ing with an approved binding payment agreement entered into with the
4 taxing authority.

5 § 474. Application and approval process. 1. A business entity must
6 submit a complete application as prescribed by the commissioner.

7 2. The commissioner shall establish procedures and a timeframe for
8 business entities to submit applications. As part of the application,
9 each business entity must:

10 (a) provide evidence in a form and manner prescribed by the commis-
11 sioner of their business eligibility;

12 (b) agree to allow the department of taxation and finance to share the
13 business entity's tax information with the department. However, any
14 information shared as a result of this program shall not be available
15 for disclosure or inspection under the state freedom of information law;

16 (c) agree to allow the department of labor to share its tax and
17 employer information with the department. However, any information
18 shared as a result of this program shall not be available for disclosure
19 or inspection under the state freedom of information law;

20 (d) allow the department and its agents access to any and all books
21 and records the department may require to monitor compliance;

22 (e) certify, under penalty of perjury, that it is in substantial
23 compliance with all emergency orders or public health regulations
24 currently required of such entity, and local, and state tax laws; and

25 (f) agree to provide any additional information required by the
26 department relevant to this article.

27 3. After reviewing a business entity's completed final application and
28 determining that the business entity meets the eligibility criteria as
29 set forth in this article, the department may issue to that business
30 entity a certificate of tax credit. A business entity may claim the tax
31 credit in the taxable year that includes December thirty-first, two
32 thousand twenty-one.

33 § 475. Restaurant return-to-work tax credit. 1. A business entity in
34 the restaurant return-to-work tax credit program that meets the eligi-
35 bility requirements of section four hundred seventy-three of this arti-
36 cle may be eligible to claim a credit equal to five thousand dollars per
37 each full-time equivalent net employee increase as defined in subdivi-
38 sion eight of section four hundred seventy-two of this article.

39 2. A business entity, including a partnership, limited liability
40 company and subchapter S corporation, may not receive in excess of fifty
41 thousand dollars in tax credits under this program.

42 3. The credit shall be allowed as provided in sections forty-six,
43 subdivision fifty-six of section two hundred ten-B and subsection (111)
44 of section six hundred six of the tax law.

45 § 476. Powers and duties of the commissioner. 1. The commissioner may
46 promulgate regulations establishing an application process and eligibil-
47 ity criteria, that will be applied consistent with the purposes of this
48 article, so as not to exceed the annual cap on tax credits set forth in
49 section four hundred seventy-nine of this article which, notwithstanding
50 any provisions to the contrary in the state administrative procedure
51 act, may be adopted on an emergency basis.

52 2. The commissioner shall, in consultation with the department of
53 taxation and finance, develop a certificate of tax credit that shall be
54 issued by the commissioner to eligible businesses. Such certificate
55 shall contain such information as required by the department of taxation
56 and finance.

1 3. The commissioner shall solely determine the eligibility of any
2 applicant applying for entry into the program and shall remove any busi-
3 ness entity from the program for failing to meet any of the requirements
4 set forth in section four hundred seventy-three of this article, or for
5 failing to meet the requirements set forth in subdivision one of section
6 four hundred seventy-four of this article.

7 § 477. Maintenance of records. Each business entity participating in
8 the program shall keep all relevant records for their duration of
9 program participation for at least three years.

10 § 478. Reporting. Each business entity participating in this program
11 shall submit a performance report to the department at a time prescribed
12 in regulations by the commissioner. The commissioner shall on or before
13 the first day of each month starting on May first, two thousand twenty-
14 one or the first day of the month after the program is launched, and on
15 every first day of the month thereafter, a report to the governor, the
16 temporary president of the senate, the speaker of the assembly, the
17 chair of the senate finance committee, and the chair of the assembly
18 ways and means committee, setting forth the activities undertaken by the
19 program. Such report shall include, but not be limited to, the following
20 in each reporting period: total amount of advance payments dispersed;
21 total number of participants approved and their regional location; total
22 amount of advance payments dispersed and tax credits claimed, and aver-
23 age amount of advance payments dispersed and tax credit claimed; name of
24 advance payment recipients and tax credit claimed; total number of net
25 new, retained, or rehired jobs created; and such other information as
26 the commissioner determines necessary and appropriate to effectuate the
27 purpose of the program. Such reports shall be included on the depart-
28 ment's website and any publicly accessible database that list economic
29 development programs.

30 § 479. Cap on tax credit. The total amount of tax credits listed on
31 certificates of tax credit issued by the commissioner pursuant to this
32 article may not exceed fifty million dollars.

33 § 2. The tax law is amended by adding a new section 46 to read as
34 follows:

35 § 46. Restaurant return-to-work tax credit. (a) Allowance of credit. A
36 taxpayer subject to tax under article nine-A or twenty-two of this chap-
37 ter shall be allowed a credit against such tax, pursuant to the
38 provisions referenced in subdivision (f) of this section. The amount of
39 the credit is equal to the amount determined pursuant to section four
40 hundred seventy-five of the economic development law. No cost or expense
41 paid or incurred by the taxpayer which is included as part of the calcu-
42 lation of this credit shall be the basis of any other tax credit allowed
43 under this chapter.

44 (b) Eligibility. To be eligible for the restaurant return-to-work tax
45 credit, the taxpayer shall have been issued a certificate of tax credit
46 by the department of economic development pursuant to subdivision two of
47 section four hundred seventy-four of the economic development law, which
48 certificate shall set forth the amount of the credit that may be claimed
49 for the taxable year. The taxpayer shall be allowed to claim only the
50 amount listed on the certificate of tax credit for that taxable year. A
51 taxpayer that is a partner in a partnership, member of a limited liabil-
52 ity company or shareholder in a subchapter S corporation that has
53 received a certificate of tax credit shall be allowed its pro rata share
54 of the credit earned by the partnership, limited liability company or
55 subchapter S corporation.

1 (c) Tax return requirement and advance payment option. (1) The taxpayer shall be required to attach to its tax return in the form prescribed
2 by the commissioner, proof of receipt of its certificate of tax credit
3 issued by the commissioner of the department of economic development.

