STATE OF NEW YORK

3009--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 to amend the tax law, in relation to extending the top state income tax rate (Part A); intentionally omitted (Part B); to amend the tax law and the state finance law, in relation to the imposition of a pass-through entity tax (Part C); to amend the economic development law and the tax law, in relation to child care services expenditures under the excelsior jobs program and the employer provided child care credit (Part D); to amend the tax law, in relation to reforming and simplifying various business tax provisions thereof; and to repeal certain provisions of such law related thereto (Part E); to amend the tax law, in relation to the empire state film production credit and the empire state film post production credit (Part F); to amend the tax law, in relation to wage filer reporting and reconciliation (Part G); intentionally omitted (Part H); intentionally omitted (Part I); to amend the tax law, in relation to imposing sales tax on such admissions to race tracks and simulcast facilities; and to repeal section 227, section 306, section 406, subparagraph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of subdivision 5 of section 1009 of the racing, pari-mutuel, wagering and breeding law, relating to certain taxes on admissions to race tracks and simulcast facilities (Part J); to amend the tax law, in relation to the interest free period for certain sales tax refunds (Part K); intentionally omitted (Part L); to amend the tax law, in relation to exempting from sales and use tax certain tangible personal property or services (Part M); to amend the tax law, in relation to increasing the total dollar amount for vendors' gross receipts necessary for registration filing (Part N); to amend the tax law,in relation to imposing liability for real estate transfer taxes on responsible persons, prohibiting grantors from passing real estate transfer tax to grantees, and exempting certain organizations from the LLC disclosure requirement (Part O); to amend the tax law, in relation to restrictions on certain retail dealers whose registrations have been revoked or who have been forbidden

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

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from selling cigarettes or tobacco products (Part P); to amend the tax law, in relation to the timing and method for filing certain returns (Part Q); to amend the tax law, in relation to determining liability for the collection of taxes on medallion taxicab trips and congestion surcharges (Part R); to amend the tax law, in relation to increasing tax return preparer penalties for failure to register and requiring the display of certain documents by tax return preparers (Part S); intentionally omitted (Part T); intentionally omitted (Part U); intentionally omitted (Subpart A); intentionally omitted (Subpart B); intentionally omitted (Subpart C); intentionally omitted (Subpart D); and to amend the real property law and the real property tax law, in relation to exemptions for manufactured home park owners or operators and mobile home owners; and to repeal certain provisions relating thereto (Subpart E)(Part V); intentionally omitted (Part W); intentionally omitted (Part X); to amend the racing, pari-mutuel wagering and breeding law, in relation to regulation of sports betting (Part Y); intentionally omitted (Part Z); intentionally omitted (Part AA); to amend the tax law, in relation to restrictions on certain lottery draw game offerings; and providing for the repeal of such provisions upon the expiration thereof (Part BB); to amend the racing, pari-mutuel wagering and breeding law, in relation to the office of the gaming inspector general; and to repeal certain provisions of such law relating thereto (Part CC); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and to amend chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part DD); to amend chapter 109 of the laws of 2006 amending the tax law and other laws relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, in relation to extending the alternative fuels tax exemptions for five years (Part EE); to amend the tax law and chapter 60 of the laws of 2016 amending the tax law relating to creating a farm workforce retention credit, in relation to extending the provisions of such credit through tax year 2024 (Part FF); to amend the public housing law, in relation to extending the credit against income tax for persons or entities investing in low-income housing (Part GG); to amend chapter 59 of the laws of 2014, amending the tax law relating to a musical and theatrical production credit, in relation to the effectiveness thereof; and to amend the tax law in relation to increasing the aggregate cap on the amount of such credit (Part HH); to amend the tax law, in relation to extending hire a veteran credit for an additional year (Part II); to amend chapter 61 of the laws of 2011 amending the economic development law, the tax law and the real property tax law, relating to establishing the economic transformation and facility redevelopment program and providing tax benefits under that program and to amend the economic development law, in relation to extending the tax credits under the economic transformation and facility redevelopment program (Part JJ); intentionally omitted (Part KK); intentionally omitted (Part LL); to amend the tax

law, in relation to increasing the earned income tax credit (Part MM); to amend the tax law, in relation to extending the top state income tax rate by providing for an additional tax on capital gains (Part NN); to amend the tax law, in relation to business tax surcharges on certain corporations and providers of certain services; and providing for the repeal of such provisions upon expiration thereof (Part OO); to amend the tax law, in relation to reducing the burden on small businesses (Part PP); to amend the tax law, in relation to the rehabilitation of historic properties tax credit (Part QQ); to amend the economic development law, in relation to defining community significant projects and including such projects in the excelsior jobs program (Part RR); authorizing the commissioner of taxation and finance to waive employment location requirements for any business receiving a credit authorized under the tax law under certain circumstances (Part SS); to amend the tax law, in relation to computing the tax on the capital base for certain New York corporations (Part TT); to amend the tax law, in relation to certain Medicaid management; and to repeal certain provisions of such law relating thereto (Part UU); to amend the real property law and the uniform commercial code, in relation to requiring the recording of mezzanine debt and preferred equity investments; to amend the tax law, in relation to including mezzanine debt in the mortgage recording tax; and to repeal certain provisions of the tax law relating thereto (Part VV); to amend the tax law, in relation to a supplemental surcharge on owners of certain non-primary residence properties in a city with a population of one million or more (Part WW); to amend the tax law, in relation to the computation of estate tax (Part XX); to amend the administrative code of the city of New York, in relation to establishing a tax credit for small businesses in certain sectors adversely impacted by the COVID-19 emergency (Part YY); to amend the tax law, in relation to exempting breast pump replacement parts and certain supplies from sales and compensating use taxes (Part ZZ); to amend the real property tax law, in relation to authorizing an exemption for class one capital improvements to residential buildings and certain new construction in a special assessing unit that is not a city (Part AAA); and to amend the agriculture and markets law, in relation to the Nourish New York program (Part BBB)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2021-2022 state fiscal year. Each component is wholly contained within a Part identified as Parts A through BBB. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Clauses (iv), (v), (vi), (vii) and (viii) of subparagraph (B) of paragraph 1 of subsection (a) of section 601 of the tax law, clauses (iv), (v), (vi) and (vii) as amended by section 1 of part P of chapter 59 of the laws of 2019 and clause (viii) as added by section 1 of part R of chapter 59 of the laws of 2017, are amended to read as follows:

(iv) For taxable years beginning in two thousand twenty-one the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $43,000	$1,202 plus 5.9% of excess over $27,900
Over $43,000 but not over $161,550	$2,093 plus 5.97% of excess over $43,000
Over $161,550 but not over $323,200	$9,170 plus 6.33% of excess over $161,550
Over $323,200 but not over $2,155,350	$19,403 plus 6.85% of excess over $323,200
Over $2,155,350 but not over $5,000,000	**$144,905 plus 9.85% of excess over $2,155,350**
Over $5,000,000 but not over $25,000,000	**$425,103 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,595,103 plus 11.85% of excess over $25,000,000**
[~~Over $2,155,350~~	~~$144,905 plus 8.82% of excess over $2,155,350~~]

(v) For taxable years beginning in two thousand twenty-two the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.85% of excess over $27,900
Over $161,550 but not over $323,200	$9,021 plus 6.25% of excess over $161,550
Over $323,200 but not over $2,155,350	$19,124 plus 6.85% of excess over $323,200
Over $2,155,350 but not over $5,000,000	**$144,626 plus 9.85% of excess over $2,155,350**
Over $5,000,000 but not over $25,000,000	**$424,824 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,594,824 plus 11.85% of excess over $25,000,000**
[~~Over $2,155,350~~	~~$144,626 plus 8.82% of excess over $2,155,350~~]

(vi) For taxable years beginning in two thousand twenty-three the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.73% of excess over $27,900
Over $161,550 but not over $323,200	$8,860 plus 6.17% of excess over $161,550
Over $323,200 but not over $2,155,350	$18,834 plus 6.85% of excess over $323,200
Over $2,155,350 but not over $5,000,000	**$144,336 plus 9.85% of excess over $2,155,350**
Over $5,000,000 but not over $25,000,000	**$424,534 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,594,534 plus 11.85% of excess over $25,000,000**
[~~Over $2,155,350~~	~~$144,336 plus 8.82% of excess over $2,155,350~~]

(vii) For taxable years beginning in two thousand twenty-four the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.61% of excess over $27,900
Over $161,550 but not over $323,200	$8,700 plus 6.09% of excess over $161,550
Over $323,200 but not over $2,155,350	$18,544 plus 6.85% of excess over $323,200
Over $2,155,350 but not over $5,000,000	**$144,046 plus 9.85% of excess over $2,155,350**
Over $5,000,000 but not over $25,000,000	**$424,244 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,594,244 plus 11.85% of excess over $25,000,000**
[~~Over $2,155,350~~	~~$144,047 plus 8.82% of excess over $2,155,350~~]

(viii) For taxable years beginning after two thousand twenty-four the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.5% of excess over $27,900
Over $161,550 but not over $323,200	$8,553 plus 6.00% of excess over $161,550
Over $323,200 **but not over $2,155,350**	$18,252 plus 6.85% of excess over $323,200

Over $2,155,350 but not over $5,000,000	**$143,754 plus 9.85% of excess over $2,155,350**
Over $5,000,000 but not over $25,000,000	**$423,952 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,593,952 plus 11.85% of excess over $25,000,000**

§ 2. Clauses (iv), (v), (vi), (vii) and (viii) of subparagraph (B) of paragraph 1 of subsection (b) of section 601 of the tax law, clauses (iv), (v), (vi) and (vii) as amended by section 2 of part P of chapter 59 of the laws of 2019 and clause (viii) as added by section 2 of part R of chapter 59 of the laws of 2017, are amended to read as follows:

(iv) For taxable years beginning in two thousand twenty-one the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $32,200	$901 plus 5.9% of excess over $20,900
Over $32,200 but not over $107,650	$1,568 plus 5.97% of excess over $32,200
Over $107,650 but not over $269,300	$6,072 plus 6.33% of excess over $107,650
Over $269,300 but not over $1,616,450	$16,304 plus 6.85% of excess over $269,300
Over $1,616,450 but not over $5,000,000	**$108,584 plus 9.85% of excess over $1,616,450**
Over $5,000,000 but not over $25,000,000	**$441,864 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,611,864 plus 11.85% of excess over $25,000,000**
[~~Over $1,616,450~~	~~$108,584 plus 8.82% of excess over $1,616,450~~]

(v) For taxable years beginning in two thousand twenty-two the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.85% of excess over $20,900
Over $107,650 but not over $269,300	$5,976 plus 6.25% of excess over $107,650
Over $269,300 but not over $1,616,450	$16,079 plus 6.85% of excess over $269,300
Over $1,616,450 but not over $5,000,000	**$108,359 plus 9.85% of excess over $1,616,450**
Over $5,000,000 but not over $25,000,000	**$441,638 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,611,638 plus 11.85% of excess over $25,000,000**
[~~Over $1,616,450~~	~~$108,359 plus 8.82% of excess over~~

~~$1,616,450~~]

(vi) For taxable years beginning in two thousand twenty-three the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.73% of excess over $20,900
Over $107,650 but not over $269,300	$5,872 plus 6.17% of excess over $107,650
Over $269,300 but not over $1,616,450	$15,845 plus 6.85% of excess over $269,300
Over $1,616,450 but not over $5,000,000	**$108,125 plus 9.85% of excess over $1,616,450**
Over $5,000,000 but not over $25,000,000	**$441,404 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,611,404 plus 11.85% of excess over $25,000,000**
[~~Over $1,616,450~~	~~$108,125 plus 8.82% of excess over $1,616,450~~]

(vii) For taxable years beginning in two thousand twenty-four the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.61% of excess over $20,900
Over $107,650 but not over $269,300	$5,768 plus 6.09% of excess over $107,650
Over $269,300 but not over $1,616,450	$15,612 plus 6.85% of excess over $269,300
Over $1,616,450 but not over $5,000,000	**$107,892 plus 9.85% of excess over $1,616,450**
Over $5,000,000 but not over $25,000,000	**$441,171 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,611,171 plus 11.85% of excess over $25,000,000**
[~~Over $1,616,450~~	~~$107,892 plus 8.82% of excess over $1,616,450~~]

(viii) For taxable years beginning after two thousand twenty-four the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.5% of excess over $20,900
Over $107,650 but not over $269,300	$5,672 plus 6.00% of excess over

	$107,650
Over $269,300 **but not over $1,616,450**	$15,371 plus 6.85% of excess over $269,300
Over $1,616,450 but not over $5,000,000	**$107,651 plus 9.85% of excess over $1,616,450**
Over $5,000,000 but not over $25,000,000	**$440,930 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,610,930 plus 11.85% of excess over $25,000,000**

§ 3. Clauses (iv), (v), (vi), (vii) and (viii) of subparagraph (B) of paragraph 1 of subsection (c) of section 601 of the tax law, clauses (iv), (v), (vi) and (vii) as amended by section 3 of part P of chapter 59 of the laws of 2019 and clause (viii) as added by section 3 of part R of chapter 59 of the laws of 2017, are amended to read as follows:

(iv) For taxable years beginning in two thousand twenty-one the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $21,400	$600 plus 5.9% of excess over $13,900
Over $21,400 but not over $80,650	$1,042 plus 5.97% of excess over $21,400
Over $80,650 but not over $215,400	$4,579 plus 6.33% of excess over $80,650
Over $215,400 but not over $1,077,550	$13,109 plus 6.85% of excess over $215,400
Over $1,077,550 but not over $5,000,000	**$72,166 plus 9.85% of excess over $1,077,550**
Over $5,000,000 but not over $25,000,000	**$437,739 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,607,739 plus 11.85% of excess over $25,000,000**
[~~Over $1,077,550~~	~~$72,166 plus 8.82% of excess over $1,077,550~~]

(v) For taxable years beginning in two thousand twenty-two the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.85% of excess over $13,900
Over $80,650 but not over $215,400	$4,504 plus 6.25% of excess over $80,650
Over $215,400 but not over $1,077,550	$12,926 plus 6.85% of excess over $215,400
Over $1,077,550 but not over $5,000,000	**$7,983 plus 9.85% of excess over $1,077,550**
Over $5,000,000 but not over	**$458,345 plus 10.85% of excess over**

$25,000,000	**$5,000,000**
Over $25,000,000	**$2,628,345 plus 11.85% of excess over $25,000,000**
[~~Over $1,077,550~~	~~$71,984 plus 8.82% of excess over $1,077,550~~]

(vi) For taxable years beginning in two thousand twenty-three the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.73% of excess over $13,900
Over $80,650 but not over $215,400	$4,424 plus 6.17% of excess over $80,650
Over $215,400 but not over $1,077,550	$12,738 plus 6.85% of excess over $215,400
Over $1,077,550 but not over $5,000,000	**$71,975 plus 9.85% of excess over $1,077,550**
Over $5,000,000 but not over $25,000,000	**$458,157 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,628,157 plus 11.85% of excess over $25,000,000**
[~~Over $1,077,550~~	~~$71,796 plus 8.82% of excess over $1,077,550~~]

(vii) For taxable years beginning in two thousand twenty-four the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.61% of excess over $13,900
Over $80,650 but not over $215,400	$4,344 plus 6.09% of excess over $80,650
Over $215,400 but not over $1,077,550	$12,550 plus 6.85% of excess over $215,400
Over $1,077,550 but not over $5,000,000	**$71,607 plus 9.85% of excess over $1,077,550**
Over $5,000,000 but not over $25,000,000	**$457,969 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,627,969 plus 11.85% of excess over $25,000,000**
[~~Over $1,077,550~~	~~$71,608 plus 8.82% of excess over $1,077,550~~]

(viii) For taxable years beginning after two thousand twenty-four the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over

	$11,700
Over $13,900 but not over $80,650	$600 plus 5.50% of excess over $13,900
Over $80,650 but not over $215,400	$4,271 plus 6.00% of excess over $80,650
Over $215,400 **but not over $1,077,550**	$12,356 plus 6.85% of excess over $215,400
Over $1,077,550 but not over $5,000,000	**$71,413 plus 9.85% of excess over $1,077,550**
Over $5,000,000 but not over $25,000,000	**$457,775 plus 10.85% of excess over $5,000,000**
Over $25,000,000	**$2,627,775 plus 11.85% of excess over $25,000,000**

§ 4. Subparagraphs (D) and (E) of paragraph 1 of subsection (d-1) of section 601 of the tax law, subparagraph (D) as amended by section 4 of part P of chapter 59 of the laws of 2019 and subparagraph (E) as added by section 7 of part A of chapter 56 of the laws of 2011, are amended to read as follows:

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (C) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over two million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand [~~twenty-five~~] **twenty-one**.

(E) **The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 9.85 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B), and (C) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over two million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and thereafter.**

(F) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 10.85 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B), (C) and (E) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over five million dollars and the denominator is fifty thousand dollars.

This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and thereafter.

(G) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 11.85 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B), (C), (E) and (F) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over twenty-five million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and thereafter.

(H) Provided, however, the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax tables in subsection (a) of this section multiplied by the taxpayer's taxable income.

§ 5. Subparagraphs (C) and (D) of paragraph 2 of subsection (d-1) of section 601 of the tax law, subparagraph (C) as amended by section 5 of part P of chapter 59 of the laws of 2019 and subparagraph (D) as added by section 7 of part A of chapter 56 of the laws of 2011, are amended to read as follows:

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (b) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million five hundred thousand dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand [~~twenty-five~~] twenty-one.

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 9.85 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over one million five hundred thousand dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and thereafter.

(E) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 10.85 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax

for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (D) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over five million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and thereafter.

(F) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 11.85 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B), (D) and (E) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over twenty-five million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and thereafter.

(G) Provided, however, the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax tables in subsection (b) of this section multiplied by the taxpayer's taxable income.