4 (2) Taxpayers who choose to use August thirty-first, two thousand
5 twenty-one as the last date to calculate their average ending full-time
6 employment and have received their certificate of tax credit by November
7 fifteenth, two thousand twenty-one shall have the option to request an
8 advance payment of the amount of tax credit they are allowed under this
9 section. A taxpayer must submit such request to the department in the
10 manner prescribed by the commissioner after it has been issued a certifi-
11 cate of tax credit by the department of economic development pursuant
12 to subdivision two of section four hundred seventy-four of the economic
13 development law (or such certificate has been issued to a partnership,
14 limited liability company or subchapter S corporation in which it is a
15 partner, member or shareholder, respectively), but such request must be
16 submitted no later than November fifteenth, two thousand twenty-one. For
17 those taxpayers who have requested an advance payment and for whom the
18 commissioner has determined eligible for this credit, the commissioner
19 shall advance a payment of the tax credit allowed to the taxpayer.
20 However, in the case of a taxpayer subject to article nine-A of this
21 chapter, such payment shall be equal to the amount of credit allowed to
22 the taxpayer less twenty-five dollars. Such twenty-five dollars shall
23 represent a partial payment of tax owed by the taxpayer under article
24 nine-A, including any fixed dollar minimum owed under paragraph (d) of
25 subdivision one of section two hundred ten of this chapter. When a
26 taxpayer files its return for the taxable year, such taxpayer shall
27 properly reconcile the advance payment and any partial payment of fixed
28 dollar minimum tax, if applicable, on the taxpayer's return.

29 (d) Information sharing. Notwithstanding any provision of this chap-
30 ter, employees of the department of economic development and the depart-
31 ment shall be allowed and are directed to share and exchange:

32 (1) information derived from tax returns or reports that is relevant
33 to a taxpayer's eligibility to participate in the restaurant return-to-
34 work tax credit program;

35 (2) information regarding the credit applied for, allowed or claimed
36 pursuant to this section and taxpayers that are applying for the credit
37 or that are claiming the credit; and

38 (3) information contained in or derived from credit claim forms
39 submitted to the department and applications for admission into the
40 restaurant return-to-work tax credit program. Except as provided in
41 paragraph two of this subdivision, all information exchanged between the
42 department of economic development and the department shall not be
43 subject to disclosure or inspection under the state's freedom of infor-
44 mation law.

45 (e) Credit recapture. If a certificate of tax credit issued by the
46 department of economic development under article twenty-five of the
47 economic development law is revoked by such department, the amount of
48 credit described in this section and claimed by the taxpayer prior to
49 that revocation shall be added back to tax in the taxable year in which
50 any such revocation becomes final.

51 (f) Cross references. For application of the credit provided for in
52 this section, see the following provisions of this chapter:

53 (1) article 9-A: section 210-B, subdivision 56;

54 (2) article 22: section 606, subsection (111).
55

1 § 3. Section 210-B of the tax law is amended by adding a new subdivi-
2 sion 56 to read as follows:

3 56. Restaurant return-to-work tax credit. (a) Allowance of credit. A
4 taxpayer shall be allowed a credit, to be computed as provided in
5 section forty-six of this chapter, against the taxes imposed by this
6 article.

7 (b) Application of credit. The credit allowed under this subdivision
8 for the taxable year shall not reduce the tax due for such year to less
9 than the amount prescribed in paragraph (d) of subdivision one of
10 section two hundred ten of this article. However, if the amount of
11 credit allowed under this subdivision for the taxable year reduces the
12 tax to such amount or if the taxpayer otherwise pays tax based on the
13 fixed dollar minimum amount, any amount of credit thus not deductible in
14 such taxable year shall be treated as an overpayment of tax to be cred-
15 ited or refunded in accordance with the provisions of section one thou-
16 sand eighty-six of this chapter. Provided, however, the provisions of
17 subsection (c) of section one thousand eighty-eight of this chapter
18 notwithstanding, no interest will be paid thereon.

19 § 4. Section 606 of the tax law is amended by adding a new subsection
20 (111) to read as follows:

21 (111) Restaurant return-to-work tax credit. (1) Allowance of credit.
22 A taxpayer shall be allowed a credit, to be computed as provided in
23 section forty-six of this chapter, against the tax imposed by this arti-
24 cle.

25 (2) Application of credit. If the amount of the credit allowed under
26 this subsection for the taxable year exceeds the taxpayer's tax for such
27 year, the excess shall be treated as an overpayment of tax to be credit-
28 ed or refunded in accordance with the provisions of section six hundred
29 eighty-six of this article, provided, however, that no interest will be
30 paid thereon.

31 § 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
32 of the tax law is amended by adding a new clause (xlvii) to read as
33 follows:

34 (xlvii) Restaurant return-to-work tax credit under Amount of credit under
35 subdivision fifty-six of
36 section two hundred ten-B

37 § 6. This act shall take effect immediately.

38 SUBPART C

39 Section 1. The tax law is amended by adding a new section 24-c to read
40 as follows:

41 § 24-c. New York city musical and theatrical production tax credit.
42 (a) (1) Allowance of credit. A taxpayer that is a qualified New York
43 city musical and theatrical production company, or is a sole proprietor
44 of or a member of a partnership that is a qualified New York city
45 musical and theatrical production company, and that is subject to tax
46 under article nine-A or twenty-two of this chapter, shall be allowed a
47 credit against such tax, pursuant to the provisions referred to in
48 subdivision (d) of this section, and to be computed as provided in this
49 section.

50 (2) The amount of the credit shall be the product (or pro rata share
51 of the product, in the case of a member of a partnership) of twenty-five
52 percent and the sum of the qualified production expenditures paid for
53 during the qualified New York city musical and theatrical production's
54 credit period. Provided however that the amount of the credit cannot

1 exceed five hundred thousand dollars per qualified New York city musical
2 and theatrical production company.

3 (3) No qualified production expenditures used by a taxpayer either as
4 the basis for the allowance of the credit provided pursuant to this
5 section or used in the calculation of the credit provided pursuant to
6 this section shall be used by such taxpayer to claim any other credit
7 allowed pursuant to this chapter.

8 (b) Definitions. As used in this section, the following terms shall
9 have the following meanings:

10 (1) "Qualified musical and theatrical production" means a for-profit
11 live, dramatic stage presentation that, in its original or adaptive
12 version, is performed in a qualified New York city production facility,
13 whether or not such production was performed in a qualified New York
14 city production facility prior to March twelfth, two thousand twenty.

15 (2) "Qualified production expenditure" means any costs for tangible
16 property used and services performed directly and predominantly in the
17 production of a qualified musical and theatrical production within the
18 city of New York, including: (i) expenditures for design, construction
19 and operation, including sets, special and visual effects, costumes,
20 wardrobes, make-up, accessories and costs associated with sound, light-
21 ing, and staging; (ii) all salaries, wages, fees, and other compensation
22 including related benefits for services performed of which the total
23 allowable expense shall not exceed two hundred thousand dollars per
24 week; and (iii) technical and crew production costs, such as expendi-
25 tures for a qualified New York city production facility, or any part
26 thereof, props, make-up, wardrobe, costumes, equipment used for special
27 and visual effects, sound recording, set construction, and lighting.
28 Qualified production expenditure does not include any costs incurred
29 prior to March thirteenth, two thousand twenty.

30 (3) "Qualified New York city production facility" means a facility
31 located within the city of New York (i) in which live theatrical
32 productions are or are intended to be primarily presented, (ii) that
33 contains at least one stage, a seating capacity of five hundred or more
34 seats, and dressing rooms, storage areas, and other ancillary amenities
35 necessary for the qualified musical and theatrical production, and (iii)
36 for which receipts attributable to ticket sales constitute seventy-five
37 percent or more of gross receipts of the facility.

38 (4) "Qualified New York city musical and theatrical production compa-
39 ny" is a corporation, partnership, limited partnership, or other entity
40 or individual which or who (i) is principally engaged in the production
41 of a qualified musical or theatrical production that is to be performed
42 in a qualified New York city production facility, and (ii) has expended
43 at least one million dollars in qualified production expenditures on the
44 qualified musical and theatrical production at the time of its applica-
45 tion to the department of economic development for a tax credit certif-
46 icate authorized under this section.

47 (5) (i) "The credit period of a qualified New York city musical and
48 theatrical production company" is the period starting on the production
49 start date and ending on the earlier of December thirty-first, two thou-
50 sand twenty-one or the date the qualified musical and theatrical
51 production closes.

52 (ii) "The production start date" is the date that is six weeks prior
53 to the first performance of the qualified musical and theatrical
54 production.

1 (c) The credit shall be allowed for the taxable year beginning on or
2 after January first, two thousand twenty-one but before January first,
3 two thousand twenty-two.

4 (d) Cross-references. For application of the credit provided for in
5 this section, see the following provisions of this chapter:

6 (1) article 9-A: section 210-B: subdivision 57;

7 (2) article 22: section 606: subsection (mmm).

8 (e) Notwithstanding any provision of this chapter, (i) employees and
9 officers of the department of economic development and the department
10 shall be allowed and are directed to share and exchange information
11 regarding the credits applied for, allowed, or claimed pursuant to this
12 section and taxpayers who are applying for credits or who are claiming
13 credits, including information contained in or derived from credit claim
14 forms submitted to the department and applications for certification
15 submitted to the department of economic development, and (ii) the
16 commissioner and the commissioner of the department of economic develop-
17 ment may release the names and addresses of any qualified New York city
18 musical and theatrical production company entitled to claim this credit
19 and the amount of the credit earned by such company.

20 (f) Maximum amount of credits. (1) The aggregate amount of tax credits
21 allowed under this section, subdivision fifty-seven of section two
22 hundred ten-B and subsection (mmm) of section six hundred six of this
23 chapter shall be twenty-five million dollars. Such aggregate amount of
24 credits shall be allocated by the department of economic development
25 among taxpayers in order of priority based upon the date of filing an
26 application for allocation of the New York city musical and theatrical
27 production tax credit with such department.

28 (2) The commissioner of economic development, after consulting with
29 the commissioner, shall promulgate regulations to establish procedures
30 for the allocation of tax credits as required by this section. Such
31 rules and regulations shall include provisions describing the applica-
32 tion process, the due dates for such applications, the standards that
33 will be used to evaluate the applications, the documentation that will
34 be provided by applicants to substantiate to the department the amount
35 of qualified production expenditures of such applicants, and such other
36 provisions as deemed necessary and appropriate. Notwithstanding any
37 other provisions to the contrary in the state administrative procedure
38 act, such rules and regulations may be adopted on an emergency basis.

39 (g) Any qualified New York city musical and theatrical production
40 company that performs in a qualified New York city production facility
41 and applies to receive a credit under this section shall be required to:
42 (1) participate in a New York state diversity and arts job training
43 program; (2) create and implement a plan to ensure that their production
44 is available and accessible for low-or no-cost to low income New York-
45 ers; and (3) contribute to the New York state council on the arts,
46 cultural program fund an amount up to fifty percent of the total credits
47 received if such production company earns revenue prospectively after
48 receipt of the credit that is at least equal to two hundred percent of
49 its production costs, with such amount payable from twenty-five percent
50 of net operating profits, such amounts payable on a monthly basis, up
51 until such fifty percent of the total credit amount is reached. Any
52 funds deposited pursuant to this subdivision shall be used for arts and
53 cultural educational and workforce development programs in-school and
54 community-based organizations.

55 § 2. Section 210-B of the tax law is amended by adding a new subdivi-
56 sion 57 to read as follows:

1 57. New York city musical and theatrical production tax credit. (a)
 2 Allowance of credit. A taxpayer shall be allowed a credit, to be
 3 computed as provided in section twenty-four-c of this chapter, against
 4 the taxes imposed by this article.

5 (b) Application of credit. The credit allowed under this subdivision
 6 for the taxable year shall not reduce the tax due for such year to less
 7 than the amount prescribed in paragraph (d) of subdivision one of
 8 section two hundred ten of this article. However, if the amount of
 9 credit allowed under this subdivision for the taxable year reduces the
 10 tax to such amount or if the taxpayer otherwise pays tax based on the
 11 fixed dollar minimum amount, any amount of credit thus not deductible in
 12 such taxable year shall be treated as an overpayment of tax to be cred-
 13 ited or refunded in accordance with the provisions of section one thou-
 14 sand eighty-six of this chapter. Provided, however, the provisions of
 15 subsection (c) of section one thousand eighty-eight of this chapter
 16 notwithstanding, no interest shall be paid thereon.

17 § 3. Section 606 of the tax law is amended by adding a new subsection
 18 (mmm) to read as follows:

19 (mmm) New York city musical and theatrical production tax credit. (1)
 20 Allowance of credit. A taxpayer shall be allowed a credit, to be
 21 computed as provided in section twenty-four-c of this chapter, against
 22 the tax imposed by this article.