§ 6. Subparagraphs (C) and (D) of paragraph 3 of subsection (d-1) of section 601 of the tax law, subparagraph (C) as amended by section 6 of part P of chapter 59 of the laws of 2019 and subparagraph (D) as added by section 7 of part A of chapter 56 of the laws of 2011, are amended to read as follows:

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (c) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (c) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand [~~twenty-five~~] twenty-one.

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 9.85 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over one million five hundred thousand dollars and the denominator is fifty thousand

dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and thereafter.

(E) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 10.85 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (D) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over five million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and thereafter.

(F) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 11.85 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B), (D) and (E) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over twenty-five million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and thereafter.

(G) Provided, however, the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax tables in subsection (c) of this section multiplied by the taxpayer's taxable income.

§ 7. Notwithstanding any provision of law to the contrary, the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 22 of the tax law in connection with the implementation of the provisions of this act shall be prescribed by regulations of the commissioner of taxation and finance with due consideration to the effect such withholding tables and methods would have on the receipt and amount of revenue. The commissioner of taxation and finance shall adjust such withholding tables and methods in regard to taxable years beginning in 2021 and after in such manner as to result, so far as practicable, in withholding from an employee's wages an amount substantially equivalent to the tax reasonably estimated to be due for such taxable years as a result of the provisions of this act. Any such regulations to implement a change in withholding tables and methods for tax year 2021 shall be adopted and effective as soon as practicable and the commissioner of taxation and finance may adopt such regulations on an emergency basis notwithstanding anything to the contrary in section 202 of the state administrative procedure act.

§ 8. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2021.

PART B

Intentionally Omitted

PART C

Section 1. The tax law is amended by adding a new article 24-A to read as follows:

ARTICLE 24-A
PASS-THROUGH ENTITY TAX

Section 860. Definitions.
861. Pass-through entity tax election.
862. Imposition and rate of tax.
863. Pass-through entity tax credit.
864. Payment of estimated tax.
865. Filing of return and payment of tax.
866. Accounting periods and methods.
867. Procedural provisions.

§ 860. Definitions. For purposes of this article:

(a) Eligible partnership. Eligible partnership means any partnership as provided for in section 7701(a)(2) of the Internal Revenue Code. An eligible partnership includes any limited liability company treated as a partnership for federal income tax purposes that otherwise meets the requirements of this subdivision.

(b) Eligible S corporation. Eligible S corporation means any New York S corporation as defined pursuant to this chapter. An eligible S corporation includes any limited liability company treated as an S corporation for federal income tax purposes that otherwise meets the requirements of this subdivision.

(c) Electing partnership. Electing partnership means any eligible partnership that made a valid, timely election pursuant to section eight hundred sixty-one of this article.

(d) Electing S corporation. Electing S corporation means any eligible S corporation that made a valid, timely election pursuant to section eight hundred sixty-one of this article.

(e) Taxpayer. Taxpayer means any electing partnership or electing S corporation.

(f) Pass-through entity tax. Pass-through entity tax means the total tax imposed by this article on electing partnerships and electing S corporations.

(g) Pass-through adjusted net income (not less than zero). Pass-through adjusted net income (not less than zero) means:

(1) In the case of an electing partnership, the sum of (i) federal taxable income (not less than zero), its separately and nonseparately computed items as described in section 702(a) of the Internal Revenue Code, to the extent earned directly by such partnership; (ii) taxes paid or incurred during the taxable year pursuant to this article by a partnership to the extent deducted in computing federal taxable income; (iii) taxes substantially similar to the tax imposed pursuant to this article paid or incurred during the taxable year to another state of the United States, a political subdivision of such state, or the District of Columbia to the extent deducted in computing federal taxable income; and (iv) guaranteed payments paid by the partnership to its partners as described in section 707(c) of the Internal Revenue Code.

(2) In the case of an electing S corporation, the sum of (i) federal separately and nonseparately computed income (not less than zero), as described in section 1366(a) of the Internal Revenue Code, whether earned by such S corporation or by a partnership of which the S corpo-

ration is a partner; (ii) taxes paid or incurred during the taxable year pursuant to this article by an S corporation to the extent deducted in computing federal ordinary income; and (iii) taxes substantially similar to the tax imposed pursuant to this article paid or incurred during the taxable year to another state of the United States, a political subdivision of such state, or the District of Columbia to the extent deducted in computing federal taxable income.

(h) Partnership taxable income. Partnership taxable income of an electing partnership means the sum of (1) the electing partnership's pass-through adjusted net income (not less than zero), allocated to New York State pursuant to subdivision (b) of section eight hundred sixty-two of this article; and (2) the electing partnership's proportionate share of any pass-through adjusted net income (not less than zero) from a partnership of which it is a partner to the extent it was sourced to New York by such partnership pursuant to the principles of article twenty-two of this chapter. For purposes of determining partnership taxable income, an entity that is a disregarded entity as described in section 301.7701-2(c)(2)(i) of internal revenue service regulations for federal income tax purposes is also disregarded in determining the profit percentage of the electing partnership that are owned by partners or members who are subject to tax pursuant to article twenty-two of this chapter or that are owned by partners or members who are residents of New York State.

(i) S corporation taxable income. S corporation taxable income of an electing S corporation means the electing S corporation's pass-through adjusted net income (not less than zero) allocated to New York State pursuant to subdivision (c) of section eight hundred sixty-two of this article. For purposes of determining S corporation taxable income, an entity that is a disregarded entity as described in regulation section 301.7701-2(c)(2)(i) for federal income tax purposes is also disregarded in determining the profit percentage of the electing S corporation that are owned by shareholders who are subject to tax pursuant to article twenty-two of this chapter or that are owned by shareholders who are residents of New York State pursuant to the provisions of article twenty-two of this chapter.

§ 861. Pass-through entity tax election. (a) Any eligible partnership or eligible S corporation doing business within this state shall be allowed to make an annual election to be taxed pursuant to this article.

(b) In order to be effective, the annual election must be made (1) if the entity is an S corporation, by any officer, manager or shareholder of the S corporation who is authorized under the law of the state where the corporation is incorporated or under the S corporation's organizational documents to make the election and who represents to having such authorization under penalty of perjury; or (2) if the entity is not an S corporation, by any member, partner, owner, or other individual with authority to bind the entity or sign returns pursuant to section six hundred fifty-three of this chapter.

(c) The annual election must be made in such manner as the commissioner may prescribe by regulation. An election under this subsection may be effective for the eligible partnership or eligible S corporation for the taxable year for which the election is made. An election under subsection (a) of this section may be made at any time during the preceding taxable year of such entity or at any time during the taxable year of such entity and on or before the fifteenth day of the third month of such taxable year. If an election under subsection (a) of this section is made for any taxable year of such entity and such election is

made after the fifteenth day of the third month of such taxable year and on or before the fifteenth day of the third month of the following taxable year, such election shall be treated as made for the following taxable year. Provided, however, in a tax year beginning on or after January first, two thousand twenty-one but before June fifteenth, two thousand twenty-one, the pass through entity may make the election at any time prior to June fifteenth, two thousand twenty-one.

(d) (1) Termination of election. An election pursuant to this section shall be terminated whenever, at any time during the taxable year, the taxpayer ceases to be an eligible partnership or eligible S corporation.

(2) Effective date of termination. The termination of an election is effective immediately upon the taxpayer ceasing to be an eligible partnership or eligible S corporation and no tax will be due pursuant to this article for the taxable year.

(3) Abatement of penalties. If a termination occurs pursuant to this subdivision solely because a partner, member or shareholder of an otherwise eligible partnership or eligible S corporation died during the taxable year and the successor to the decedent's interest in the partnership or S corporation is an entity that will result in the partnership or the S corporation not being an eligible partnership or S corporation, no addition to tax will be imposed pursuant to subsection (c) of section six hundred eighty-five of this chapter on the partners, members and shareholders of such partnership or S corporation solely for underpayment of estimated personal income tax as a result of the termination of the election made pursuant to this article.

§ 862. Imposition and rate of tax. (a) General. A tax is hereby imposed for each taxable year on the partnership taxable income of every electing partnership doing business within this state and on the S corporation taxable income of every electing S corporation doing business within this state. This tax shall be in addition to any other taxes imposed and shall be at the rate of six and eighty-five hundredths percent if the sum of an entity's partners, members or shareholders share of distributive proceeds attributed to the pass through entity is less than five million dollars, and eighty and eighty-two hundredths percent if the sum of an entity's partners, members or shareholders share of distributive proceeds attributed to the pass through entity is five million dollars or more for each taxable year beginning on or after January first, two thousand twenty-one.

(b) Allocation to New York by an electing partnership. In determining the amount of partnership taxable income, the adjusted net income of the electing partnership shall be allocated to this state pursuant to the principles of article twenty-two of this chapter.

(c) Allocation to New York by an electing S corporation. In determining the amount of S corporation taxable income, the adjusted net income of the electing S corporation shall be allocated to this state by multiplying the adjusted net income of the electing S corporation by the business apportionment factor of the electing S corporation as calculated pursuant to section two hundred ten-A of this chapter.

§ 863. Pass-through entity tax credit. A partner or member in an electing partnership or a shareholder of an electing S corporation subject to tax under this article which partner's, member's or shareholder's federal taxable income includes separately and non-separately computed items from the electing partnership as described in section 702(a) of the Internal Revenue Code or from the electing S corporation as described in section 1366(a) of the Internal Revenue Code and is subject to tax under article twenty-two of this chapter, shall be

allowed a credit against the tax imposed pursuant to article twenty-two of this chapter, computed pursuant to the provisions of subsection (kkk) of section six hundred six of this chapter.

§ 864. Payment of estimated tax. (a) Definition of estimated tax. Estimated tax means the amount that an electing partnership or electing S corporation estimates to be the tax imposed by section eight hundred sixty-two of this article for the current taxable year.

(b) General. The estimated tax shall be paid as follows for an electing partnership and an electing S corporation that reports on a calendar year basis:

(1) The estimated tax shall be paid in four equal installments on March fifteenth, June fifteenth, September fifteenth and December fifteenth.

(2) The amount of any required installment shall be twenty-five percent of the required annual payment.

(3) The required annual payment is the lesser of: (A) ninety percent of the tax shown on the return for the taxable year; or (B) one hundred percent of the tax shown on the return of the electing partnership or electing S corporation for the preceding taxable year.

(c) Application to short taxable year. This section shall apply to a taxable year of less than twelve months in accordance with procedures established by the commissioner.

(d) Fiscal year. This section shall apply to a taxable year other than a calendar year by the substitution of the months of such fiscal year for the corresponding months specified in this section.

(e) Installments paid in advance. An electing partnership or electing S corporation may elect to pay any installment of its estimated tax prior to the date prescribed for the payment thereof.

§ 865. Filing of return and payment of tax. (a) General. On or before the fifteenth day of the third month following the close of the taxable year, each electing partnership and each electing S corporation must file a return for the taxable year reporting the information required pursuant to this article.

(b) Certification of eligibility. Every return filed pursuant to subdivision (a) of this section shall include, in a format as prescribed by the commissioner, a certification by an individual authorized to act on behalf of the electing partnership or electing S corporation that the taxpayer:

(1) made a timely, valid election to be subject to tax pursuant to this article;

(2) was at all times during the taxable year eligible to make such an election, unless such return includes a notification of termination as provided for in subdivision (c) of this section; and

(3) that all statements contained therein are true.

(c) Notification of termination. If an election is terminated during the taxable year pursuant to subdivision (e) of section eight hundred sixty-one of this article, the electing partnership or electing S corporation is required to file a return pursuant to subdivision (a) of this section notifying the commissioner of such termination. Such notification will be considered a claim for a credit or refund of an overpayment of pass-through entity tax of any estimated payments made pursuant to this article for the taxable year containing the date of termination.

(d) Information on return. Each electing partnership and electing S corporation shall report on such return:

(1) The balance of any tax shown on such return, not previously paid as installments of estimated tax, shall be paid with such return;

(2) Identifying information of all partners, members and/or shareholders eligible to receive a credit pursuant to section eight hundred sixty three and such partner's, member's and/or shareholder's distributive or pro rata share of the pass-through entity tax imposed on the electing partnership or S corporation; and

(3) Any other information as required by the commissioner.

(e) Information provided to partners. Each electing partnership subject to tax under this article shall report to each partner or member its distributive share of:

(1) the partnership taxable income of the electing partnership;

(2) the pass-through entity tax imposed on the electing partnership; and

(3) any other information as required by the commissioner.

(f) Information provided to shareholders. Each electing S corporation subject to tax under this article shall report to each shareholder its pro rata share of:

(1) the S corporation taxable income of the electing S corporation;

(2) the pass-through entity tax imposed on the electing S corporation; and

(3) any other information as required by the commissioner.

§ 866. Accounting periods and methods. (a) Accounting periods. An electing partnership's or electing S corporation's taxable year pursuant to this article shall be the same as the electing partnership's or electing S corporation's taxable year for federal income tax purposes.

(b) Accounting methods. An electing partnership's or electing S corporation's method of accounting pursuant to this article shall be the same as the electing partnership's or electing S corporation's method of accounting for federal income tax purposes.

(c) Change of accounting period or method. (1) If an electing partnership's or electing S corporation's taxable year or method of accounting is changed for federal income tax purposes, the taxable year or method of accounting for purposes of this article shall be similarly changed.

(2) If an electing partnership's or electing S corporation's method of accounting is changed, any additional tax that results from adjustments determined to be necessary solely by reason of such change shall not be greater than if such adjustments were ratably allocated and included for the taxable year of the change and the preceding taxable years, not in excess of two, during which the entity used the method of accounting from which the change is made.

§ 867. Procedural provisions. (a) General. All provisions of article twenty-two of this chapter will apply to the provisions of this article in the same manner and with the same force and effect as if the language of article twenty-two of this chapter had been incorporated in full into this article and had been specifically adjusted for and expressly referred to the tax imposed by this article, except to the extent that any provision is either inconsistent with a provision of this article or is not relevant to this article. Notwithstanding the preceding sentence, no credit against tax in article twenty-two of this chapter can be used to offset the tax due pursuant to this article.

(b) Cross Article filings. Notwithstanding any other provisions of this article:

(1) The commissioner may require the filing of one return which, in addition to the return provided for in section eight hundred sixty-five of this article, may also include any of the returns required to be filed by a taxpayer pursuant to the provisions of subsection (c) of section six hundred fifty-eight or article nine-A of this chapter.

(2) Where such return is required, the commissioner may also require the payment with it of a single amount which shall equal the total of the amounts (total taxes less any credits or refunds) that would have been required to be paid with the returns pursuant to the provisions of this article and the provisions of article twenty-two of this chapter or the provisions of article nine-A of this chapter, whichever is applicable.

(3) Notwithstanding any other law to the contrary, the commissioner may require that all forms or returns pursuant to this article must be filed electronically and all payments of tax must be paid electronically.

(c) Liability for tax. An electing partnership or electing S corporation shall be liable for the tax due pursuant to this article. In addition, every individual eligible to claim a credit pursuant to subsection (kkk) of section six hundred six of this chapter because he or she is a partner or member in an electing partnership or a shareholder in an electing S corporation shall be jointly and severally liable for the tax imposed pursuant to this article on such electing partnership or electing S corporation.

(d) Deposit and disposition of revenue. All taxes, interest, penalties, and fees collected or received by the commissioner pursuant to this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter.

(e) Secrecy provision. All the provisions of paragraphs one and two of subsection (e) of section six hundred ninety-seven of this chapter will apply to the provisions of this article. Notwithstanding any provisions of this chapter to the contrary, the commissioner may disclose information and returns regarding the calculation and payment of the tax imposed by this article and any credit calculated on taxes paid pursuant to this article by an electing partnership or electing S corporation to a partner, member or shareholder of such entity.

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

(kkk) Credit for pass-through entity tax. (1) A taxpayer partner or member of an electing partnership and a taxpayer shareholder of an electing S corporation subject to tax under article twenty-four-A of this chapter shall be entitled to a credit against the tax imposed by this article as provided in this subsection. For purposes of this subsection, the terms "electing partnership," "electing S corporation," and "pass-through entity tax" shall have the same meanings as used in article twenty-four-A of this chapter.

(2) The credit shall be equal to the product of:

(i) the taxpayer's profit percentage of the electing partnership or pro rata share of the electing S corporation;

(ii) ninety-two percent; and

(iii) the pass-through entity tax paid by the electing partnership or S corporation for the taxable year.

(3) If a taxpayer is a partner, member or shareholder in multiple electing partnerships and/or electing S corporations subject to tax pursuant to article twenty-four-A of this chapter, the taxpayer's credit shall be the sum of such credits calculated pursuant to paragraph two of this subsection with regard to each entity in which the taxpayer has a direct ownership interest.

(4) If the amount of the credit allowable pursuant to this subsection for any taxable year exceeds the tax due for such year pursuant to this

article, the excess shall be treated as an overpayment, to be credited or refunded, without interest.

§ 3. Section 620 of the tax law, as amended by chapter 2 of the laws of 1962, subsection (a) as amended and paragraph 3 of subsection (b) as added by chapter 274 of the laws of 1987, and subsection (d) as added by chapter 166 of the laws of 1991, is amended to read as follows:

§ 620. Credit for income tax of another state. (a) General. A resident shall be allowed a credit against the tax otherwise due under this article for any income tax imposed on such individual for the taxable year by another state of the United States, a political subdivision of such state, the District of Columbia or a province of Canada, upon income both derived therefrom and subject to tax under this article. The term "income tax imposed" in the previous sentence shall not include the portion of such tax (determined in the manner provided for in section six hundred twenty-A) which is imposed upon the ordinary income portion (or part thereof) of a lump sum distribution which is subject to the separate tax imposed by section [~~six hundred one-C~~] six hundred three.