23 (2) Application of credit. If the amount of the credit allowed under
 24 this subsection for the taxable year exceeds the taxpayer's tax for such
 25 year, the excess shall be treated as an overpayment of tax to be credit-
 26 ed or refunded in accordance with the provisions of section six hundred
 27 eighty-six of this article, provided, however, that no interest shall be
 28 paid thereon.

29 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 30 of the tax law is amended by adding a new clause (xlvi) to read as
 31 follows:

32 <u>(xlvi) New York city musical</u>	<u>Amount of credit under</u>
33 <u>and theatrical production</u>	<u>subdivision fifty-seven of</u>
34 <u>tax credit under subsection (mmm)</u>	<u>section two hundred ten-B</u>

35 § 5. The state finance law is amended by adding a new section 99-ii to
 36 read as follows:

37 § 99-ii. New York state arts and cultural programs fund. 1. There is
 38 hereby established in the joint custody of the state comptroller and
 39 commissioner of taxation and finance a special fund to be known as the
 40 "New York state arts and cultural program fund".

41 2. Such fund shall consist of all revenues received by the state,
 42 pursuant to the provisions of section twenty-four-c of the tax law and
 43 all other moneys appropriated thereto from any other fund or source
 44 pursuant to law. Nothing contained in this section shall prevent the
 45 state from receiving grants, gifts or bequests for the purposes of the
 46 fund as defined in this section and depositing them into the fund
 47 according to law.

48 3. On or before the first day of February two thousand twenty-four,
 49 the commissioner of education shall provide a written report to the
 50 temporary president of the senate, the speaker of the assembly, the
 51 chair of the senate finance committee, the chair of the assembly ways
 52 and means committee, the chair of the senate committee on health, the
 53 chair of the assembly health committee, the state comptroller and the
 54 public. Such report shall include how the monies of the fund were
 55 utilized during the preceding calendar year, and shall include:

- 1 (a) the amount of money dispersed from the fund and the award process
- 2 used for such disbursements;
- 3 (b) recipients of awards from the fund;
- 4 (c) the amount awarded to each;
- 5 (d) the purposes for which such awards were granted; and
- 6 (e) a summary financial plan for such monies which shall include esti-
- 7 mates of all receipts and all disbursements for the current and succeed-
- 8 ing fiscal years, along with the actual results from the prior fiscal
- 9 year.

10 4. Moneys shall be payable from the fund on the audit and warrant of
 11 the comptroller on vouchers approved and certified by the commissioner
 12 of education.

13 5. The moneys in such fund shall be expended for the purpose of
 14 supplementing art and cultural programs for secondary and elementary
 15 children, including programs that increase access to art and cultural
 16 programs and events for children in underserved communities.

17 § 6. This act shall take effect immediately.

18 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
 19 sion, section or part of this act shall be adjudged by any court of
 20 competent jurisdiction to be invalid, such judgment shall not affect,
 21 impair, or invalidate the remainder thereof, but shall be confined in
 22 its operation to the clause, sentence, paragraph, subdivision, section
 23 or part thereof directly involved in the controversy in which such judg-
 24 ment shall have been rendered. It is hereby declared to be the intent of
 25 the legislature that this act would have been enacted even if such
 26 invalid provisions had not been included herein.

27 § 3. This act shall take effect immediately provided, however, that
 28 the applicable effective date of Subparts A through C of this act shall
 29 be as specifically set forth in the last section of such Subparts.

30 PART UU

31 Intentionally Omitted

32 PART VV

33 Intentionally Omitted

34 PART WW

35 Section 1. Expenditures of moneys appropriated in a chapter of the
 36 laws of 2021 to the department of agriculture and markets from the
 37 special revenue funds-other/state operations, miscellaneous special
 38 revenue fund-339, public service account shall be subject to the
 39 provisions of this section. Notwithstanding any other provision of law
 40 to the contrary, direct and indirect expenses relating to the department
 41 of agriculture and markets' participation in general ratemaking
 42 proceedings pursuant to section 65 of the public service law or certif-
 43 ication proceedings pursuant to article 7 or 10 of the public service
 44 law, shall be deemed expenses of the department of public service within
 45 the meaning of section 18-a of the public service law. No later than
 46 August 15, 2022, the commissioner of the department of agriculture and
 47 markets shall submit an accounting of such expenses, including, but not
 48 limited to, expenses in the 2021--2022 state fiscal year for personal
 49 and non-personal services and fringe benefits, to the chair of the

1 public service commission for the chair's review pursuant to the
2 provisions of section 18-a of the public service law.

3 § 2. Expenditures of moneys appropriated in a chapter of the laws of
4 2021 to the department of state from the special revenue funds-
5 other/state operations, miscellaneous special revenue fund-339, public
6 service account shall be subject to the provisions of this section.
7 Notwithstanding any other provision of law to the contrary, direct and
8 indirect expenses relating to the activities of the department of
9 state's utility intervention unit pursuant to subdivision 4 of section
10 94-a of the executive law, including, but not limited to participation
11 in general ratemaking proceedings pursuant to section 65 of the public
12 service law or certification proceedings pursuant to article 7 or 10 of
13 the public service law, and expenses related to the activities of the
14 major renewable energy development program established by section 94-c
15 of the executive law, shall be deemed expenses of the department of
16 public service within the meaning of section 18-a of the public service
17 law. No later than August 15, 2022, the secretary of state shall submit
18 an accounting of such expenses, including, but not limited to, expenses
19 in the 2021--2022 state fiscal year for personal and non-personal
20 services and fringe benefits, to the chair of the public service commis-
21 sion for the chair's review pursuant to the provisions of section 18-a
22 of the public service law.

23 § 3. Expenditures of moneys appropriated in a chapter of the laws of
24 2021 to the office of parks, recreation and historic preservation from
25 the special revenue funds-other/state operations, miscellaneous special
26 revenue fund-339, public service account shall be subject to the
27 provisions of this section. Notwithstanding any other provision of law
28 to the contrary, direct and indirect expenses relating to the office of
29 parks, recreation and historic preservation's participation in general
30 ratemaking proceedings pursuant to section 65 of the public service law
31 or certification proceedings pursuant to article 7 or 10 of the public
32 service law, shall be deemed expenses of the department of public
33 service within the meaning of section 18-a of the public service law. No
34 later than August 15, 2022, the commissioner of the office of parks,
35 recreation and historic preservation shall submit an accounting of such
36 expenses, including, but not limited to, expenses in the 2021--2022
37 state fiscal year for personal and non-personal services and fringe
38 benefits, to the chair of the public service commission for the chair's
39 review pursuant to the provisions of section 18-a of the public service
40 law.

41 § 4. Expenditures of moneys appropriated in a chapter of the laws of
42 2021 to the department of environmental conservation from the special
43 revenue funds-other/state operations, environmental conservation special
44 revenue fund-301, utility environmental regulation account shall be
45 subject to the provisions of this section. Notwithstanding any other
46 provision of law to the contrary, direct and indirect expenses relating
47 to the department of environmental conservation's participation in state
48 energy policy proceedings, or certification proceedings pursuant to
49 article 7 or 10 of the public service law, shall be deemed expenses of
50 the department of public service within the meaning of section 18-a of
51 the public service law. No later than August 15, 2022, the commissioner
52 of the department of environmental conservation shall submit an account-
53 ing of such expenses, including, but not limited to, expenses in the
54 2021--2022 state fiscal year for personal and non-personal services and
55 fringe benefits, to the chair of the public service commission for the

1 chair's review pursuant to the provisions of section 18-a of the public
2 service law.

3 § 5. Notwithstanding any other law, rule or regulation to the contra-
4 ry, expenses of the department of health public service education
5 program incurred pursuant to appropriations from the cable television
6 account of the state miscellaneous special revenue funds shall be deemed
7 expenses of the department of public service. No later than August 15,
8 2022, the commissioner of the department of health shall submit an
9 accounting of expenses in the 2021--2022 state fiscal year to the chair
10 of the public service commission for the chair's review pursuant to the
11 provisions of section 217 of the public service law.

12 § 6. Any expense deemed to be expenses of the department of public
13 service pursuant to sections one through four of this act shall not be
14 recovered through assessments imposed upon telephone corporations as
15 defined in subdivision 17 of section 2 of the public service law.

16 § 7. This act shall take effect immediately and shall be deemed to
17 have been in full force and effect on and after April 1, 2021 and shall
18 expire and be deemed repealed April 1, 2022.

19 PART XX

20 Section 1. Paragraph (f) of subdivision 2 of section 14-1 of the
21 transportation law, as amended by section 1 of part HH of chapter 54 of
22 the laws of 2016, is amended to read as follows:

23 (f) No grant or loan to any eligible applicant shall exceed the sum of
24 ~~one~~ **two** million five hundred thousand dollars, and no part of any such
25 grant or loan shall be used for salaries or for services regularly
26 provided by the applicant for administrative costs in connection with
27 such grant or loan.

28 § 2. This act shall take effect immediately.

29 PART YY

30 Section 1. Section 1854 of the public authorities law is amended by
31 adding a new subdivision 22 to read as follows:

32 22. To utilize twenty three million dollars from proceeds collected by
33 the authority from the auction or sale of carbon dioxide emission allow-
34 ances allocated by the department of environmental conservation on or
35 before March thirty-first, two thousand twenty-two, for energy efficien-
36 cy, weatherization, and renewable energy projects as defined in section
37 sixty-six-p of the public service law, in disadvantaged communities as
38 defined in section 75-0101 of the environmental conservation law,
39 including training programs and wage subsidies for formerly incarcerated
40 individuals. Such job training programs shall be conducted in consulta-
41 tion with the department of labor.

42 § 2. This act shall take effect April 1, 2021.

43 PART ZZ

44 Section 1. Section 54-1521 of the environmental conservation law, as
45 added by section 5 of part U of chapter 58 of the laws of 2016, is
46 amended to read as follows:

47 § 54-1521. Clean vehicle projects.

48 1. As used in this section, the following terms shall have the follow-
49 ing meanings:

1 a. "eligible infrastructure project" shall mean any facility (not
2 including a building and its structural components) that is publicly
3 available and used primarily for the public charging and/or fueling of
4 vehicles including but not limited to fast chargers which meet the
5 eligible vehicle definition that has received required federal, state
6 and local permits and authorizations and complies with zoning.

7 b. "eligible purchase" shall mean the purchase by a municipality to
8 own or lease for a period of not less than thirty-six months of an
9 eligible vehicle placed into service on or after April first, two thou-
10 sand sixteen at a dealer located within New York.

11 c. "eligible vehicle" means and includes a new motor vehicle that:

12 (i) has four wheels;

13 (ii) was manufactured for use primarily on public streets, roads and
14 highways;

15 (iii) the powertrain of which has not been modified from the original
16 manufacturer's specifications;

17 (iv) is rated at not more than eight thousand five hundred pounds
18 gross vehicle weight;

19 (v) has a maximum speed capability of at least fifty-five miles per
20 hour; and

21 (vi) is propelled at least in part by an electric motor and associated
22 power electronics which provide acceleration torque to the drive wheels
23 sometime during normal vehicle operation, and that draws electricity
24 from a hydrogen fuel cell or from a battery that:

25 (A) has a capacity of not less than four kilowatt hours; and

26 (B) is capable of being recharged from an external source of electric-
27 ity.

28 2. a. Until April 1, [~~2023~~] 2025, the commissioner, in consultation
29 with the New York state energy research development authority, is
30 authorized to issue rebates until the annual allocation is exhausted to
31 municipalities toward the cost of any eligible infrastructure projects
32 which support the development of clean vehicles.

33 b. The department, in consultation with the New York state energy
34 research and development authority, shall determine the amount of the
35 rebate for eligible infrastructure projects, provided that an applicant
36 for such eligible infrastructure project rebate may receive a maximum
37 rebate of two hundred fifty thousand dollars per facility. Priority
38 shall be provided to eligible infrastructure projects that will maximize
39 access by multiple public users who might otherwise not have access.

40 3. a. Until April 1, [~~2023~~] 2025, the commissioner, in consultation
41 with the New York state energy research and development authority, is
42 authorized to issue rebates until the annual allocation is exhausted to
43 municipalities toward the cost of eligible purchases of clean vehicles.

44 b. The department, in consultation with the New York state energy
45 research and development authority, shall determine the amount of the
46 rebate taking into consideration the electric range of the vehicle,
47 provided that a rebate of an eligible purchase shall be not less than
48 seven hundred fifty dollars per vehicle and not more than five thousand
49 dollars per vehicle.