(b) Pass-through entity taxes. (1) A resident shall be allowed a credit against the tax otherwise due pursuant to this article for any pass-through entity tax substantially similar to the tax imposed pursuant to article twenty-four-A of this chapter imposed on the income of a partnership or S corporation of which the resident is a partner, member or shareholder for the taxable year by another state of the United States, a political subdivision of such state, or the District of Columbia upon income both derived therefrom and subject to tax under this article.

(2) Such credit shall be equal to the product of:

(A) the taxpayer's profit percentage of the electing partnership or pro rata share of the electing S corporation;

(B) ninety-two percent; and

(C) the pass-through entity tax paid by the electing partnership or S corporation to such other state, political subdivision of such other state or the District of Columbia.

(3) However, such credit will be allowed on tax paid only if:

(A) the state of the United States, political subdivision of such state, or the District of Columbia imposing such tax also imposes an income tax substantially similar to the tax imposed under this article; and

(B) in the case of taxes paid by an S corporation, such S corporation was treated as a New York S corporation.

(c) Limitations. (1) The credit under this section shall not exceed the percentage of the tax otherwise due under this article determined by dividing the portion of the taxpayer's New York income subject to taxation by such other jurisdiction by the total amount of the taxpayer's New York income.

(2) The credit under this section shall not reduce the tax otherwise due under this article to an amount less than would have been due if the income subject to taxation by such other jurisdiction were excluded from the taxpayer's New York income.

(3) In the case of a taxpayer who elects to claim the foreign tax credit for federal income tax purposes, the credit under this section for income tax imposed by a province of Canada shall be allowed for that portion of the provincial tax not claimed for federal purposes for the taxable year or a preceding taxable year, provided however, to the extent the provincial tax is claimed for federal purposes for a succeeding taxable year, the credit under this section must be added back in such succeeding taxable year. The provincial tax shall be deemed to be

claimed last for federal income tax purposes and for purposes of this subsection.

[~~(c)~~] **(d)** Definition. For purposes of this section New York income means:

(1) the New York adjusted gross income of an individual, or

(2) the amount of the income of an estate or trust, determined as if the estate or trust were an individual computing his New York adjusted gross income under section six hundred twelve.

[~~(d) S corporation shareholders. In the case of a shareholder of an S corporation, the term "income tax" in subsection (a) of this section shall not include any such tax imposed upon or payable by the corporation, but shall include any such tax with respect to the income of the corporation imposed upon or payable by the shareholder, without regard to whether an election independent of the federal S election was required to effect such imposition upon the shareholder.~~]

§ 4. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, **twenty-four-a,** twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of

section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 5. Subdivision 1 of section 171-a of the tax law, as amended by section 4 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as

otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-D, twenty-one, twenty-two, twenty-four, **twenty-four-a,** twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liabil-

ity as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 6. Subdivisions 2 and 3 and paragraph (a) of subdivision 5 of section 92-z of the state finance law, as amended by section 5 of part MM of chapter 59 of the laws of 2018, are amended to read as follows:

2. Such fund shall consist of (a) fifty percent of receipts from the imposition of personal income taxes pursuant to article twenty-two of the tax law, less such amounts as the commissioner of taxation and finance may determine to be necessary for refunds, [~~and~~] (b) fifty percent of receipts from the imposition of employer compensation expense taxes pursuant to article twenty-four of the tax law, less such amounts as the commissioner of taxation and finance may determine to be necessary for refunds**, and (c) fifty percent of receipts from the imposition of the pass-through entity taxes pursuant to article twenty-four-A of the tax law, less such amounts as the commission of taxation and finance may determine to be necessary for refunds**.

3. (a) Beginning on the first day of each month, the comptroller shall deposit all of the receipts collected pursuant to section six hundred seventy-one of the tax law in the revenue bond tax fund until the amount of monthly receipts anticipated to be deposited pursuant to the certificate required in paragraph (b) of subdivision five of this section are met. On or before the twelfth day of each month, the commissioner of taxation and finance shall certify to the state comptroller the amounts specified in paragraph (a) of subdivision two of this section relating to the preceding month and, in addition, no later than March thirty-first of each fiscal year the commissioner of taxation and finance shall certify such amounts relating to the last month of such fiscal year. The amounts so certified shall be deposited by the state comptroller in the revenue bond tax fund.

(b) Beginning on the first day of each month, the comptroller shall deposit all of the receipts collected pursuant to section eight hundred fifty-four of the tax law in the revenue bond tax fund until the amount of monthly receipts anticipated to be deposited pursuant to the certificate required in paragraph (b) of subdivision five of this section are met. On or before the twelfth day of each month, the commissioner of taxation and finance shall certify to the state comptroller the amounts specified in paragraph (b) of subdivision two of this section relating to the preceding month and, in addition, no later than March thirty-first of each fiscal year the commissioner of taxation and finance shall certify such amounts relating to the last month of such fiscal year. The amounts so certified shall be deposited by the state comptroller in the revenue bond tax fund.

(c) Beginning on the first day of each month, the comptroller shall deposit all of the receipts collected pursuant to sections eight hundred sixty-four and eight hundred sixty-five of the tax law in the revenue bond tax fund until the amount of monthly receipts anticipated to be deposited pursuant to the certificate required in paragraph (b) of subdivision five of this section are met. On or before the twelfth day of each month, the commissioner of taxation and finance shall certify to the state comptroller the amounts specified in paragraph (c) of subdivision two of this section relating to the preceding month and, in addition, no later than March thirty-first of each fiscal year the commissioner of taxation and finance shall certify such amounts relating to the last month of such fiscal year. The amounts so certified shall be deposited by the state comptroller in the revenue bond tax fund.

(a) The state comptroller shall from time to time, but in no event later than the fifteenth day of each month (other than the last month of the fiscal year) and no later than the thirty-first day of the last month of each fiscal year, pay over and distribute to the credit of the general fund of the state treasury all moneys in the revenue bond tax fund, if any, in excess of the aggregate amount required to be set aside for the payment of cash requirements pursuant to paragraph (b) of this subdivision, provided that an appropriation has been made to pay all amounts specified in any certificate or certificates delivered by the director of the budget pursuant to paragraph (b) of this subdivision as being required by each authorized issuer as such term is defined in section sixty-eight-a of this chapter for the payment of cash requirements of such issuers for such fiscal year. Subject to the rights of holders of debt of the state, in no event shall the state comptroller pay over and distribute any moneys on deposit in the revenue bond tax fund to any person other than an authorized issuer pursuant to such certificate or certificates (i) unless and until the aggregate of all cash requirements certified to the state comptroller as required by such authorized issuers to be set aside pursuant to paragraph (b) of this subdivision for such fiscal year shall have been appropriated to such authorized issuers in accordance with the schedule specified in the certificate or certificates filed by the director of the budget or (ii) if, after having been so certified and appropriated, any payment required to be made pursuant to paragraph (b) of this subdivision has not been made to the authorized issuers which was required to have been made pursuant to such certificate or certificates; provided, however, that no person, including such authorized issuers or the holders of revenue bonds, shall have any lien on moneys on deposit in the revenue bond tax fund. Any agreement entered into pursuant to section sixty-eight-c of this chapter related to any payment authorized by this

section shall be executory only to the extent of such revenues available to the state in such fund. Notwithstanding subdivisions two and three of this section, in the event the aggregate of all cash requirements certified to the state comptroller as required by such authorized issuers to be set aside pursuant to paragraph (b) of this subdivision for the fiscal year beginning on April first shall not have been appropriated to such authorized issuers in accordance with the schedule specified in the certificate or certificates filed by the director of the budget or, (ii) if, having been so certified and appropriated, any payment required to be made pursuant to paragraph (b) of this subdivision has not been made pursuant to such certificate or certificates, all receipts collected pursuant to section six hundred seventy-one of the tax law**,** [~~and~~] section eight hundred fifty-four of the tax law**, section eight hundred sixty-four of the tax law, and section eight hundred sixty-five of the tax law** shall be deposited in the revenue bond tax fund until the greater of forty percent of the aggregate of the receipts from the imposition of (A) the personal income tax imposed by article twenty-two of the tax law**,** [~~and~~] (B) the employer compensation expense tax imposed by article twenty-four of the tax law**, and (C) the pass-through entity tax imposed by article twenty-four-A of the tax law** for the fiscal year beginning on April first and as specified in the certificate or certificates filed by the director of the budget pursuant to this paragraph or a total of twelve billion dollars has been deposited in the revenue bond tax fund. Notwithstanding any other provision of law, if the state has appropriated and paid to the authorized issuers the amounts necessary for the authorized issuers to meet their requirements for the current fiscal year pursuant to the certificate or certificates submitted by the director of the budget pursuant to paragraph (b) of this section, the state comptroller shall, on the last day of each fiscal year, pay to the general fund of the state all sums remaining in the revenue bond tax fund on such date except such amounts as the director of the budget may certify are needed to meet the cash requirements of authorized issuers during the subsequent fiscal year.

§ 7. Subdivision 5 of section 68-c of the state finance law, as amended by section 6 of part MM of chapter 59 of the laws of 2018, is amended to read as follows:

5. Nothing contained in this article shall be deemed to restrict the right of the state to amend, repeal, modify or otherwise alter statutes imposing or relating to the taxes imposed pursuant to article twenty-two**,** [~~and~~] article twenty-four**, and article twenty-four-A** of the tax law. The authorized issuers shall not include within any resolution, contract or agreement with holders of the revenue bonds issued under this article any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter the taxes imposed pursuant to article twenty-two**,** [~~and~~] article twenty-four**, and article twenty-four-A** of the tax law.

§ 8. This act shall take effect immediately and shall apply to all taxable years beginning on or after January 1, 2021; provided, however, that the amendments to subdivision 1 of section 171-a of the tax law made by section four of this act shall not affect the expiration of such subdivision and shall expire therewith, when upon such date the provisions of section five of this act shall take effect.

PART D

Section 1. Section 352 of the economic development law is amended by adding two new subdivisions 5-a and 13-a to read as follows:

5-a. "Child care services" means those services undertaken or sponsored by a participant in this program meeting the requirements of "child day care" as defined in paragraph (a) of subdivision one of section three hundred ninety of the social services law or any child care services in the city of New York whereby a permit to operate such child care services is required pursuant to the health code of the city of New York.

13-a. "Net new child care services expenditures" means the calculation of new, annual participant expenditures on child care services whether internal or provided by a third party (including coverage for full or partial discount of employee rates), minus any revenues received by the participant through a third-party operator (i.e. rent paid to the participant by the child care provider) or employees and may be further defined by the commissioner in regulations. For the purposes of this definition, expenditures for child care services that a participant has incurred prior to admission to this program shall not be eligible for the credit.

§ 2. Paragraphs (k) and (l) of subdivision 1 of section 353 of the economic development law, as amended by section 2 of part L of chapter 59 of the laws of 2020, are amended and a new paragraph (m) is added to read as follows:

(k) as a life sciences company; [~~or~~]

(l) as a company operating in one of the industries listed in paragraphs (b) through (e) of this subdivision and engaging in a green project as defined in section three hundred fifty-two of this article[~~.~~]**; or**

(m) as an employer operating or sponsoring child care services to its employees as defined in section three hundred fifty-two of this article.

§ 2-a. Subdivision 3 of section 354 of the economic development law, as amended by section 3 of part G of chapter 61 of the laws of 2011, is amended to read as follows:

3. **(i)** After reviewing a business enterprise's completed application and determining that the business enterprise will meet the conditions set forth in subdivisions three and four of section three hundred fifty-three of this article, the department may admit the applicant into the program and provide the applicant with a certificate of eligibility and a preliminary schedule of benefits by year based on the applicant's projections as set forth in its application. This preliminary schedule of benefits delineates the maximum possible benefits an applicant may receive.

(ii) Notwithstanding paragraph (i) of this subdivision, however, a participant operating or sponsoring child care services to its employees as defined in paragraph (m) of subdivision one of section three hundred fifty-three of this article that has been accepted into the program and received the certificate of credit shall not be subject to additional application, review, and approval process to the program required in this section and section three hundred fifty-three of this article if such a participant is applying the tax credit for excelsior investment tax credit on the basis of net new child care services expenditures as defined in subdivision thirteen-a of section three hundred fifty-two of this article. The commissioner shall issue the certificate of tax credit as soon as practicable so that the participant may claim the investment tax credit for child care service in the same taxable year.

§ 3. Subdivisions 2 and 6 of section 355 of the economic development law, subdivision 2 as amended by section 4 of part L of chapter 59 of the laws of 2020 and subdivision 6 as amended by section 4 of part K of chapter 59 of the laws of 2015, are amended and a new subdivision 2-a is added to read as follows:

2. Excelsior investment tax credit component. A participant in the excelsior jobs program shall be eligible to claim a credit on qualified investments. In a project that is not a green project, the credit shall be equal to two percent of the cost or other basis for federal income tax purposes of the qualified investment. In a green project, the credit shall be equal to five percent of the cost or other basis for federal income tax purposes of the qualified investment. **In a project for child care services, the credit shall be equal to five percent of the cost or other basis for federal income tax purposes of the qualified investment in child care services.** A participant may not claim both the excelsior investment tax credit component and the investment tax credit set forth in subdivision one of section two hundred ten-B, subsection (a) of section six hundred six, the former subsection (i) of section fourteen hundred fifty-six, or subdivision (q) of section fifteen hundred eleven of the tax law for the same property in any taxable year, except that a participant may claim both the excelsior investment tax credit component and the investment tax credit for research and development property. In addition, a taxpayer who or which is qualified to claim the excelsior investment tax credit component and is also qualified to claim the brownfield tangible property credit component under section twenty-one of the tax law may claim either the excelsior investment tax credit component or such tangible property credit component, but not both with regard to a particular piece of property. A credit may not be claimed until a business enterprise has received a certificate of tax credit, provided that qualified investments made on or after the issuance of the certificate of eligibility but before the issuance of the certificate of tax credit to the business enterprise, may be claimed in the first taxable year for which the business enterprise is allowed to claim the credit. Expenses incurred prior to the date the certificate of eligibility is issued are not eligible to be included in the calculation of the credit.

2-a. Excelsior child care services tax credit component. A participant shall be eligible to claim a credit on its net new child care services expenditures for its operation, sponsorship or direct financial support of a child care services program. The credit shall be equal to six percent of the net new child care services expenditures as defined in this chapter.

6. Claim of tax credit. The business enterprise shall be allowed to claim the credit as prescribed in section thirty-one of the tax law. No costs used by an entertainment company as the basis for the allowance of a tax credit described in this section shall be used by such entertainment company to claim any other credit allowed pursuant to the tax law. **No costs or expenditures for child care services used by a participant to claim the credit as prescribed in section forty-four of the tax law shall be used for the allowance of a tax credit described in this section.**

§ 4. Subdivision (a) of section 31 of the tax law is amended by adding a new paragraph 2-a to read as follows:

(2-a) the excelsior child care services tax credit component;

§ 5. Subdivision (a) of section 44 of the tax law, as added by section 1 of part L of chapter 59 of the laws of 2019, is amended to read as follows:

(a) General. A taxpayer subject to tax under article nine-A, twenty-two, or thirty-three of this chapter shall be allowed a credit against such tax in an amount equal to **two hundred percent of** the portion of the credit that is allowed to the taxpayer under section 45F of the internal revenue code that is attributable to (i) qualified child care expenditures paid or incurred with respect to a qualified child care facility with a situs in the state, and to (ii) qualified child care resource and referral expenditures paid or incurred with respect to the taxpayer's employees working in the state. The credit allowable under this subdivision for any taxable year shall not exceed [~~one hundred fifty~~] **five hundred** thousand dollars. If the entity operating the qualified child care facility is a partnership or a New York S corporation, then such cap shall be applied at the entity level, so the aggregate credit allowed to all the partners or shareholders of such entity in a taxable year does not exceed [~~one hundred fifty~~] **five hundred** thousand dollars.

§ 6. This act shall take effect immediately; provided, however, section five of this act shall apply to taxable years beginning on or after January 1, 2021.

PART E

Section 1. Paragraph (b) of subdivision 2 of section 184 of the tax law, as added by chapter 485 of the laws of 1988, is amended to read as follows:

(b) (1) A corporation classed as a "taxicab" or "omnibus",

(i) which is organized, incorporated or formed under the laws of any other state, country or sovereignty, and

(ii) which neither owns nor leases property in this state in a corporate or organized capacity, nor

(iii) maintains an office in this state in a corporate or organized capacity, but

(iv) which is doing business or employing capital in this state by conducting at least one but fewer than twelve trips into this state during the calendar year, shall [~~annually pay a tax equal to fifteen dollars for each trip conducted into this state~~] **not be taxed under the provisions of this article**. If the only property a corporation owns or leases in this state is a vehicle or vehicles used to conduct trips, it shall not be considered, for purposes of clause (ii) of this subparagraph, to be owning or leasing property in this state.

(2) [~~The commissioner of taxation and finance may prescribe such forms as he may deem necessary to report such tax in a simplified manner.~~

~~(3)~~] For purposes of this subdivision, a corporation classed as a "taxicab" or "omnibus" shall be considered to be conducting a trip into New York state when one of its vehicles enters New York state and transports passengers to, from, or to and from a location in New York state. A corporation shall not be considered to be conducting a trip into New York state if its vehicle only makes incidental stops at locations in the state while in transit from a location outside New York state to another location outside New York state. The number of trips a corporation conducts into New York state shall be calculated by determining the number of trips each vehicle owned, leased or operated by the corporation conducts into New York state and adding those numbers together.

[~~(4) Provided, however, that the provisions of this paragraph shall not apply to any corporation which does not file its franchise tax report in a timely manner (determined with regard to any extension of time for filing).~~]

§ 2. Subdivision 1-A of section 208 of the tax law, as amended by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

1-A. The term "New York S corporation" means, with respect to any taxable year, a corporation subject to tax under this article [~~for which an election is in effect pursuant to~~] **and described in paragraph (i) or (ii) of** subsection (a) of section six hundred sixty of this chapter [~~for such year~~], **and** any such year shall be denominated a "New York S year"[~~, and such election shall be denominated a "New York S election"~~]. The term "New York C corporation" means, with respect to any taxable year, a corporation subject to tax under this article which is not a New York S corporation, and any such year shall be denominated a "New York C year". The term "termination year" means any taxable year of a corporation during which the **corporation's status as a** New York S [~~election~~] **corporation** terminates on a day other than the first day of such year. The portion of the taxable year ending before the first day for which such termination is effective shall be denominated the "S short year", and the portion of such year beginning on such first day shall be denominated the "C short year". The term "New York S termination year" means any termination year which is [~~not~~] also an S termination year for federal purposes.