50 4. The department, in consultation with the New York state energy
51 research and development authority, shall promulgate rules to implement
52 and administer this title including rules relating to the forms required
53 to claim a rebate, the required documentation for establishing eligibil-
54 ity for a rebate, procedures and guidelines for claiming a rebate, and
55 the collection of economic impact data from applicants and any other
56 requirements the department and New York state energy research and

1 development authority deem necessary. The department shall determine and
2 publish on its website on an ongoing basis the amount of available fund-
3 ing for rebates remaining in each fiscal year.

4 5. No later than April first, two thousand eighteen and annually ther-
5 eafter, the department shall issue a report to the temporary president
6 of the senate and the speaker of the assembly detailing the status of
7 its program to encourage the deployment of clean vehicles. Such report
8 shall include:

9 a. the amount of funding dedicated by the department for the program
10 in the preceding year;

11 b. the amount of eligible purchases and eligible infrastructure
12 projects for which a rebate was awarded;

13 c. the amount and geographic distribution of rebates; and

14 d. any other information the department deems necessary.

15 § 2. This act shall take effect April 1, 2021.

16 PART AAA

17 Section 1. The education law is amended by adding a new section 3641-c
18 to read as follows:

19 § 3641-c. Digital inclusion grant program. 1. The commissioner, in
20 collaboration with the commissioner of the department of labor and the
21 director of the office for the aging, shall establish and administer a
22 digital inclusion grant program to award grants to eligible entities to
23 establish and/or support digital inclusion programs.

24 2. For the purposes of this section:

25 (a) "Digital inclusion programs" shall mean programs designed to
26 promote digital inclusion and digital literacy through in-person or
27 remote support to individuals and households regarding issues related to
28 digital inclusion and digital literacy including, but not limited to,
29 home connectivity, technical support, and device access.

30 (b) "Digital inclusion" shall mean the support needed to ensure that
31 all individuals, households, and communities have access to affordable
32 and robust broadband service, internet-enabled devices, training, and
33 technical support.

34 (c) "Digital literacy" shall mean the ability to use information and
35 communication technologies to find, evaluate, create, and communicate
36 information, requiring both cognitive and technical skills.

37 (d) "Eligible entities" shall include:

38 (i) local governments including counties, cities, towns, and villages;

39 (ii) not-for-profit organizations including not-for-profit organiza-
40 tions that support individuals living in public housing;

41 (iii) municipal housing authorities;

42 (iv) school districts;

43 (v) libraries and library systems; and

44 (vi) other community based organizations.

45 3. The commissioner shall prioritize eligible entities that will
46 provide digital inclusion programs to economically disadvantaged indi-
47 viduals and households.

48 4. Grants shall only be awarded based upon the availability of funds,
49 as appropriated by the legislature or any other funds received by the
50 state for the purposes of this section.

51 5. The commissioner, in collaboration with the commissioner of the
52 department of labor and the director of the office for the aging, shall
53 promulgate rules and regulations necessary for the implementation of

1 this section, including the application, eligibility requirements, and
2 distribution of funds pursuant to this section.

3 6. Commencing on November first, two thousand twenty-one and annually
4 thereafter, the commissioner shall report to the governor and the legis-
5 lature the eligible entities receiving funding from this program, the
6 amount of funding awarded to each eligible entity, and a brief summary
7 of each eligible entity's initiative.

8 § 2. This act shall take effect immediately.

9

PART BBB

10 Section 1. Short title. This act shall be known and may be cited as
11 the "comprehensive broadband connectivity act".

12 § 2. Legislative findings. The legislature hereby finds and declares
13 that access to high-speed internet is a fundamental right and it is
14 incumbent upon the State to ensure provision of this right to every New
15 Yorker. Yet many areas of the state do not have access to adequate
16 broadband services. The lack of competition in the telecommunications
17 marketplace has been a cause of deteriorated service for customers and
18 users of regulated telephonic and telecommunications services. The lack
19 of access to adequate internet services for schools, businesses, fami-
20 lies, and healthcare facilities has had substantial negative economic
21 and social impact particularly in rural and other underserved and
22 unserved communities.

23 § 3. The public service law is amended by adding a new section 224-c
24 to read as follows:

25 § 224-c. Broadband and fiber optic services. 1. For the purposes of
26 this section:

27 (a) The term "served" means any location with at least two internet
28 service providers and at least one such provider offers high-speed
29 internet service.

30 (b) The term "underserved" means any location which has fewer than two
31 internet service providers, or has internet speeds of at least 25 mega-
32 bits per second (mbps) download but less than 100 mbps download avail-
33 able.

34 (c) The term "unserved" means any location which has no fixed wireless
35 service or wired service with speeds of 25 mbps download or less avail-
36 able.

37 (d) The term "high-speed internet service" means internet service of
38 at least 100 mbps download and at least 10 mbps upload.

39 (e) The term "broadband service" shall mean a mass-market retail
40 service that provides the capability to transmit data to and receive
41 data from all or substantially all internet endpoints, including any
42 capabilities that are incidental to and enable the operation of the
43 communications service, but shall not include dial-up service.

44 (f) The term "location" shall mean a geographic area smaller than a
45 census tract.

46 (g) The term "internet service provider" shall mean any person, busi-
47 ness or organization qualified to do business in this state that
48 provides individuals, corporations, or other entities with the ability
49 to connect to the internet.

50 2. The commission shall study the availability, affordability and
51 reliability of high-speed internet and broadband services in New York
52 state. The commission shall:

53 (a) assess the efficacy and make recommendations regarding levels of
54 competition among providers, as well as any regulatory and statutory

1 barriers, in order to deliver comprehensive statewide access to high-
2 speed internet;

3 (b) review available technology to identify solutions that best
4 support high-speed internet service in underserved or unserved areas,
5 and make recommendations on ensuring deployment of such technology in
6 underserved and unserved areas;

7 (c) identify instances where local franchise agreements and legal
8 settlements related to internet access have not been complied with;

9 (d) identify locations where insufficient access to high-speed inter-
10 net and/or broadband service, and/or persistent digital divide, is caus-
11 ing negative social or economic impact on the community;

12 (e) identify locations where the commission believes fiber optic
13 service is necessary for the successful implementation of commission's
14 policies on competition, affordability, and adequate service;

15 (f) examine any other telecommunications deficiencies affecting broad-
16 band service it deems necessary to further the economic and social goals
17 of the state; and

18 (g) produce, maintain and publish on its website, a detailed internet
19 access map of the state, indicating access to internet service by
20 location. Such map shall include, but not be limited to, the following
21 information for each location:

22 (i) download and upload speeds advertised and experienced;

23 (ii) the consistency and reliability of download and upload speeds
24 including latency;

25 (iii) the types of internet service and technologies available includ-
26 ing but not limited to dial-up, broadband, wireless, fiber, coax, or
27 satellite;

28 (iv) the number of internet service providers available, the price of
29 internet service available; and

30 (v) any other factors the commission may deem relevant.

31 3. The commission shall submit a report of its findings and recommen-
32 dations from the study required in subdivision two of this section, to
33 the governor, the temporary president of the senate and the speaker of
34 the assembly no later than one year after the effective date of this
35 section, and an updated report annually thereafter. Such report shall
36 include, but not be limited to, the following:

37 (a) the overall number of residences with access to high-speed inter-
38 net identifying which areas are served, unserved and underserved;

39 (b) a regional survey of internet service prices in comparison to
40 county-level median income;

41 (c) an analysis of the affordability of high-speed internet service in
42 New York state;

43 (d) any relevant usage statistics;

44 (e) any other metrics or analyses the commission deems necessary in
45 order to assess the availability, affordability and reliability of
46 internet service in New York state; and

47 (f) the map maintained pursuant to paragraph (g) of subdivision two of
48 this section.

49 4. The commission shall hold at least four regional public hearings
50 within one year of the effective date of this section, to solicit input
51 from the public and other stakeholders including but not limited to
52 internet service providers, telecommunications concerns, labor organiza-
53 tions, public safety organizations, healthcare, education, agricultural
54 and other businesses or organizations.

55 5. The commission shall work with internet service providers in the
56 state to prioritize access to broadband and fiber optic services for the

1 communities determined to have experienced negative economic and social
2 impacts due to absent, insufficient, or inadequate broadband or fiber
3 optic service pursuant to subdivision one of this section.

4 6. To effectuate the purposes of this section, the commission may
5 request and shall receive from any department, division, board, bureau,
6 commission or other agency of the state or any state public authority
7 such assistance, information and data as will enable the commission to
8 carry out its powers and duties under this section.

9 § 4. This act shall take effect on the thirtieth day after it shall
10 have become a law.

11 PART CCC

12 Section 1. Short title. This act shall be known and may be cited as
13 the "small business reopening and relief grant program".

14 § 2. Section 1 of chapter 174 of the laws of 1968, constituting the
15 New York state urban development corporation act, is amended by adding a
16 new section 16-ee to read as follows:

17 § 16-ee. Small business reopening and relief grant program. 1. Defi-
18 nitions. As used in this section, the following terms shall have the
19 following meanings:

20 (a) "Small business" means a business which is resident in this state,
21 independently owned and operated, not dominant in its field and employs
22 one hundred or less persons.

23 (b) "Micro-business" means a business which is a resident in this
24 state, independently owned and operated, not dominant in its field and
25 employs ten or less persons;

26 (c) "The program" means the small business reopening and relief grant
27 program established pursuant to subdivision two of this section.

28 (d) "Applicant" shall mean a small business submitting an application
29 for a grant award to the program.

30 (e) "COVID-19 health and safety restrictions" means any restrictions
31 imposed on the operation of businesses by executive order 202 of 2020
32 issued by the governor, or any extension or subsequent executive order
33 issued in response to the novel coronavirus (COVID-19) pandemic, or any
34 other statute, rule, or regulation imposing restrictions on the opera-
35 tion of businesses in response to the novel coronavirus (COVID-19)
36 pandemic.

37 2. Small business reopening and relief grant program established. The
38 small business reopening and relief grant program is hereby created to
39 aid small businesses in reopening and COVID-19 pandemic relief assist-
40 ance.

41 3. Authorization. The corporation is hereby authorized, using avail-
42 able funds, to issue grants for the program to small businesses for the
43 purpose of reopening and COVID-19 pandemic relief.

44 4. Selection criteria and application process. (a) In order to be
45 eligible for a grant under the program, an eligible small business
46 shall:

47 (i) Hold a current lease or mortgage for the location of the busi-
48 ness's operation; or in the event that such small business does not
49 conduct business operations out of a physical location, they lease or
50 hold title to essential equipment that is used for such business oper-
51 ations primarily in New York state;

52 (ii) Be a currently viable small business with the intent to remain
53 open that has been negatively impacted by its compliance with COVID-19
54 health and safety restrictions which resulted in business modifications,

1 interruptions or closures incurred as a result of such restrictions.
2 Such small businesses shall be able to demonstrate a significant loss in
3 revenue year to date as of December 31, 2020, compared with the same
4 period in 2019 because of such COVID-19 health and safety restrictions;

5 (iii) Must be in substantial compliance with applicable federal, state
6 and local laws, regulations, codes and requirements; and

7 (iv) Not owe any federal, state or local taxes prior to April 15,
8 2020, or shall have an approved repayment or deferral plan or agreement
9 with appropriate federal, state and local taxing authorities.

10 (b) Preferences. The corporation, when evaluating applications submit-
11 ted to the program, shall establish preferences for the following eligi-
12 ble small businesses:

13 (i) minority- and women-owned business enterprises that are certified
14 as such by the appropriate state entity or have received an equivalent
15 certification from a federal or local government entity;

16 (ii) micro-businesses;

17 (iii) businesses that are veteran owned and operated as certified by
18 the vets first verification program;

19 (iv) certified service-disabled veteran-owned business enterprises, so
20 certified by the office of general services;

21 (v) small businesses located in communities that were economically
22 distressed prior to March 1, 2020, as determined by the most recent
23 census data;

24 (vi) small businesses in an industry sector significantly negatively
25 impacted by the COVID-19 health and safety restrictions, as determined
26 by the corporation, in consultation with the department of labor; and

27 (vii) small businesses that have maintained employee staff levels
28 throughout the duration of COVID-19 health and safety restrictions
29 during the period March 1, 2020 through April 1, 2021 or have submitted
30 plans with the application submitted to the program to rehire any work-
31 ers laid off due to COVID-19 health and safety restrictions that wish to
32 return to their previous position.