§ 3. Subdivision 1-B and subparagraph (ii) of the opening paragraph and paragraph (k) of subdivision 9 of section 208 of the tax law are REPEALED.

§ 4. Subparagraph (A) and the opening paragraph of subparagraph (B) of paragraph 5 of subdivision (a) of section 292 of the tax law, as added by section 48 of part A of chapter 389 of the laws of 1997, are amended to read as follows:

(A) In the case of a shareholder of an S corporation,

(i) [~~where the election provided for in~~] **subject to** subsection (a) of section six hundred sixty of this chapter [~~is in effect with respect to such corporation~~], there shall be added to federal unrelated business taxable income an amount equal to the shareholder's pro rata share of the corporation's reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, and

(ii) [~~where such election has not been made with respect to such corporation, there shall be subtracted from federal unrelated business taxable income any items of income of the corporation included therein, and there shall be added to federal unrelated business taxable income any items of loss or deduction included therein, and~~

~~(iii)~~] in the case of a New York S termination year, the amount of any such items of S corporation income, loss, deduction and reductions for taxes shall be adjusted in the manner provided in paragraph two or three of subsection (s) of section six hundred twelve of this chapter.

In the case of a shareholder of a corporation which was, for any of its taxable years beginning after nineteen hundred ninety-seven **and before two thousand twenty-two**, a federal S corporation but a New York C corporation:

§ 5. Paragraph 18 of subsection (b) of section 612 of the tax law, as amended by chapter 606 of the laws of 1984, subparagraph (A) as amended

by chapter 28 of the laws of 1987 and subparagraph (B) as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(18) In the case of a shareholder of an S corporation **as described in subsection (a) of section six hundred sixty**

(A) [~~where the election provided for in subsection (a) of section six hundred sixty is in effect with respect to such corporation,~~] an amount equal to his **or her** pro rata share of the corporation's reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, and

(B) in the case of a New York S termination year, subparagraph (A) of this paragraph shall apply to the amount of reductions for taxes determined under subsection (s) of this section.

§ 6. Paragraph 19 of subsection (b) of section 612 of the tax law is REPEALED.

§ 7. Paragraphs 20 and 21 of subsection (b) of section 612 of the tax law, paragraph 20 as amended by chapter 606 of the laws of 1984 and paragraph 21 as amended by section 70 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

(20) S corporation distributions to the extent not included in federal gross income for the taxable year because of the application of section thirteen hundred sixty-eight, subsection (e) of section thirteen hundred seventy-one or subsection (c) of section thirteen hundred seventy-nine of the internal revenue code which represent income not previously subject to tax under this article because the election provided for in subsection (a) of section six hundred sixty **in effect for taxable years beginning before January first, two thousand twenty-two** had not been made. Any such distribution treated in the manner described in paragraph two of subsection (b) of section thirteen hundred sixty-eight of the internal revenue code for federal income tax purposes shall be treated as ordinary income for purposes of this article.

(21) In relation to the disposition of stock or indebtedness of a corporation which elected under subchapter s of chapter one of the internal revenue code for any taxable year of such corporation beginning, in the case of a corporation taxable under article nine-A of this chapter, after December thirty-first, nineteen hundred eighty **and before January first, two thousand twenty-two**, the amount required to be added to federal adjusted gross income pursuant to subsection (n) of this section.

§ 8. Paragraph 21 of subsection (c) of section 612 of the tax law, as amended by section 70 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(21) In relation to the disposition of stock or indebtedness of a corporation which elected under subchapter s of chapter one of the internal revenue code for any taxable year of such corporation beginning, in the case of a corporation taxable under article nine-A of this chapter, after December thirty-first, nineteen hundred eighty **and before January first, two thousand twenty-two**, the amounts required to be subtracted from federal adjusted gross income pursuant to subsection (n) of this section.

§ 9. Paragraph 22 of subsection (c) of section 612 of the tax law is REPEALED.

§ 10. Subsection (e) of section 612 of the tax law, as amended by chapter 166 of the laws of 1991, paragraph 3 as added by chapter 760 of the laws of 1992, is amended to read as follows:

(e) Modifications of partners and shareholders of S corporations. (1) Partners and shareholders of S corporations [~~which are not New York C~~

~~corporations~~]. The amounts of modifications required to be made under this section by a partner or by a shareholder of an S corporation [~~(other than an S corporation which is a New York C corporation)~~], which relate to partnership or S corporation items of income, gain, loss or deduction shall be determined under section six hundred seventeen and, in the case of a partner of a partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law, under section six hundred seventeen-a of this article.

(2) [~~Shareholders of S corporations which are New York C corporations. In the case of a shareholder of an S corporation which is a New York C corporation, the modifications under this section which relate to the corporation's items of income, loss and deduction shall not apply, except for the modifications provided under paragraph nineteen of subsection (b) and paragraph twenty-two of subsection (c) of this section.~~

~~(3)~~] New York S termination year. In the case of a New York S termination year, the amounts of the modifications required under this section which relate to the S corporation's items of income, loss, deduction and reductions for taxes (as described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code) shall be adjusted in the same manner that the S corporation's items are adjusted under subsection (s) of section six hundred twelve.

§ 11. Subsection (n) of section 612 of the tax law, as amended by section 61 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(n) Where gain or loss is recognized for federal income tax purposes upon the disposition of stock or indebtedness of a corporation electing under subchapter s of chapter one of the internal revenue code

(1) There shall be added to federal adjusted gross income the amount of increase in basis with respect to such stock or indebtedness pursuant to subsection (a) of section thirteen hundred seventy-six of the internal revenue code as such section was in effect for taxable years beginning before January first, nineteen hundred eighty-three and subparagraphs (A) and (B) of paragraph one of subsection (a) of section thirteen hundred sixty-seven of such code, for each taxable year of the corporation beginning, in the case of a corporation taxable under article nine-A of this chapter, after December thirty-first, nineteen hundred eighty **and before January first, two thousand twenty-two**, and in the case of a corporation taxable under **former** article thirty-two of this chapter, after December thirty-first, nineteen hundred ninety-six **and before January first, two thousand fifteen**, for which the election provided for in subsection (a) of section six hundred sixty of this article was not in effect, and

(2) There shall be subtracted from federal adjusted gross income

(A) the amount of reduction in basis with respect to such stock or indebtedness pursuant to subsection (b) of section thirteen hundred seventy-six of the internal revenue code as such section was in effect for taxable years beginning before January first, nineteen hundred eighty-three and subparagraphs (B) and (C) of paragraph two of subsection (a) of section thirteen hundred sixty-seven of such code, for each taxable year of the corporation beginning, in the case of a corporation taxable under article nine-A of this chapter, after December thirty-first, nineteen hundred eighty **and before January first, two thousand twenty-two**, and in the case of a corporation taxable under

former article thirty-two of this chapter, after December thirty-first, nineteen hundred ninety-six and before January first, two thousand fifteen, for which the election provided for in subsection (a) of section six hundred sixty of this article was not in effect and

(B) the amount of any modifications to federal gross income with respect to such stock pursuant to paragraph twenty of subsection (b) of this section.

§ 12. Paragraph 6 of subsection (c) of section 615 of the tax law is REPEALED.

§ 13. Subsection (e) of section 615 of the tax law, as amended by chapter 760 of the laws of 1992, is amended to read as follows:

(e) Modifications of partners and shareholders of S corporations. (1) Partners and shareholders of S corporations [~~which are not New York C corporations~~]. The amounts of modifications under subsection (c) or under paragraph (2) or (3) of subsection (d) required to be made by a partner or by a shareholder of an S corporation [~~(other than an S corporation which is a New York C corporation)~~], with respect to items of deduction of a partnership or S corporation shall be determined under section six hundred seventeen.

(2) [~~Shareholders of S corporations which are New York C corporations. In the case of a shareholder of an S corporation which is a New York C corporation, the modifications under this section which relate to the corporation's items of deduction shall not apply, except for the modification provided under paragraph six of subsection (c).~~

~~(3)~~] New York S termination year. In the case of a New York S termination year, the amounts of the modifications required under this section which relate to the S corporation's items of deduction shall be adjusted in the same manner that the S corporation's items are adjusted under subsection (s) of section six hundred twelve.

§ 14. Subsection (a) of section 617 of the tax law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(a) Partner's and shareholder's modifications. In determining New York adjusted gross income and New York taxable income of a resident partner or a resident shareholder of an S corporation [~~(other than an S corporation which is a New York C corporation)~~], any modification described in subsections (b), (c) or (d) of section six hundred twelve, subsection (c) of section six hundred fifteen or paragraphs (2) or (3) of subsection (d) of such section, which relates to an item of partnership or S corporation income, gain, loss or deduction shall be made in accordance with the partner's distributive share or the shareholder's pro rata share, for federal income tax purposes, of the item to which the modification relates. Where a partner's distributive share or a shareholder's pro rata share of any such item is not required to be taken into account separately for federal income tax purposes, the partner's or shareholder's share of such item shall be determined in accordance with his or her share, for federal income tax purposes, of partnership or S corporation taxable income or loss generally. In the case of a New York S termination year, his or her pro rata share of any such item shall be determined under subsection (s) of section six hundred twelve.

§ 15. Subparagraph (E-1) of paragraph 1 of subsection (b) of section 631 of the tax law, as added by section 3 of part C of chapter 57 of the laws of 2010, is amended to read as follows:

(E-1) in the case of an S corporation [~~for which an election is in effect pursuant~~] subject to subsection (a) of section six hundred sixty of this article that terminates its taxable status in New York, any income or gain recognized on the receipt of payments from an installment

sale contract entered into when the S corporation was subject to tax in New York, allocated in a manner consistent with the applicable methods and rules for allocation under article nine-A or **former article** thirty-two of this chapter, in the year that the S corporation sold its assets.

§ 16. The section heading and paragraph 2 of subsection (a) of section 632 of the tax law, the section heading as amended by chapter 606 of the laws of 1984, and paragraph 2 of subsection (a) as amended by section 71 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

Nonresident partners and [~~electing~~] shareholders of S corporations.

(2) In determining New York source income of a nonresident shareholder of an S corporation [~~where the election provided for in~~] **subject to** subsection (a) of section six hundred sixty of this article [~~is in effect~~], there shall be included only the portion derived from or connected with New York sources of such shareholder's pro rata share of items of S corporation income, loss and deduction entering into his **or her** federal adjusted gross income, increased by reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, as such portion shall be determined under regulations of the commissioner consistent with the applicable methods and rules for allocation under article nine-A of this chapter[~~, regardless of whether or not such item or reduction is included in entire net income under article nine-A for the tax year~~]. If a nonresident is a shareholder in an S corporation [~~where the election provided for in~~] **subject to** subsection (a) of section six hundred sixty of this article [~~is in effect~~], and the S corporation has distributed an installment obligation under section 453(h)(1)(A) of the Internal Revenue Code, then any gain recognized on the receipt of payments from the installment obligation for federal income tax purposes will be treated as New York source income allocated in a manner consistent with the applicable methods and rules for allocation under article nine-A of this chapter in the year that the assets were sold. In addition, if the shareholders of the S corporation have made an election under section 338(h)(10) of the Internal Revenue Code, then any gain recognized on the deemed asset sale for federal income tax purposes will be treated as New York source income allocated in a manner consistent with the applicable methods and rules for allocation under article nine-A of this chapter in the year that the shareholder made the section 338(h)(10) election. For purposes of a section 338(h)(10) election, when a nonresident shareholder exchanges his or her S corporation stock as part of the deemed liquidation, any gain or loss recognized shall be treated as the disposition of an intangible asset and will not increase or offset any gain recognized on the deemed assets sale as a result of the section 338(h)(10) election.

§ 17. Subsection (a) of section 632-a of the tax law, as added by section 1 of part K of chapter 60 of the laws of 2007, is amended to read as follows:

(a) General. If (1) substantially all of the services of a personal service corporation or S corporation are performed for or on behalf of another corporation, partnership, or other entity and (2) the effect of forming or availing of such personal service corporation or S corporation is the avoidance or evasion of New York income tax by reducing the income of, or in the case of a nonresident, reducing the New York source income of, or securing the benefit of any expense, deduction, credit, exclusion, or other allowance for, any employee-owner which would not otherwise be available, then the commissioner may allocate all

income, deductions, credits, exclusions, and other allowances between such personal service corporation or S corporation (even if such personal service corporation or S corporation [~~is taxed under article nine-A of this chapter or~~] is not subject to tax in this state) and its employee-owners, provided such allocation is necessary to prevent avoidance or evasion of New York state income tax or to clearly reflect the source and the amount of the income of the personal service corporation or S corporation or any of its employee-owners.

§ 18. Paragraph 2 and subparagraph (A) of paragraph 4 of subsection (c) of section 658 of the tax law, paragraph 2 as amended by chapter 190 of the laws of 1990, and subparagraph (A) of paragraph 4 as amended by section 72 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

(2) S corporations. Every S corporation [~~for which the election provided for in~~] **subject to** subsection (a) of section six hundred sixty [~~is in effect~~] shall make a return for the taxable year setting forth all items of income, loss and deduction and such other pertinent information as the commissioner of taxation and finance may by regulations and instructions prescribe. Such return shall be filed on or before the fifteenth day of the third month following the close of each taxable year.

(A) General. Every entity which is a partnership, other than a publicly traded partnership as defined in section 7704 of the federal Internal Revenue Code, subchapter K limited liability company or an S corporation [~~for which the election provided for in subsection (a) of section six hundred sixty of this part is in effect~~], which has partners, members or shareholders who are nonresident individuals, as defined under subsection (b) of section six hundred five of this article, or C corporations, and which has any income derived from New York sources, determined in accordance with the applicable rules of section six hundred thirty-one of this article as in the case of a nonresident individual, shall pay estimated tax on such income on behalf of such partners, members or shareholders in the manner and at the times prescribed by subsection (c) of section six hundred eighty-five of this article. For purposes of this paragraph, the term "estimated tax" shall mean a partner's, member's or shareholder's distributive share or pro rata share of the entity income derived from New York sources, multiplied by the highest rate of tax prescribed by section six hundred one of this article for the taxable year of any partner, member or shareholder who is an individual taxpayer, or paragraph (a) of subdivision one of section two hundred ten of this chapter for the taxable year of any partner, member or shareholder which is a C corporation, whether or not such C corporation is subject to tax under article nine, nine-A or thirty-three of this chapter, and reduced by the distributive share or pro rata share of any credits determined under section one hundred eighty-seven, one hundred eighty-seven-a, six hundred six or fifteen hundred eleven of this chapter, whichever is applicable, derived from the entity.

§ 19. Section 660 of the tax law, as amended by chapter 606 of the laws of 1984, subsections (a) and (h) as amended by section 73 of part A of chapter 59 of the laws of 2014, paragraph 3 of subsection (b) as amended by section 51, paragraphs 4 and 5 of subsection (b) as added and paragraph 6 of subsection (b) as renumbered by section 52 and subsections (e) and (f) as added and subsection (g) as relettered by section 53 of part A of chapter 389 of the laws of 1997, subsection (d) as added by chapter 760 of the laws of 1992, subsection (i) as added by section 1 of part L of chapter 60 of the laws of 2007 and paragraph 1 of

subsection (i) as amended by section 39 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

§ 660. [~~Election by shareholders of S corporations~~] Tax treatment of federal S corporations. (a) [~~Election.~~] If a corporation is an eligible S corporation, the shareholders of the corporation [~~may elect in the manner set forth in subsection (b) of this section to~~] shall take into account, to the extent provided for in this article (or in article thirteen of this chapter, in the case of a shareholder which is a taxpayer under such article), the S corporation items of income, loss, deduction and reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code which are taken into account for federal income tax purposes for the taxable year. [~~No election under this subsection shall be effective unless all shareholders of the corporation have so elected.~~] An eligible S corporation is (i) [~~an S~~] a corporation that has elected to be an S corporation for federal income tax purposes pursuant to section thirteen hundred sixty-two of the internal revenue code which is subject to tax under article nine-A of this chapter, or (ii) [~~an S~~] a corporation that has elected to be an S corporation for federal income tax purposes pursuant to section thirteen hundred sixty-two of the internal revenue code which is the parent of a qualified subchapter S subsidiary as defined in subparagraph (B) of paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code subject to tax under article nine-A[~~, where the shareholders of such parent corporation are entitled to make the election under this subsection by reason of subparagraph three of paragraph (k) of subdivision nine of section two hundred eight~~] of this chapter.

(b) [~~Requirements of election. An election under subsection (a) of this section shall be made on such form and in such manner as the tax commission may prescribe by regulation or instruction.~~

~~(1) When made. An election under subsection (a) of this section may be made at any time during the preceding taxable year of the corporation or at any time during the taxable year of the corporation and on or before the fifteenth day of the third month of such taxable year.~~

~~(2) Certain elections made during first two and one-half months. If an election made under subsection (a) of this section is made for any taxable year of the corporation during such year and on or before the fifteenth day of the third month of such year, such election shall be treated as made for the following taxable year if~~

~~(A) on one or more days in such taxable year before the day on which the election was made the corporation did not meet the requirements of subsection (b) of section thirteen hundred sixty-one of the internal revenue code or~~

~~(B) one or more of the shareholders who held stock in the corporation during such taxable year and before the election was made did not consent to the election.~~

~~(3) Elections made after first two and one-half months. If an election under subsection (a) of this section is made for any taxable year of the corporation and such election is made after the fifteenth day of the third month of such taxable year and on or before the fifteenth day of the third month of the following taxable year, such election shall be treated as made for the following taxable year.~~

~~(4) Taxable years of two and one-half months or less. For purposes of this subsection, an election for a taxable year made not later than two months and fifteen days after the first day of the taxable year shall be treated as timely made during such year.~~

~~(5) Authority to treat late elections, etc., as timely. If (A) an election under subsection (a) of this section is made for any taxable year (determined without regard to paragraph three of this subsection) after the date prescribed by this subsection for making such election for such taxable year, or if no such election is made for any taxable year, and~~

~~(B) the commissioner determines that there was reasonable cause for failure to timely make such election, then~~

~~(C) the commissioner may treat such an election as timely made for such taxable year (and paragraph three of this subsection shall not apply).~~

~~(6) Years for which effective. An election under subsection (a) of this section shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation until such election is terminated under subsection (c) of this section.~~

~~(c)~~] Termination. An [~~election under~~] **eligible S corporation shall cease to be subject to** subsection (a) of this section [~~shall cease to be effective~~

~~(1)~~] on the day an election to be an S corporation ceases to be effective for federal income tax purposes pursuant to subsection (d) of section thirteen hundred sixty-two of the internal revenue code[~~, or~~

~~(2) if shareholders holding more than one-half of the shares of stock of the corporation on the day on which the revocation is made revoke such election in the manner the tax commission may prescribe by regulation,~~

~~(A) on the first day of the taxable year of the corporation, if the revocation is made during such taxable year and on or before the fifteenth day of the third month thereof, or~~

~~(B) on the first day of the following taxable year of the corporation, if the revocation is made during the taxable year but after the fifteenth day of the third month thereof, or~~

~~(C) on and after the date so specified, if the revocation specifies a date for revocation which is on or after the day on which the revocation is made, or~~

~~(3) if any person who was not a shareholder of the corporation on the day on which the election is made becomes a shareholder in the corporation and affirmatively refuses to consent to such election in the manner the tax commission may prescribe by regulation, on the day such person becomes a shareholder~~].

[~~(d)~~] **(c)** New York S termination year. In the case of a New York S termination year, the amount of any item of S corporation income, loss and deduction and reductions for taxes (as described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code) required to be taken account of under this article shall be adjusted in the same manner that the S corporation's items which are included in the shareholder's federal adjusted gross income are adjusted under subsection (s) of section six hundred twelve.

[~~(e) Inadvertent invalid elections. If (1) an election under subsection (a) of this section was not effective for the taxable year for which made (determined without regard to paragraph two of subsection (b) of this section) by reason of a failure to obtain shareholder consents,~~

~~(2) the commissioner determines that the circumstances resulting in such ineffectiveness were inadvertent,~~

~~(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness, steps were taken to acquire the required shareholder consents, and~~

~~(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as a New York S corporation) as may be required by the commissioner with respect to such period,~~

~~(5) then, notwithstanding the circumstances resulting in such ineffectiveness, such corporation shall be treated as a New York S corporation during the period specified by the commissioner.~~

~~(f)~~] (d) Qualified subchapter S subsidiaries. If an S corporation has elected to treat its wholly owned subsidiary as a qualified subchapter S subsidiary for federal income tax purposes under paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code, such election shall be applicable for New York state tax purposes and

(1) the assets, liabilities, income, deductions, property, payroll, receipts, capital, credits, and all other tax attributes and elements of economic activity of the subsidiary shall be deemed to be those of the parent corporation,

(2) transactions between the parent corporation and the subsidiary, including the payment of interest and dividends, shall not be taken into account, and

(3) general executive officers of the subsidiary shall be deemed to be general executive officers of the parent corporation.

(e) Validated federal elections. If [~~(1) an election under subsection (a) of this section was made for a taxable year or years of a corporation, which years occur with or within the period for which~~] the federal S election of [~~such~~] an eligible S corporation has been validated pursuant to the provisions of subsection (f) of section thirteen hundred sixty-two of the internal revenue code, [~~and~~

~~(2) the corporation, and each person who was a shareholder in the corporation at any time during such taxable year or years agrees to make such adjustments (consistent with the treatment of the corporation as a New York S corporation) as may be required by the commissioner with respect to such year or years,~~

~~(3) then~~] such corporation shall be treated as [~~a New York~~] an eligible S corporation subject to subsection (a) of this section during [~~such~~] the year or years for which such election has been validated.

[~~(g) Transitional rule. Any election made under this section (as in effect for taxable years beginning before January first, nineteen hundred eighty-three) shall be treated as an election made under subsection (a) of this section.~~

~~(h) Cross reference. For definitions relating to S corporations, see subdivision one-A of section two hundred eight of this chapter.~~

~~(i) Mandated New York S corporation election. (1) Notwithstanding the provisions in subsection (a) of this section, in the case of an eligible S corporation for which the election under subsection (a) of this section is not in effect for the current taxable year, the shareholders of an eligible S corporation are deemed to have made that election effective for the eligible S corporation's entire current taxable year, if the eligible S corporation's investment income for the current taxable year is more than fifty percent of its federal gross income for such year. In determining whether an eligible S corporation is deemed to have made that election, the income of a qualified subchapter S subsidiary~~

~~owned directly or indirectly by the eligible S corporation shall be included with the income of the eligible S corporation.~~

~~(2) For the purposes of this subsection, the term "eligible S corporation" has the same definition as in subsection (a) of this section.~~

~~(3) For the purposes of this subsection, the term "investment income" means the sum of an eligible S corporation's gross income from interest, dividends, royalties, annuities, rents and gains derived from dealings in property, including the corporation's share of such items from a partnership, estate or trust, to the extent such items would be includable in federal gross income for the taxable year.~~

~~(4) Estimated tax payments. When making estimated tax payments required to be made under this chapter in the current tax year, the eligible S corporation and its shareholders may rely on the eligible S corporation's filing status for the prior year. If the eligible S corporation's filing status changes from the prior tax year the corporation or the shareholders, as the case may be, which made the payments shall be entitled to a refund of such estimated tax payments. No additions to tax with respect to any required declarations or payments of estimated tax imposed under this chapter shall be imposed on the corporation or shareholders, whichever is the taxpayer for the current taxable year, if the corporation or the shareholders file such declarations and make such estimated tax payments by January fifteenth of the following calendar year, regardless of whether the taxpayer's tax year is a calendar or a fiscal year.~~]

§ 20. Transition rules. Any prior net operating loss conversion subtraction and net operating loss carryforward that otherwise would have been allowed under subparagraphs (viii) and (ix), respectively, of paragraph (a) of subdivision 1 of section 210 of the tax law for the taxable years beginning on or after January 1, 2022 to any taxpayer that was a New York C corporation for a taxable year beginning on or after January 1, 2021 and before January 1, 2022, and that becomes a New York S corporation for a taxable year beginning on or after January 1, 2022 as a result of the amendments made by this act, shall be held in abeyance and be available to such taxpayer if its election to be a federal S corporation is terminated. Further, any credit carryforwards allowed to such a taxpayer under section 210-B of the tax law shall be held in abeyance and be available to such taxpayer if its election to be a federal S corporation is terminated. However, the taxpayer's years as a New York S corporation shall be counted for purposes of computing any time period applicable to the allowance of the prior net operating loss conversion subtraction or carryforward, the net operating loss deduction, or any credit carryforward.

§ 21. This act shall take effect immediately, provided, however, that section one shall apply to taxable years beginning on or after January 1, 2021 and sections two through twenty shall apply to taxable years beginning on or after January 1, 2022.

PART F

Section 1. Paragraph 5 of subdivision (a) of section 24 of the tax law, as amended by section 5-a of part M of chapter 59 of the laws of 2020, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand [~~twenty-five~~] **twenty-six**, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a

member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) by a qualified film production company or a qualified independent film production company for services performed by those individuals in one of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand [~~twenty-five~~] twenty-six of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of film production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section thirty-one of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand [~~twenty-five~~] twenty-six.

§ 2. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 5-b of part M of chapter 59 of the laws of 2020, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand [~~twenty-five~~] twenty-six provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in two thousand thirteen and two thousand fourteen, twenty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand [~~twenty-five~~] twenty-six and five million dollars of the annual allocation shall be made available for the television writers' and directors' fees and salaries credit pursuant to section twenty-four-b of this article in each year starting in two thousand twenty through two thousand [~~twenty-five~~] twenty-six. This amount shall

be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film production tax credit pursuant to this section is insufficient to utilize the balance of unallocated film production tax credits from such pool, then all or part of the remainder, after such pending applications are considered, shall be made available for allocation for the empire state film post production credit pursuant to this section, subdivision thirty-two of section two hundred ten-B and subsection (qq) of section six hundred six of this chapter. The governor's office for motion picture and television development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of the taxable year the production of the qualified film is complete, or the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development.

§ 3. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 2 of part SSS of chapter 59 of the laws of 2019, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand [~~twenty-four~~] twenty-six provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in two thousand thirteen and two thousand fourteen and twenty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand [~~twenty-four~~] twenty-six. This amount shall be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants

for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film production tax credit pursuant to this section is insufficient to utilize the balance of unallocated film production tax credits from such pool, then all or part of the remainder, after such pending applications are considered, shall be made available for allocation for the empire state film post production credit pursuant to this section, subdivision thirty-two of section two hundred ten-B and subsection (qq) of section six hundred six of this chapter. The governor's office for motion picture and television development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of the taxable year the production of the qualified film is complete, or the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development.

§ 4. Paragraph 6 of subdivision (a) of section 31 of the tax law, as amended by section 5-c of part M of chapter 59 of the laws of 2020, is amended to read as follows:

(6) For the period two thousand fifteen through two thousand [~~twenty-five~~] **twenty-six**, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) for services performed by those individuals in one of the counties specified in this paragraph in connection with the post production work on a qualified film with a minimum budget of five hundred thousand dollars at a qualified post production facility in one of the counties listed in this paragraph. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, **Columbia,** Cortland, Delaware, **Dutchess,** Erie, Essex, Franklin, Fulton, Genesee, **Greene,** Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, **Orange,** Orleans, Oswego, Otsego, **Putnam, Rensselaer, Saratoga,** Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, **Sullivan,** Tioga, Tompkins, **Ulster, Warren, Washington,** Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two

thousand fifteen through two thousand [~~twenty-five~~] twenty-six of the annual allocation made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of post production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation for two thousand seventeen made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section twenty-four of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand [~~twenty-five~~] twenty-six.

§ 5. Paragraph 3 of subdivision (b) of section 24 of the tax law, as separately amended by sections 3 and 4 of part M of chapter 59 of the laws of 2020, is amended to read as follow:

(3) "Qualified film" means a feature-length film, television film, relocated television production, television pilot or television series, regardless of the medium by means of which the film, pilot or series is created or conveyed. For the purposes of the credit provided by this section only, a "qualified film" [~~with the exception of a television pilot,~~] whose majority of principal photography shooting days in the production of the qualified film are shot in Westchester, Rockland, Nassau, or Suffolk county or any of the five New York City boroughs shall have a minimum budget of one million dollars. A "qualified film", [~~with the exception of a television pilot,~~] whose majority of principal photography shooting days in the production of the qualified film are shot in any other county of the state than those listed in the preceding sentence shall have a minimum budget of two hundred fifty thousand dollars. "Qualified film" shall not include: (i) a documentary film, news or current affairs program, interview or talk program, "how-to" (i.e., instructional) film or program, film or program consisting primarily of stock footage, sporting event or sporting program, game show, award ceremony, film or program intended primarily for industrial, corporate or institutional end-users, fundraising film or program, daytime drama (i.e., daytime "soap opera"), commercials, music videos or "reality" program; (ii) a production for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with respect to sexually explicit conduct); or (iii) other than a relocated television production, a television series commonly known as variety entertainment, variety sketch and variety talk, i.e., a program with components of improvisational or scripted content (monologues, sketches, interviews), either exclusively or in combination with other entertainment elements such as musical performances, dancing, cooking, crafts, pranks, stunts, and games and which may be further defined in regulations of the commissioner of economic development. However, a qualified film shall include a television series as described

in subparagraph (iii) of this paragraph only if an application for such series has been deemed conditionally eligible for the tax credit under this section prior to April first, two thousand twenty, such series remains in continuous production for each season, and an annual application for each season of such series is continually submitted for such series after April first, two thousand twenty.

§ 6. This act shall take effect immediately; provided, however, that the amendments made by section five of this act shall apply to applications that are filed with the governor's office for motion picture and television development on or after April 1, 2021; provided, further, however that the amendments to paragraph 4 of subdivision (e) of section 24 of the tax law made by section two of this act shall take effect on the same date and in the same manner as section 5 of chapter 683 of the laws of 2019, as amended, takes effect.

PART G

Section 1. Paragraph 3 of subsection (v) of section 685 of the tax law, as amended by section 3 of part I of chapter 59 of the laws of 2018, is amended to read as follows:

(3) Failure to provide complete and correct employee withholding reconciliation information. In the case of a failure by an employer to provide complete and correct quarterly withholding information relating to individual employees on a quarterly combined withholding, wage reporting and unemployment insurance return covering each calendar quarter of a year, such employer shall, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, pay a penalty equal to the product of [~~fifty~~] **one hundred** dollars multiplied by the number of employees for whom such information is incomplete or incorrect; provided, however, that if the number of such employees cannot be determined from the quarterly combined withholding, wage reporting and unemployment insurance return, the commissioner may utilize any information in the commissioner's possession in making such determination. The total amount of the penalty imposed pursuant to this paragraph on an employer for any such failure for each calendar quarter of a year shall not exceed [~~ten~~] **twenty** thousand dollars.

§ 2. This act shall take effect immediately and apply to returns filed on or after June 1, 2021.

PART H

Intentionally Omitted

PART I

Intentionally Omitted

PART J

Section 1. Sections 227, 306 and 406, subparagraph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of subdivision 5 of section 1009 of the racing, pari-mutuel, wagering and breeding law are REPEALED.

§ 2. Paragraph 1 of subdivision (f) of section 1105 of the tax law, as amended by chapter 32 of the laws of 2016, is amended to read as follows:

(1) Any admission charge where such admission charge is in excess of ten cents to or for the use of any place of amusement in the state, except charges for admission to [~~race tracks or~~] combative sports which charges are taxed under any other law of this state, or dramatic or musical arts performances, or live circus performances, or motion picture theaters, and except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or a lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

§ 3. Subdivision (a) of section 1109 of the tax law, as amended by section 1 of part BB of chapter 61 of the laws of 2005, is amended to read as follows:

(a) General. In addition to the taxes imposed by sections eleven hundred five and eleven hundred ten of this article, there is hereby imposed within the territorial limits of the metropolitan commuter transportation district created and established pursuant to section twelve hundred sixty-two of the public authorities law, and there shall be paid, additional taxes, at the rate of three-eighths of one percent, which shall be identical to the taxes imposed by sections eleven hundred five and eleven hundred ten of this article. Such sections and the other sections of this article, including the definition and exemption provisions, shall apply for purposes of the taxes imposed by this section in the same manner and with the same force and effect as if the language of those sections had been incorporated in full into this section and had expressly referred to the taxes imposed by this section. **Notwithstanding the foregoing, the tax imposed by this section shall not apply to admissions to race tracks or simulcast facilities.**

§ 4. Intentionally omitted.

§ 5. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by section 2 of part WW, subparagraph (i) as separately amended by section 5 of part Z of chapter 60 of the laws of 2016, is amended to read as follows:

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. **Notwithstanding the foregoing, a tax imposed by a city or county authorized under this subdivision shall not include the tax imposed on charges for admission to race tracks and simulcast facilities under subdivision (f) of section eleven hundred five of this chapter.** (i) Any local law, ordinance or resolution enacted by any city of less than one million or by

any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and all sales of fuel sold for use in commercial aircraft and general aviation aircraft; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) or subdivision (d) of section eleven hundred nineteen of this chapter. (ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee), the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption or such clothing and footwear exemption.

§ 6. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as amended by section 3 of part WW of chapter 60 of the laws of 2016, is amended to read as follows:

(1) Or, one or more of the taxes described in subdivisions (b), (d), (e) and (f) of section eleven hundred five of this chapter, at the same uniform rate, including the transitional provisions in section eleven hundred six of this chapter covering such taxes, but not the taxes described in subdivisions (a) and (c) of section eleven hundred five of this chapter. Provided, further, that where the tax described in subdivision (b) of section eleven hundred five of this chapter is imposed, the compensating use taxes described in clauses (E), (G) and (H) of subdivision (a) of section eleven hundred ten of this chapter shall also be imposed. Provided, further, that where the taxes described in subdivision (b) of section eleven hundred five **of this chapter** are imposed, such taxes shall omit: (A) the provision for refund or credit contained in subdivision (d) of section eleven hundred nineteen of this chapter with respect to such taxes described in such subdivision (b) of section eleven hundred five unless such city or county elects to provide such provision or, if so elected, to repeal such provision; (B) the exemption provided in paragraph two of subdivision (ee) of section eleven hundred fifteen of this chapter unless such county or city elects otherwise; (C) the exemption provided in paragraph two of subdivision (ii) of section eleven hundred fifteen of this chapter, unless such county or city elects otherwise; and (D) the exemption provided in paragraph two of subdivision (kk) of section eleven hundred fifteen of this chapter, unless such county or city elects otherwise**; and provided further that where the tax described in subdivision (f) of such section eleven**

hundred five is imposed, such tax shall not apply to charges for admission to race tracks and simulcast facilities.