33 5. Eligible costs. (a) Eligible costs shall be considered for small
34 businesses negatively impacted by the COVID-19 pandemic and by their
35 compliance with COVID-19 health and safety restrictions which resulted
36 in business modifications, interruptions or closures incurred as a
37 result of such restrictions. Such eligible costs shall be incurred
38 during the period of March 1, 2020 through April 1, 2021.

39 (b) The following costs incurred by a small business shall be consid-
40 ered eligible under the program: payroll costs; costs of rent or mort-
41 gage as provided for in subparagraph (i) of this paragraph; costs of
42 repayment of local property or school taxes associated with such small
43 business's location as provided for in subparagraph (ii) of this para-
44 graph; insurance costs; utility costs; costs of personal protection
45 equipment (PPE) necessary to protect worker and consumer health and
46 safety; heating, ventilation, and air conditioning (HVAC) costs, or
47 other machinery and/or equipment costs necessary for compliance with
48 COVID-19 health and safety restrictions; full or pro-rated state
49 required fees for professional licenses; full or pro-rated refund of
50 license or permit fees paid to the state liquor authority; and other
51 documented COVID-19 costs as approved by the corporation.

52 (i) Repayment of mortgage payments or commercial rent in arrears shall
53 be considered eligible costs; provided however, that the corporation
54 shall pay any grant awards for such purposes directly to the mortgage
55 holder or commercial landlord. If such commercial landlord has entered
56 into a documented modified lease agreement to address arrears that have

1 occurred due to a pandemic response, such grant amount shall take such
2 adjustment into consideration. The applicant shall provide a copy of
3 past due mortgage statements or lease arrears and remittance information
4 of the mortgage holder or commercial landlord to the corporation when
5 submitting an application. Prior to March 1, 2020, the small business
6 applicant shall have been up-to-date on mortgage or commercial lease
7 payments. If a commercial landlord or mortgagee accepts remittance of
8 funds under the program, they shall agree to: (1) not evict or foreclose
9 on an eligible business that receives a grant for arrears for at least
10 six months from date of fund release; (2) waive any late fees or inter-
11 est accrued between March 1, 2020, and the date of fund release; and (3)
12 extend the applicant's lease for six months from the date of fund
13 release, if applicable.

14 (ii) Repayment of past due local property taxes and school taxes
15 incurred due to COVID-19 health and safety restrictions shall be consid-
16 ered eligible costs; provided, however, that the corporation shall make
17 any grant awards payable directly to the appropriate local taxing enti-
18 ty. The applicant shall provide a copy of local property or school tax
19 bill or bills and remittance information to the corporation with its
20 application. Prior to March 1, 2020, such applicant shall have paid all
21 applicable local property and school taxes.

22 (c) Grants awarded under the program shall not be used to re-pay or
23 paydown any portion of a loan obtained through a federal coronavirus
24 relief package for business assistance.

25 6. Application and approval process. (a) An eligible small business
26 shall submit a complete application in the form and manner prescribed by
27 the corporation.

28 (b) The corporation shall establish the procedures and time period for
29 small businesses to submit applications to the program. As part of the
30 application each small business shall provide the following information:

31 (i) Documentation or information of such small business's eligibility
32 as provided for in this section, including tax and employment documenta-
33 tion and information as necessary and appropriate; (ii) A reopening
34 plan, if deemed necessary and appropriate by the corporation, provided,
35 however, that a small business may request financial and legal assist-
36 ance as provided in this section;

37 (iii) If requesting that an award be granted for commercial rental
38 arrears or mortgage repayment incurred due to COVID-19 health and safety
39 restrictions, any documentation and/or remittance information deemed
40 appropriate by the corporation;

41 (iv) If requesting repayment of past due local property taxes and
42 school taxes incurred due to COVID-19 health and safety restrictions,
43 then a copy of local property or school tax bill or bills and/or remit-
44 tance information; and

45 (v) Documentation of loss of income due to compliance with COVID-19
46 pandemic health and safety restrictions in the form of past income tax
47 filings, certified by a certified public accountant, and/or other
48 documentation deemed necessary and appropriate by the corporation.

49 (c) After reviewing a complete application and determining such an
50 applicant's eligibility, the corporation shall make a determination
51 within forty-five days and notify the applicant of the award amount or
52 denial of such applicant's request. All applications shall be reviewed,
53 and awards disbursed, on a rolling basis with the goal of streamlining
54 the administrative process and making prompt and timely grant payments
55 to eligible small business recipients who have been negatively impacted

1 by the COVID-19 pandemic and compliance with COVID-19 health and safety
2 restrictions.

3 (d) For the first ninety days after the program begins accepting
4 applications, no more than fifty percent of the available funds shall be
5 awarded to small businesses that do not receive a preference under para-
6 graph (b) of subdivision four of this section. Once acceptance of appli-
7 cations has been open for ninety days, all funds shall be awarded as
8 prescribed by this section.

9 7. Reporting. The corporation, on or before the first day of each
10 month beginning May 1, 2021, or the first day of the month after the
11 program is launched, and on the first day of each month thereafter,
12 shall submit a separate and distinct report to the governor, the tempo-
13 rary president of the senate, and the speaker of the assembly setting
14 forth the activities undertaken by the program. Such monthly report
15 shall include, but not be limited to: the number of applicants and their
16 county locations; the number of applicants approved by the program and
17 their county location; the total amount of grants awarded, and the aver-
18 age amount of such grants awarded; the total number of net new,
19 retained, or rehired jobs created; and such other information as the
20 corporation determines necessary and appropriate. Such reports shall be
21 included on the corporation's website and any publicly accessible state
22 database that lists economic development programs.

23 8. Financial and legal planning. The corporation shall offer to all
24 applicants, regardless of approval status, direct or indirect access to
25 financial and business planning, legal consultation, mentoring services
26 for post-pandemic planning, and reopening planning assistance.

27 § 3. This act shall take effect immediately.

28 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
29 sion, section or part of this act shall be adjudged by any court of
30 competent jurisdiction to be invalid, such judgment shall not affect,
31 impair, or invalidate the remainder thereof, but shall be confined in
32 its operation to the clause, sentence, paragraph, subdivision, section
33 or part thereof directly involved in the controversy in which such judg-
34 ment shall have been rendered. It is hereby declared to be the intent of
35 the legislature that this act would have been enacted even if such
36 invalid provisions had not been included herein.

37 § 3. This act shall take effect immediately provided, however, that
38 the applicable effective date of Parts A through CCC of this act shall
39 be as specifically set forth in the last section of such Parts.