§ 7. Notwithstanding any provisions of law to the contrary and notwithstanding the repeal of sections 227, 306 and 406, subparagraph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of subdivision 5 of section 1009 of the racing, pari-mutuel, wagering and breeding law by section one of this act, all provisions of such sections 227, 306 and 406, subparagraph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of subdivision 5 of section 1009, in respect to the imposition, exemption, assessment, payment, payment over, determination, collection, and credit or refund of tax, interest and penalty imposed thereunder, the filing of forms and returns, the preservation of records for the purposes of such tax, the disposition of revenues, and any civil and criminal penalties applicable to the violation of the provisions of such sections 227, 306 and 406, subparagraph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of subdivision 5 of section 1009, shall continue in full force and effect with respect to all such tax accrued for periods prior to the effective date of this act in the same manner as they might if such provisions were not repealed.

§ 8. This act shall take effect November 1, 2021 and shall apply to charges for admissions to race tracks and simulcast facilities on and after such date.

PART K

Section 1. Subdivision (d) of section 1139 of the tax law, as amended by section 10 of subpart D of part VI of chapter 57 of the laws of 2009, is amended to read as follows:

(d) (1) Except in respect to an overpayment made on a return described in paragraph two of subdivision (a) of section eleven hundred thirty-six of this part [~~or on a return described in subdivision (c) of section eleven hundred thirty-seven-A of this part~~], interest shall be allowed and paid upon any refund made or credit allowed pursuant to this section except as otherwise provided in paragraph two of this subdivision or subdivision (e) of this section and except that no interest shall be allowed or paid if the amount thereof would be less than one dollar. Such interest shall be at the overpayment rate set by the commissioner pursuant to section eleven hundred forty-two of this part, or if no rate is set, at the rate of six percent per annum from the date when the tax, penalty or interest refunded or credited was paid to a date preceding the date of the refund check by not more than thirty days, provided, however, that for the purposes of this subdivision any tax paid before the last day prescribed for its payment shall be deemed to have been paid on such last day. In the case of a refund or credit claimed on a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), or claimed on an application for refund or credit, no interest shall be allowed or paid for any day before the date on which the return or application is filed. For purposes of this subdivision, a return or application for refund or credit shall not be treated as filed until it is filed in processible form. A return or application is in a processible form if it is filed on a permitted form, and contains the taxpayer's name, address and identifying number and the required signatures, and sufficient required information (whether on the return or application or on required attachments)

to permit the mathematical verification of tax liability shown on the return or refund or credit claimed on the application.

(2) If a refund is made or a credit is allowed **(i)** within three months after the last date prescribed or permitted by extension of time for filing a return on which the refund or credit was claimed or within three months after the return was filed, whichever is later, or **(ii)** within three months after an application for refund or credit is filed on which that refund or credit was claimed, **or (iii) within three months after the last date prescribed or permitted by extension of time for filing an application for a refund or credit on which that refund or credit was claimed,** no interest will be allowed or paid on that refund or credit.

§ 2. This act shall take effect immediately and shall apply to refund or credit claims submitted on or after March 1, 2022.

PART L

Intentionally Omitted

PART M

Section 1. Subdivision (jj) of section 1115 of the tax law, as amended by section 1 of part V of chapter 59 of the laws of 2019, is amended to read as follows:

(jj) Tangible personal property or services otherwise taxable under this article sold to a related person shall not be subject to the taxes imposed by section eleven hundred five of this article or the compensating use tax imposed under section eleven hundred ten of this article where the purchaser can show that the following conditions have been met to the extent they are applicable: (1)(i) the vendor and the purchaser are referenced as either a "covered company" as described in section 243.2(f) or a "material entity" as described in section 243.2(l) of the Code of Federal Regulations in a resolution plan that has been submitted to an agency of the United States for the purpose of satisfying subparagraph 1 of paragraph (d) of section one hundred sixty-five of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") or any successor law, or (ii) the vendor and the purchaser are separate legal entities pursuant to a divestiture directed pursuant to subparagraph 5 of paragraph (d) of section one hundred sixty-five of such act or any successor law; (2) the sale would not have occurred between such related entities were it not for such resolution plan or divestiture; and (3) in acquiring such property or services, the vendor did not claim an exemption from the tax imposed by this state or another state based on the vendor's intent to resell such services or property. A person is related to another person for purposes of this subdivision if the person bears a relationship to such person described in section two hundred sixty-seven of the internal revenue code. The exemption provided by this subdivision shall not apply to sales made, services rendered, or uses occurring after June thirtieth, two thousand [~~twenty-one~~] **twenty-four**, except with respect to sales made, services rendered, or uses occurring pursuant to binding contracts entered into on or before such date; but in no case shall such exemption apply after June thirtieth, two thousand [~~twenty-four~~] **twenty-seven**.

§ 2. This act shall take effect immediately.

PART N

Section 1. Subparagraph (vi) of paragraph 1 of subdivision (a) of section 1134 of the tax law, as amended by section 160 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(vi) every person described in subparagraph (i), (ii), (iii), (iv) or (v) of this paragraph or every person who is a vendor solely by reason of clause (D), (E) or (F) of subparagraph (i) of paragraph eight of subdivision (b) of section eleven hundred one of this article who or which has had its certificate of authority revoked under paragraph four of this subdivision, shall file with the commissioner a certificate of registration, in a form prescribed by the commissioner, at least twenty days prior to commencing business or opening a new place of business or such purchasing, selling or taking of possession or payment, whichever comes first. Every person who is a vendor solely by reason of clause (D) of subparagraph (i) of paragraph eight of subdivision (b) of section eleven hundred one of this article shall file with the commissioner a certificate of registration, in a form prescribed by such commissioner, within thirty days after the day on which the cumulative total number of occasions that such person came into the state to deliver property or services, for the immediately preceding four quarterly periods ending on the last day of February, May, August and November, exceeds twelve. Every person who is a vendor solely by reason of clause (E) of subparagraph (i) of paragraph eight of subdivision (b) of section eleven hundred one of this article shall file with the commissioner a certificate of registration, in a form prescribed by such commissioner, within thirty days after the day on which the cumulative total, for the immediately preceding four quarterly periods ending on the last day of February, May, August and November, of such person's gross receipts from sales of property delivered in this state exceeds [~~three~~] five hundred thousand dollars and number of such sales exceeds one hundred. Every person who is a vendor solely by reason of clause (F) of subparagraph (i) of paragraph eight of subdivision (b) of section eleven hundred one of this article shall file with the commissioner a certificate of registration, in a form prescribed by such commissioner, within thirty days after the day on which tangible personal property in which such person retains an ownership interest is brought into this state by the person to whom such property is sold, where the person to whom such property is sold becomes or is a resident or uses such property in any manner in carrying on in this state any employment, trade, business or profession. Information with respect to the notice requirements of a purchaser, transferee or assignee and such person's liability pursuant to the provisions of subdivision (c) of section eleven hundred forty-one of this chapter shall be included in or accompany the certificate of registration form furnished the applicant. The commissioner shall also include with such information furnished to each applicant general information about the tax imposed under this article including information on records to be kept, returns and payments, notification requirements and forms. Such certificate of registration may be amended in accordance with rules promulgated by the commissioner.

§ 2. This act shall take effect immediately.

PART O

Section 1. Subdivision (a) of section 1401 of the tax law, as amended by chapter 576 of the laws of 1994, is amended to read as follows:

(a) (1) "Person" means an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate,

receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.

(2) "Person" shall include any individual, corporation, partnership or limited liability company or an officer or employee of any corporation (including a dissolved corporation), or a member or employee of any partnership, or a member, manager or employee of a limited liability company, who as such officer, employee, manager or member is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this article, or has so acted.

§ 2. Subdivision (a) of section 1404 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(a) The real estate transfer tax **imposed pursuant to section fourteen hundred two of this article** shall be paid by the grantor **and such tax shall not be payable, directly or indirectly, by the grantee except as provided in a contract between grantor and grantee or as otherwise provided in this section**. If the grantor has failed to pay the tax imposed by this article at the time required by section fourteen hundred ten of this article or if the grantor is exempt from such tax, the grantee shall have the duty to pay the tax. Where the grantee has the duty to pay the tax because the grantor has failed to pay, such tax shall be the joint and several liability of the grantor and the grantee**; provided that in the event of such failure, the grantee shall have a cause of action against the grantor for recovery of payment of such tax, interest and penalties by the grantee**. **In the case of a conveyance of residential real property as defined in subdivision (a) of section fourteen hundred two-a of this article, if the tax imposed by this article is paid by the grantee pursuant to a contract between the grantor and the grantee, the amount of such tax shall be excluded from the calculation of consideration subject to tax under this article.**

§ 3. Subdivision (a) of section 1409 of the tax law, as amended

§ 3. Subdivision (a) of section 1409 of the tax law, as amended by chapter 297 of the laws of 2019, is amended to read as follows:

(a) **(1)** A joint return shall be filed by both the grantor and the grantee for each conveyance whether or not a tax is due thereon other than a conveyance of an easement or license to a public utility as defined in subdivision two of section one hundred eighty-six-a of this chapter or to a public utility which is a provider of telecommunication services as defined in subdivision one of section one hundred eighty-six-e of this chapter, where the consideration is two dollars or less and is clearly stated as actual consideration in the instrument of conveyance.

(2) When the grantor or grantee of a deed for **a building used as** residential real property containing [~~one to four~~] **up to four** family dwelling units is a limited liability company, the joint return shall not be accepted for filing unless it is accompanied by a document which identifies the names and business addresses of all members, managers, and any other authorized persons, if any, of such limited liability company and the names and business addresses or, if none, the business addresses of all shareholders, directors, officers, members, managers and partners of any limited liability company or other business entity that are to be the members, managers or authorized persons, if any, of such limited liability company. The identification of such names and addresses shall not be deemed an unwarranted invasion of personal priva-

cy pursuant to article six of the public officers law. If any such member, manager or authorized person of the limited liability company is itself a limited liability company or other business entity **other than a publicly traded entity, a REIT, a UPREIT, or a mutual fund**, the names and addresses of the shareholders, directors, officers, members, managers and partners of the limited liability company or other business entity shall also be disclosed until full disclosure of ultimate ownership by natural persons is achieved. For purposes of this subdivision, the terms "members", "managers", "authorized person", "limited liability company" and "other business entity" shall have the same meaning as those terms are defined in section one hundred two of the limited liability company law.

(3) The return shall be filed with the recording officer before the instrument effecting the conveyance may be recorded. However, if the tax is paid to the commissioner pursuant to section fourteen hundred ten of this article, the return shall be filed with such commissioner at the time the tax is paid. In that instance, a receipt evidencing the filing of the return and the payment of tax shall be filed with the recording officer before the instrument effecting the conveyance may be recorded. The recording officer shall handle such receipt in the same manner as a return filed with the recording officer.

§ 4. Subdivision (h) of section 1418 of the tax law, as added by section 7 of part X of chapter 56 of the laws of 2010 and as further amended by subdivision (c) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

(h) Notwithstanding the provisions of subdivision (a) of this section, the commissioner may furnish information relating to real property transfers obtained or derived from returns filed pursuant to this article in relation to the real estate transfer tax, to the extent that such information is also required to be reported to the commissioner by section three hundred thirty-three of the real property law and section five hundred seventy-four of the real property tax law and the rules adopted thereunder, provided such information was collected through a combined process established pursuant to an agreement entered into with the commissioner pursuant to paragraph viii of subdivision one-e of section three hundred thirty-three of the real property law. The commissioner may redisclose such information to the extent authorized by section five hundred seventy-four of the real property tax law. **The commissioner may also disclose any information reported pursuant to paragraph two of subdivision (a) of section fourteen hundred nine of this article.**

§ 5. This act shall take effect immediately; provided however that sections one and two of this act shall take effect July 1, 2021, and shall apply to conveyances occurring on or after such date other than conveyances that are made pursuant to binding written contracts entered into on or before April 1, 2021, provided that the date of execution of such contract is confirmed by independent evidence, such as the recording of the contract, payment of a deposit or other facts and circumstances as determined by the commissioner of taxation and finance.

PART P

Section 1. Section 480-a of the tax law is amended by adding a new subdivision 6 to read as follows:

6. (a) No retail dealer who has its retail dealer registration cancelled, suspended or revoked pursuant to this section or has been

forbidden from selling cigarettes or tobacco products pursuant to paragraph (j) of subdivision one of section four hundred eighty of this article shall possess cigarettes or tobacco products in any place of business, cart, stand, truck or other merchandising device in this state beginning on the tenth day after such cancellation, suspension, revocation, or forbiddance and continuing for the duration of the same; provided however, such retail dealer shall not be prohibited before the tenth day after such cancellation, suspension, revocation, or forbiddance from selling or transferring its inventory of lawfully stamped cigarettes or tobacco products on which the taxes imposed by this article have been assumed or paid to a properly registered retail dealer whose registration is not cancelled, suspended, or revoked or who has not been forbidden from selling cigarettes or tobacco products.

(b) No retail dealer shall possess cigarettes or tobacco products in any place of business, cart, stand, truck or other merchandising device in this state unless it has obtained a valid retail dealer registration from the commissioner.

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

§ 4. Any retail dealer who, prior to the effective date of this act, had its retail dealer registration cancelled, suspended, or revoked pursuant to section four hundred eighty-a of the tax law or was forbidden from selling cigarettes or tobacco products pursuant to paragraph (j) of subdivision one of section four hundred eighty of the tax law and such cancellation, suspension, revocation, or forbiddance remains in effect as of the effective date of this act, shall be prohibited from possessing cigarettes and tobacco products beginning on the tenth day after the effective date of this act and continuing for as long as such cancellation, suspension, revocation, or forbiddance shall remain in effect; provided however, such retail dealer shall not be prohibited before the tenth day after the effective date of this act from selling or transferring its inventory of lawfully stamped cigarettes or tobacco products on which the taxes imposed by this article have been assumed or paid to a properly registered retail dealer whose registration is not cancelled, suspended, or revoked or who has not been forbidden from selling cigarettes or tobacco products.

§ 5. This act shall take effect immediately.

PART Q

Section 1. Subdivision 1 of section 429 of the tax law, as amended by chapter 433 of the laws of 1978, is amended to read as follows:

1. Every distributor, noncommercial importer or other person shall, on or before the twentieth day of each month, file with the department of taxation and finance a return, on forms to be prescribed by the [~~tax commission~~] commissioner and furnished by such department, stating separately the number of gallons, or lesser quantity, of beers, and the number of liters, or lesser quantity, of wines and liquors sold or used by such distributor, noncommercial importer or other person in this state during the preceding calendar month, except that the [~~tax commission~~] commissioner may, if [~~it~~] he or she deems it necessary [~~in order~~] to [~~insure~~] facilitate the efficient reporting and payment of the tax imposed by this article, require returns to be made at such times and covering such periods as [~~it~~] he or she may deem necessary. Such return shall contain such further information as the [~~tax commission~~] commissioner shall require. The fact that the name of the distributor, noncommercial importer or other person is signed to a filed return shall be

prima facie evidence for all purposes that the return was actually signed by such distributor, noncommercial importer or other person.

§ 2. Section 505 of the tax law, as amended by section 2 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

§ 505. Returns. Every carrier subject to this article and every carrier to whom a certificate of registration was issued shall file on or before the last day of each month a return for the preceding calendar month where a carrier's total tax liability under this article for the preceding calendar year exceeded [~~four~~] twelve thousand dollars. Where a carrier's total tax liability under this article for the preceding calendar year did not exceed [~~four~~] twelve thousand dollars or where a carrier was not subject to such tax in the preceding calendar year, returns shall be filed quarterly, on or before the last day of the calendar month following each of the calendar quarters: January through March, April through June, July through September and October through December. Provided, however, if the commissioner consents thereto in writing, any carrier may file a return on or before the thirtieth day after the close of any different period, if the carrier's books are regularly kept on a periodic basis other than a calendar month or quarter. The commissioner may permit the filing of returns on an annual basis, provided the carrier was subject to the tax under this article during the entire preceding calendar year and the carrier's total tax liability under this article for such year did not exceed [~~two hundred fifty~~] twelve hundred dollars. Such annual returns shall be filed on or before January thirty-first of the succeeding calendar year. Returns shall be filed with the commissioner on forms to be furnished by such commissioner for such purpose and shall contain such data, information or matter as the commissioner may require to be included therein. The fact that a carrier's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by such carrier. The commissioner may grant a reasonable extension of time for filing returns whenever good cause exists and may waive the filing of returns if a carrier is not subject to the tax imposed by this article for the period covered by the return. Every return shall have annexed thereto a certification to the effect that the statements contained therein are true.

§ 3. This act shall take effect immediately; provided, however, that section two of this act shall apply to tax returns for taxable periods beginning on or after January 1, 2022.

PART R

Section 1. Section 1280 of the tax law is amended by adding a new subdivision (v) to read as follows:

(v) "Technology service provider" or "TSP" means a person that acts by employment, contract or otherwise on behalf of one or more taxicab owners or HAIL vehicle owners to collect the trip record for a taxicab trip or HAIL vehicle trip.

§ 2. Subdivision (b) of section 1283 of the tax law, as amended by chapter 9 of the laws of 2012, is amended to read as follows:

(b) (1) If the taxicab owner has designated an agent, then the agent shall be jointly liable with the taxicab owner for the tax on trips occurring during the period that such designation is in effect. Even if the TLC has specified that the taxicab owner's agent cannot operate as an agent, that agent shall be jointly liable with the taxicab owner if the agent has acted for the taxicab owner. During the period that a

taxicab owner's designation of an agent is in effect, the agent shall file the returns required by this article and pay any tax due with such return, but the taxicab owner shall not be relieved of liability for tax, penalty or interest due under this article, or for the filing of returns required to be filed, unless the agent has timely filed accurate returns and timely paid the tax required to be paid under this article. If a taxicab owner has designated an agent, then the agent must perform any act this article requires the taxicab owner to perform, but the failure of such agent to perform any such act shall not relieve the taxicab owner from the obligation to perform such act or from any liability that may arise from failure to perform the act.

(2) (A) Notwithstanding the foregoing, a TSP that collects the trip record and the trip fare on behalf of a taxicab owner or a HAIL vehicle owner shall be jointly liable with the taxicab owner or HAIL vehicle owner for the tax due on such trips. For any period that the TSP collects trip records on behalf of a taxicab owner or HAIL vehicle owner, the TSP shall file returns reporting all trip records and, after retaining any fees to which it is entitled pursuant to a contract with such taxicab owner or HAIL vehicle owner, shall remit the taxes due on all fares collected by the TSP.

(B) The TSP, after retaining the fees described in subparagraph (A) of this paragraph, shall also remit the taxes due on any taxicab trip or HAIL vehicle trip for which it maintained the trip record but did not collect the fare, from any fares it collected on behalf of any such taxicab owner or HAIL vehicle owner, before it releases any proceeds to the taxicab owner or HAIL vehicle owner. If the TSP fails to comply with the requirements of this subparagraph, such TSP shall be liable for the taxes due on such trips up to the amount it released to the taxicab owner or HAIL vehicle owner, or any person on behalf of such taxicab owner or HAIL vehicle owner. However, the taxicab owner, HAIL vehicle owner or their agents shall not be relieved of any liability for the tax, penalty or interest due under this article, or for filing of returns required to be filed, unless the TSP has timely filed accurate returns and timely paid the tax required to be paid under this article.

§ 3. Subdivision (a) of section 1299-B of the tax law, as added by section 2 of part NNN of chapter 59 of the laws of 2018, is amended to read as follows:

(a) Notwithstanding any provision of law to the contrary, any person that dispatches a motor vehicle by any means that provides transportation that is subject to a surcharge imposed by this article, including transportation network companies as defined in article forty-four-B of the vehicle and traffic law, shall be liable for the surcharge imposed by this article, except that in the case of taxicab trips and HAIL vehicle trips that are also subject to tax pursuant to article twenty-nine-A of this chapter[~~, only the taxicab owner or HAIL base liable for that tax shall be the person liable for the surcharge imposed by this article~~]: **(1) the TSP shall be liable for the surcharge imposed by this article for all trips for which the TSP collected the trip record and the surcharge, and shall be responsible for filing returns; and, after retaining any fees to which it is entitled pursuant to a contract with such taxicab owner or HAIL vehicle owner, shall remit the surcharges on such trips to the department.**

(2) the TSP, after retaining the fees described in paragraph one of this subdivision, shall also remit the surcharges due on any taxicab trip or HAIL vehicle trip for which it maintained the trip record but did not collect the fare, from any fares it collected on behalf of any

such taxicab owner or HAIL vehicle owner, before it releases any proceeds to the taxicab owner or HAIL vehicle owner. Whenever the TSP fails to comply with the requirements of the preceding sentence, the TSP shall be liable for the surcharges due on such trips up to the amount it released to the taxicab owner or HAIL vehicle owner, or any person on behalf of such taxicab owner or HAIL vehicle owner. However, the taxicab owner or HAIL base shall be jointly and severally liable with the TSP for such surcharges. For purposes of this section, the terms "taxicab trips," "HAIL vehicle trips," "taxicab owner," [~~and~~] "HAIL base", and "TSP" shall have the same meaning as they do in section twelve hundred eighty of this chapter.

§ 4. Section 1299-F of the tax law is amended by adding a new subdivision (e) to read as follows:

(e) Notwithstanding the provisions of subdivision (a) of this section, the commissioner may, in his or her discretion, permit the proper officer of the taxi and limousine commission of the city of New York (TLC) or the duly authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or such officer's authorized representative an abstract of any such return or supply such person with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article; but such permission shall be granted or such information furnished only if the TLC shall have furnished the commissioner with all information requested by the commissioner pursuant to this article and shall have permitted the commissioner or the commissioner's authorized representative to make any inspection of any records or reports concerning for-hire transportation trips subject to the surcharge imposed by this article, and any persons required to collect such surcharge, filed with or possessed by the TLC that the commissioner may have requested from the TLC. Provided, further, that the commissioner may disclose to the TLC whether or not a person liable for the surcharge imposed by this article has paid all of the surcharges due under this article as of any given date.

§ 5. This act shall take effect immediately and shall apply to trips occurring on or after July 1, 2021.

PART S

Section 1. Paragraph 1 of subdivision (g) of section 32 of the tax law, as added by section 2 of part VV of chapter 59 of the laws of 2009, is amended to read as follows:

(1) If a tax return preparer or facilitator is required to register or re-register with the department pursuant to paragraph one or three of subdivision (b) of this section, as applicable, and fails to do so in accordance with the terms of this section, then the tax return preparer [~~of~~] or facilitator must pay a penalty of [~~two~~] up to five hundred [~~fifty~~] dollars. Provided, however, that if the tax return preparer or facilitator complies with the registration requirements of this section within [~~ninety~~] thirty calendar days after notification of assessment of this penalty is sent by the department, then this penalty must be abated. If the tax return preparer or facilitator continues to fail to register or re-register after the [~~ninety~~] thirty calendar day period, the tax return preparer or facilitator must pay an additional penalty of five hundred dollars if the failure is for not more than one month, with an additional five hundred dollars for each additional month or fraction thereof during which the failure continues. Once the [~~ninety~~] thirty

calendar days specified in this paragraph have expired, the penalty can be waived only for good cause shown by the tax return preparer or facilitator.

§ 2. Paragraph 2 of subdivision (g) of section 32 of the tax law, as added by section 2 of part VV of chapter 59 of the laws of 2009, is amended to read as follows:

(2) If a commercial tax return preparer fails to pay the fee as required in paragraph one of subdivision (c) of this section, for a calendar year, then the commercial tax return preparer must pay a penalty of fifty dollars for each return the commercial tax return preparer has filed with the department in that calendar year. Provided however, that if the commercial tax return preparer complies with the payment requirements of paragraph one of subdivision (c) of this section, within [~~ninety~~] thirty calendar days after notification of the assessment of this penalty is sent by the department, then this penalty must be abated. The maximum penalty that may be imposed under this paragraph on any commercial tax return preparer during any calendar year must not exceed [~~five~~] ten thousand dollars. Once the [~~ninety~~] thirty calendar days specified in this paragraph have expired, the penalty can be waived only for good cause shown by the commercial tax return preparer.

§ 3. Section 32 of the tax law is amended by adding a new subdivision (h) to read as follows:

(h) (1) Tax return preparers and facilitators must prominently and conspicuously display a copy of their registration certificate issued pursuant to this section, for the current registration period, at their place of business and at any other location where they provide tax return preparation and/or facilitation services, in an area where taxpayers using their services are able to see and review such registration certificate.

(2) Tax return preparers and facilitators must prominently and conspicuously display at their place of business and at any other location where they provide tax return preparation and/or facilitation services the following documents:

(A) a current price list, in at least fourteen-point type, that includes, but is not limited to, a list of all services offered by the tax return preparer and/or facilitator; the minimum fee charged for each service, including the fee charged for each type of federal or New York state tax return to be prepared and facilitation service to be provided; and a list of each factor that may increase a stated fee and the specific additional fees or range of possible additional fees when each factor applies; and

(B) a copy of the most recent Consumer Bill of Rights Regarding Tax Preparers published by the department pursuant to section three hundred seventy-two of the general business law.

(3) A tax return preparer or facilitator who fails to comply with any of the requirements of this subdivision must pay a penalty of up to five hundred dollars. The penalty can be waived only for good cause shown by the tax return preparer or facilitator.

§ 4. The second subdivision (g) of section 32 of the tax law is relettered subdivision (i).

§ 5. This act shall take effect immediately; provided, however, that paragraph (3) of subdivision (h) of section 32 of the tax law, as added by section three of this act, shall take effect January 1, 2022.

PART T

Intentionally Omitted

PART U

Intentionally Omitted

PART V

Section 1. This Part enacts into law components of legislation relating to the administration of the STAR program authorized by section 425 of the real property tax law and subsection (eee) of section 606 of the tax law. Each component is wholly contained within a Subpart identified as Subparts A through E. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

SUBPART A

Intentionally Omitted.

SUBPART B

Intentionally Omitted.

SUBPART C

Intentionally Omitted.

SUBPART D

Intentionally Omitted.

SUBPART E

Section 1. Paragraph 2 of subdivision w of section 233 of the real property law is REPEALED.

§ 2. Paragraph 3 of subdivision w of section 233 of the real property law, as amended by section 18 of part B of chapter 389 of the laws of 1997, is amended to read as follows:

3. A manufactured home park owner or operator providing a reduction in rent as required by paragraph one [~~or two~~] of this subdivision may retain, in consideration for record keeping expenses, two percent of the amount of such reduction.

§ 3. The opening paragraph of paragraph 3-a of subdivision w of section 233 of the real property law, as added by chapter 405 of the laws of 2001, is amended to read as follows:

Any reduction required to be provided pursuant to paragraph one [~~or two~~] of this subdivision shall be provided as follows:

§ 4. Paragraph (l) of subdivision 2 of section 425 of the real property tax law is amended by adding a new subparagraph (iv) to read as follows:

(iv) Beginning with assessment rolls used to levy school district taxes for the two thousand twenty-two--two thousand twenty-three school year, no exemption shall be granted pursuant to this section to a mobile home that is described in this paragraph. Owners of such property may claim the credit authorized by subsection (eee) of section six hundred six of the tax law in the manner prescribed therein. Owners of such property who are STAR exemption recipients on assessment rolls used to levy school district taxes for the two thousand twenty-one--two thousand twenty-two school year shall be automatically enrolled in and switched to the STAR credit, beginning with assessment rolls used to levy school district taxes for the two thousand twenty-two--two thousand twenty-three school year, if their incomes do not exceed the limit applicable to such credit. Each affected individual shall be notified of the switch as soon as practicable. Each such notice shall also advise the individual either that the commissioner has determined that the individual is eligible for the credit, or that the individual must furnish additional information to enable the commissioner to determine the individual's eligibility, as the case may be. In either case, once the individual receives a STAR credit check and deposits or endorses it, he or she shall be deemed to have consented to the switch and shall not be permitted to switch back to the exemption. The transfer of property owners between the STAR exemption and the STAR credit shall be made consistent with subdivision seventeen of section four hundred twenty-five of this chapter.

§ 5. Subparagraph (B) of paragraph 6 of subsection (eee) of section 606 of the tax law is amended by adding a new clause (iii) to read as follows:

(iii) Beginning with the two thousand twenty-two taxable year, to receive the credit authorized by this subsection, an owner of a mobile home described by clause (i) of this subparagraph shall register for such credit in the manner prescribed by the commissioner.

§ 6. This act shall take effect immediately; provided, however, that the amendments to subdivision w of section 233 of the real property law made by sections one, two and three of this act shall be applicable beginning with assessment rolls used to levy school district taxes for the 2022--2023 school year.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section, item, subpart or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, item, subpart or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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

PART W

Intentionally Omitted

PART X

Intentionally Omitted

PART Y

Section 1. Section 1367 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, paragraphs (b) and (d) of subdivision 3 as amended by section 1 of part X of chapter 59 of the laws of 2020, is amended to read as follows:

§ 1367. Sports wagering. 1. As used in this section:

(a) **"Affiliate" means any off-track betting corporation, franchised corporation, or race track licensed pursuant to this chapter, an operator of video lottery gaming at Aqueduct licensed pursuant to section sixteen hundred seventeen-a of the tax law, which has an affiliate agreement with a casino pursuant to section thirteen hundred sixty-seven-a of this title. Any professional sports stadium or arena may serve as an affiliate;**

(b) "Agent" means an entity that is party to a contract with a casino authorized to operate a sports pool and is approved by the commission to operate a sports pool on behalf of such casino;

(c) "Authorized sports bettor" means an individual who is physically present in this state when placing a sports wager, who is not a prohibited sports bettor, that participates in sports wagering offered by a casino. All sports wagers placed in accordance with this section are considered placed or otherwise made when received by the operator at the licensed gaming facility, regardless of the authorized sports bettor's physical location at the time the sports wager is initiated. The intermediate routing of electronic data in connection with mobile sports wagering shall not determine the location or locations in which a wager is initiated, received or otherwise made;

(d) "Brand" means the name and logo on the interface of a mobile application or internet website accessed via a mobile device or computer which authorized sports bettors use to access a sports betting platform;

(e) "Casino" means a licensed gaming facility at which gambling is conducted pursuant to the provisions of this article;

[~~(b)~~] **(f)** "Commission" means the commission established pursuant to section one hundred two of this chapter;

[~~(c)~~] **(g)** "Collegiate sport or athletic event" means a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers educational services beyond the secondary level;

[~~(d)~~] **(h) "Covered persons" includes: athletes; players; umpires; referees; officials; personnel associated with players, clubs, teams, leagues, and athletic associations; medical professionals, including athletic trainers who provide services to athletes and players; and the family members and associates of these persons where required to serve the purposes of this title;**

(i) "Exchange wagering" means a form of wagering in which an authorized sports bettor, on the one hand, and one or more authorized sports bettors, a casino or an agent or an operator, on the other hand place identically opposing sports wagers on an exchange operated by a casino or an agent or an operator;

(j) "Global risk management" means the direction, management, consultation and/or instruction for purposes of managing risks associated with sports wagering conducted pursuant to this section and includes the setting and adjustment of betting lines, point spreads, or odds and whether to place layoff bets as permitted by this section;

(k) "High school sport or athletic event" means a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers education services at the secondary level;

(l) "Horse racing event" means any sport or athletic event conducted in New York state subject to the provisions of articles two, three, four, five, six, nine, ten and eleven of this chapter, or any sport or athletic event conducted outside of New York state, which if conducted in New York state would be subject to the provisions of this chapter;

(m) "In-play sports wager" means a sports wager placed on a sports event after the sports event has begun and before it ends;

(n) "Layoff bet" means a sports wager placed by a casino sports pool with another casino sports pool;

(o) "Minor" means any person under the age of twenty-one years;

(p) "Mobile sports wagering platform" or "platform" means the combination of hardware, software, and data networks used to manage, administer, or control sports wagering and any associated wagers accessible by any electronic means including mobile applications and internet websites accessed via a mobile device or computer;

(q) "Official league data" means statistics, results, outcomes, and other data relating to a sporting event that have been obtained from the relevant sports governing body that is headquartered in the United States or an entity expressly authorized by the sports governing body to provide such information to casinos;

(r) "Operator" means a casino which has elected to operate a sports pool (or agent of such casino) or an Indian Tribe (or an agent of such Indian Tribe) that has entered into a tribal-state gaming compact in accordance with the Indian Gaming Regulatory Act 25 U.S.C. 2710, that is in effect and has been ratified by the state and has entered into a sports wagering agreement pursuant to section thirteen hundred sixty-seven-a of this title;

(s) "Persons who present sporting contests" includes sports governing bodies and associations, their members and affiliates, and other persons who present sporting contests to the public;

[~~(e)~~] (t) "Professional sport or athletic event" means an event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event;

(u) "Prohibited conduct" means any statement, action, and other communication intended to influence, manipulate, or control a betting outcome of a sporting contest or of any individual occurrence or performance in a sporting contest in exchange for financial gain or to avoid financial or physical harm. "Prohibited conduct" includes statements, actions, and communications made to a covered person by a third party, such as a family member or through social media;

(v) "Professional sports stadium or arena" means a stadium, ballpark, or arena that is the permanent home of a professional sports team playing at the highest professional level in its sport and has a seating capacity for such contests exceeding fifteen thousand seats;

(w) "Prohibited sports bettor" means:

(i) any officer or employee of the commission;

(ii) any principal or key employee of a casino or operator, except as may be permitted by the commission for good cause shown;

(iii) any casino gaming or non-gaming employee at the casino that employs such person and at any operator that has an agreement with that casino;

(iv) any contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, of a casino if as part of such person's employment such person is directly involved in the operation or observation of sports wagering, or the processing of sports wagering claims or payments;

(v) Any person subject to a contract with the commission if such contract contains a provision prohibiting such person from participating in sports wagering;

(vi) Any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of the foregoing persons at the same casino where the foregoing person is prohibited from participating in sports wagering;

(vii) any individual with access to non-public confidential information about sports wagering;

(viii) any amateur or professional athlete if the sports wager is based on any sport or athletic event overseen by the athlete's sports governing body;

(ix) any sports agent, owner or employee of a team, player and umpire union personnel, and employee referee, coach or official of a sports governing body, if the sports wager is based on any sport or athletic event overseen by the individual's sports governing body;

(x) any individual placing a wager as an agent or proxy for another person known to be a prohibited sports bettor; or

(xi) any minor;

[~~(f)~~] (x) "Prohibited sports event" means any collegiate sport or athletic event that takes place in New York or a sport or athletic event in which any New York college team participates regardless of where the event takes place, or high school sport or athletic event;

[~~(g)~~] (y) "Registered sports governing body" means a sports governing body that is headquartered in the United States and who has registered with the commission to receive royalty fee revenue in such form as the commission may require;

(z) "Sports event" means any professional sport or athletic event and any collegiate sport or athletic event, except a prohibited sports event or a horse racing event;

[~~(h)~~] (aa) "Sports governing body" means the organization that prescribes final rules and enforces codes of conduct with respect to a sporting event and participants therein;

(bb) "Sports pool" means the business of accepting wagers on any sports event by any system or method of wagering; [~~and~~

~~(i)~~] (cc) "Sports wager" means cash or cash equivalent that is paid by an authorized sports bettor to a casino to participate in sports wagering offered by such casino;

(dd) "Sports wagering" means wagering on sporting events or any portion thereof, or on the individual performance statistics of athletes participating in a sporting event, or combination of sporting events, by any system or method of wagering, including, but not limited to, in-person communication and electronic communication through internet websites accessed via a mobile device or computer and mobile device applications. Any wager through electronic communication shall be deemed to take place at the physical location of the server or other equipment used by an operator to accept mobile sports wagering, regardless of the authorized sports bettor's physical location within the state at the time the wager is initiated. The term "sports wagering" shall include, but is not limited to, single-game bets, teaser bets, parlays, over-under bets,

money line, pools, exchange wagering, in-game wagering, in-play bets, proposition bets and straight bets;

(ee) "Sports wagering gross revenue" means: (i) the amount equal to the total of all sports wagers not attributable to prohibited sports events that an operator collects from all players, less the total of all sums not attributable to prohibited sports events paid out as winnings to all sports bettors, however, that the total of all sums paid out as winnings to sports bettors shall not include the cash equivalent value of any merchandise or thing of value awarded as a prize, or (ii) in the case of exchange wagering pursuant to this section, the commission on winning sports wagers by authorized sports bettors retained by the operator. The issuance to or wagering by authorized sports bettors at a casino of any promotional gaming credit shall not be taxable for the purposes of determining sports wagering gross revenue;

(ff) "Sports wagering lounge" means an area wherein a sports pool is operated;

(gg) "Tier one sports wager" means a sports wager that is determined solely by the final score or final outcome of the sports event;

(hh) "Tier two sports wager" means an in-play sports wager that is not a tier one sports wager;

(ii) "Tier three sports wager" means a sports wager that is neither a tier one nor a tier two sports wager; and

(jj) "Indian Tribe" means an Indian Tribe (or an agent of such tribe) that has entered into a tribal-state gaming compact in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 to 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.) which has been ratified by the state;

(kk) "Unusual betting activity" means abnormal betting activity exhibited by patrons and deemed by the casino or operation, pursuant to rules and regulations promulgated by the commission, as a potential indicator of suspicious activity. Abnormal betting activity may include, but is not limited to, the size of a patron's wager or increased betting volume on a particular event or wager type;

(ll) "Suspicious betting activity" means unusual betting activity that cannot be explained and is indicative of match fixing, the manipulation of an event, misuse of inside information, or other prohibited activity; and

(mm) "Independent integrity monitor" means an independent individual or entity approved by the commission to receive reports of unusual betting activity from a casino or operator for the purpose of assisting in identifying suspicious betting activity.

2. [~~No gaming facility may conduct sports wagering until such time as there has been a change in federal law authorizing such or upon a ruling of a court of competent jurisdiction that such activity is lawful.~~

~~3.~~] (a) In addition to authorized gaming activities, a [~~licensed gaming facility~~] casino may [~~when authorized by subdivision two of this section~~] operate a sports pool upon the approval of the commission and in accordance with the provisions of this section and applicable regulations promulgated pursuant to this article. The commission shall hear and decide promptly and in reasonable order all applications for a license to operate a sports pool, shall have the general responsibility for the implementation of this section and shall have all other duties specified in this section with regard to the operation of a sports pool. The license to operate a sports pool shall be in addition to any other license required to be issued to operate a [~~gaming facility~~] casino. No license to operate a sports pool shall be issued by the commission to

any entity unless it has established its financial stability, integrity and responsibility and its good character, honesty and integrity.

No later than five years after the date of the issuance of a license and every five years thereafter or within such lesser periods as the commission may direct, a licensee shall submit to the commission such documentation or information as the commission may by regulation require, to demonstrate to the satisfaction of the executive director of the commission that the licensee continues to meet the requirements of the law and regulations.

(b) **As a condition of licensure the commission shall require that each operator authorized to conduct mobile sports wagering pay a one-time fee of twelve million dollars. Such fee shall be paid within thirty days of gaming commission approval prior to license issuance and deposited into the commercial gaming revenue fund established pursuant to section thirteen hundred fifty-two of this article.**

(c) A sports pool shall be operated in a sports wagering lounge located at a casino. The lounge shall conform to all requirements concerning square footage, design, equipment, security measures and related matters which the commission shall by regulation prescribe. Provided, however, the commission may also approve additional locations for a sports pool within the casino, in areas that have been approved by the commission for the conduct of other gaming, to be operated in a manner and methodology as regulation shall prescribe.

[~~(c)~~] **(d)** The operator of a sports pool shall establish or display the odds at which wagers may be placed on sports events.

[~~(d)~~] **(e)** An operator shall accept wagers on sports events only from persons physically present in the sports wagering lounge, **through mobile sports wagering offered pursuant to section thirteen hundred sixty-seven-a of this title,** or any additional locations for a sports pool within the casino, approved by the gaming commission. A person placing a wager shall be at least twenty-one years of age.

[~~(e)~~] **(f) An operator may also accept layoff bets as long as the authorized sports pool places such wagers with another authorized sports pool or pools in accordance with regulations of the commission. A sports pool that places a layoff bet shall inform the sports pool accepting the wager that the wager is being placed by a sports pool and shall disclose its identity.**

(g) An operator may utilize global risk management pursuant to the approval of the commission.

(h) An operator shall not admit into the sports wagering lounge, or accept wagers from, any person whose name appears on the exclusion list.

[~~(f)~~] **(i)** The holder of a license to operate a sports pool may contract with an [~~entity~~] **agent** to conduct **any or all aspects of** that operation, **or the operation of mobile sports wagering offered pursuant to section thirteen hundred sixty-seven-a of this title, including but not limited to brand, marketing and customer service,** in accordance with the regulations of the commission. [~~That entity~~] **Each agent** shall obtain a license as a casino vendor enterprise prior to the execution of any such contract, and such license shall be issued pursuant to the provisions of section one thousand three hundred twenty-seven of this article and in accordance with the regulations promulgated by the commission.

[~~(g)~~] **(j)** If any provision of this article or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given

effect without the invalid provision or application, and to this end the provisions of this article are severable.

[~~4.~~] **3.** (a) All persons employed directly in wagering-related activities conducted within a sports wagering lounge shall be licensed as a casino key employee or registered as a gaming employee, as determined by the commission. All other employees who are working in the sports wagering lounge may be required to be registered, if appropriate, in accordance with regulations of the commission.

(b) Each operator of a sports pool shall designate one or more casino key employees who shall be responsible for the operation of the sports pool. At least one such casino key employee shall be on the premises whenever sports wagering is conducted.

[~~5.~~] **4.** Except as otherwise provided by this article, the commission shall have the authority to regulate sports pools and the conduct of sports wagering under this article to the same extent that the commission regulates other gaming. No casino shall be authorized to operate a sports pool unless it has produced information, documentation, and assurances concerning its financial background and resources, including cash reserves, that are sufficient to demonstrate that it has the financial stability, integrity, and responsibility to operate a sports pool. In developing rules and regulations applicable to sports wagering, the commission shall examine the regulations implemented in other states where sports wagering is conducted and shall, as far as practicable, adopt a similar regulatory framework. The commission shall promulgate regulations necessary to carry out the provisions of this section, including, but not limited to, regulations governing the:

(a) amount of cash reserves to be maintained by operators to cover winning wagers;

(b) acceptance of wagers on a series of sports events;

(c) maximum wagers which may be accepted by an operator from any one patron on any one sports event;

(d) type of wagering tickets which may be used;

(e) method of issuing tickets;

(f) method of accounting to be used by operators;

(g) types of records which shall be kept;

(h) use of credit and checks by [~~patrons~~] **authorized sports bettors**;

(i) **the process by which a casino may place a layoff bet;**

(j) the use of global risk management;

(k) type of system for wagering; and

[~~(j)~~] **(l)** protections for a person placing a wager.

[~~6.~~] **5.** Each operator shall adopt comprehensive house rules governing sports wagering transactions with its [~~patrons~~] **authorized sports bettors**. The rules shall specify the amounts to be paid on winning wagers and the effect of schedule changes. The house rules, together with any other information the commission deems appropriate, shall be conspicuously displayed in the sports wagering lounge and included in the terms and conditions of the account wagering system, and copies shall be made readily available to [~~patrons~~] **authorized sports bettors**.

6. (a) Each casino that offers sports wagering shall annually submit a report to the commission no later than the twenty-eighth of February of each year, which shall include the following information:

(i) the total amount of sports wagers received from authorized sports bettors;

(ii) the total amount of prizes awarded to authorized sports bettors;

(iii) the total amount of sports wagering gross revenue received by the casino;

(iv) the total amount contributed in sports betting royalty revenue pursuant to subdivision eight of this section;

(v) the total amount of wagers received on each sports governing body's sporting events;

(vi) the number of accounts held by authorized sports bettors;

(vii) the total number of new accounts established in the preceding year, as well as the total number of accounts permanently closed in the preceding year;

(viii) the total number of authorized sports bettors that requested to exclude themselves from sports wagering; and

(ix) any additional information that the commission deems necessary to carry out the provisions of this article.

(b) Upon the submission of such annual report, to such extent that the commission deems it to be in the public interest, the commission shall be authorized to conduct a financial audit of any casino, at any time, to ensure compliance with this article.

(c) The commission shall annually publish a report based on the aggregate information provided by all casinos pursuant to paragraph (a) of this subdivision, which shall be published on the commission's website no later than one hundred eighty days after the deadline for the submission of individual reports as specified in such paragraph (a).

7. (a) Within thirty days of the end of each calendar quarter, a casino offering sports wagering shall remit to the commission a sports wagering royalty fee of one-fifth (.20) of one percent of the amount wagered on sports events conducted by registered sports governing bodies. The fee shall be remitted on a form as the commission may require, on which the casino shall identify the percentage of wagering during the reporting period attributable to each registered sport governing body's sports events.

(b) No later than the thirtieth of April of each year, a registered sports governing body may submit a claim for disbursement of the royalty fee funds remitted by casinos in the previous calendar year on their respective sports events. Within thirty days of submitting its claim for disbursement, the registered sports governing body shall meet with the commission to provide the commission with evidence of policies, procedures and training programs it has implemented to protect the integrity of its sports events.

(c) Within thirty days of its meeting with the registered sports governing body, the commission shall approve a timely claim for disbursement.

(d) (i) Persons who present sporting contests shall have authority to remove spectators and others from any facility for violation any applicable codes of conduct, and to deny persons access to all facilities they control, to revoke season tickets or comparable licenses, and to share information about such persons with others who present sporting contests and with the appropriate jurisdictions' law enforcement authorities.

(ii) Persons who present sporting contests shall provide notice to the general public and those who attend sporting contests or visit their facilities of any applicable codes of conduct and the potential penalties for violating such codes.

8. For the privilege of conducting sports wagering in the state, casinos shall pay a tax equivalent to eight and one-half percent of their sports wagering gross revenue, excluding sports wagering gross revenue attributed to mobile sports wagering offered pursuant to section thirteen hundred sixty-seven-a of this title. Casinos shall pay a tax equiv-

alent of twelve percent of their sports wagering gross revenue attributed to mobile sports wagering offered pursuant to section thirteen hundred sixty-seven-a of this title.

9. The commission shall pay into the commercial gaming revenue fund established pursuant to section ninety-seven-nnnn of the state finance law eighty-five percent of the state tax imposed by this section; any interest and penalties imposed by the commission relating to those taxes; all penalties levied and collected by the commission; and the appropriate funds, cash or prizes forfeited from sports wagering. The commission shall pay into the commercial gaming fund five percent of the state tax imposed by this section to be distributed for problem gambling education and treatment purposes pursuant to paragraph a of subdivision four of section ninety-seven-nnnn of the state finance law. The commission shall pay five percent of the state tax imposed by this section to the urban development corporation to establish and administer a youth sports activities and education grant program for the purpose of providing sports programs to underserved youth. Applications for such funding shall be made by eligible not-for-profit sports-based youth development organizations in accordance with requirements established by the corporation. The commission shall pay into the commercial gaming fund five percent of the state tax imposed by this section to be distributed in the same formula as market origin credits pursuant to section one hundred fifteen-b of this chapter. The commission shall require at least monthly deposits by the casino of any payments pursuant to subdivision eight of this section, at such times, under such conditions, and in such depositories as shall be prescribed by the state comptroller. The deposits shall be deposited to the credit of the state commercial gaming revenue fund. The commission shall require a monthly report and reconciliation statement to be filed with it on or before the tenth day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

10. The commission may perform audits of the books and records of a casino, at such times and intervals as it deems appropriate, for the purpose of determining the sufficiency of tax payments. If a return required with regard to obligations imposed is not filed, or if a return when filed or is determined by the commission to be incorrect or insufficient with or without an audit, the amount of tax due shall be determined by the commission. Notice of such determination shall be given to the casino liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the casino against whom it is assessed, within thirty days after receiving notice of such determination, shall apply to the commission for a hearing in accordance with the regulations of the commission.

11. Nothing in this section shall apply to interactive fantasy sports offered pursuant to article fourteen of this chapter. Nothing in this section authorizes any entity that conducts interactive fantasy sports offered pursuant to article fourteen of this chapter to conduct sports wagering unless it separately qualifies for, and obtains, authorization pursuant to this section.

12. A casino that is also licensed under article three of this chapter, and must maintain racing pursuant to paragraph (b) of subdivision one of section thirteen hundred fifty-five of this article, shall be allowed to offer pari-mutuel wagering on horse racing events in accordance with their license under article three of this chapter. Notwithstanding subparagraph (ii) of paragraph c of subdivision two of section one thousand eight of this chapter, a casino located in the city of

Schenectady shall be allowed to offer pari-mutuel wagering on horse racing events, provided such wagering is conducted by the regional off-track betting corporation in such region as the casino is located. Any other casino shall be allowed to offer pari-mutuel wagering on horse racing events, provided such wagering is conducted by the regional off-track betting corporation in such region as the casino is located. Any physical location where pari-mutuel wagering on horse racing events is offered by a casino and conducted by a regional off-track betting corporation in accordance with this subdivision shall be deemed to be a branch location of the regional off-track betting corporation in accordance with section one thousand eight of this chapter. Mobile sports betting kiosks located on the premises of affiliates in accordance with paragraph (d) of subdivision five of section thirteen hundred sixty-seven-a of this title shall not be allowed to offer pari-mutuel wagering on horse racing events.

13. A sports governing body may notify the commission that it desires to restrict, limit, or exclude wagering on its sporting events by providing notice in the form and manner as the commission may require. Upon receiving such notice, the commission shall review the request in good faith, seek input from the casinos on such a request, and if the commission deems it appropriate, promulgate regulations to restrict such sports wagering. If the commission denies a request, the sports governing body shall be afforded notice and the right to be heard and offer proof in opposition to such determination in accordance with the regulations of the commission. Offering or taking wagers contrary to restrictions promulgated by the commission is a violation of this section. In the event that the request is in relation to an emergency situation, the executive director of the commission may temporarily prohibit the specific wager in question until the commission has the opportunity to issue temporary regulations addressing the issue.

14. (a) The commission shall designate the division of the state police to have primary responsibility for assisting the commission in conducting, investigations into abnormal betting activity, match fixing, and other conduct that corrupts a betting outcome of a sporting event or events for purposes of financial gain.

(b) Casinos shall maintain records of sports wagering operations in accordance with regulations promulgated by the commission. These regulations shall, at a minimum, require a casino to adopt procedures to obtain personally identifiable information from any individual who places any single wager in an amount of ten thousand dollars or greater.

(c) The commission shall cooperate with a sports governing body and casinos to ensure the timely, efficient, and accurate sharing of information.

(d) The commission and casinos shall cooperate with investigations conducted by sports governing bodies or law enforcement agencies, including but not limited to providing or facilitating the provision of account-level betting information and audio or video files relating to persons placing wagers; provided, however, that the casino be required to share any personally identifiable information of an authorized sports bettor with a sports governing body only pursuant to an order to do so by the commission or a law enforcement agency or court of competent jurisdiction.

(e) Casinos and operators shall promptly report to the commission or third party integrity monitoring provider approved by the commission, as applicable and in accordance with rules and regulations established by the commission, any information relating to:

(i) criminal or disciplinary proceedings commenced against the casino in connection with its operations;

(ii) abnormal betting activity or patterns that may indicate a concern with the integrity of a sporting event or events;

(iii) any potential breach of the relevant sports governing body's internal rules and codes of conduct pertaining to sports wagering, as they have been provided by the sports governing body to the casino or the operator;

(iv) any other conduct that corrupts a betting outcome of a sporting event or events for purposes of financial gain, including match fixing; and

(v) suspicious or illegal wagering activities, including use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, using agents to place wagers, using confidential non-public information, and using false identification.

The commission shall also promptly report information relating to conduct described in subparagraphs (ii), (iii) and (iv) of this paragraph to the relevant sports governing body.

(vi) The commission shall be authorized to share any information under this section with any law enforcement entity, team, sports governing body, or regulatory agency the division deems appropriate. Such sharing of information may include, but is not limited to, account level betting information and any audio or video files related to the investigation. Provided, however, the casino or operators may only be required to share any personally identifiable information of an authorized sports bettor with a sports governing body only pursuant to an order to do so by the commission, a law enforcement agency or a court of competent jurisdiction.

(f) The confidentiality of information shared between a sports governing body and a casino or operator shall be maintained pursuant to all applicable data privacy laws, unless disclosure is required by this section, the commission, other law, or court order. Furthermore, the information shared between a sports governing body, a casino, an operator or any other party pursuant to this act may not be used for business or marketing purposes by the recipient without the express written approval of the party that provides such information.

(g) The commission, by regulation, may authorize and promulgate any rules necessary to implement agreements with other states, or authorized agencies thereof to enable the sharing of information to facilitate integrity monitoring and the conduct of investigations into abnormal betting activity, match fixing, and other conduct that corrupts a betting outcome of a sporting event or events for purposes of financial gain.

(h) The commission shall study the potential for the creation of an interstate database of all sports wagering information for the purpose of integrity monitoring, and shall create a final report regarding all findings and recommendations to be delivered upon completion of all objectives described herein, but in no event later than March first, two thousand twenty-two, to the governor, the speaker of the assembly and the temporary president of the senate.

(i) The commission shall investigate all reasonable allegations of prohibited conduct and refer any allegations it deems credible to the appropriate law enforcement entity.

(j) Any person who is (i) an athlete, coach, referee, director of a sports governing body or any of its member teams, a player or other personnel member, in or on any sports event overseen by that person's

sports governing body, (ii) holding a position of authority over the participants in a sporting contest, including but not limited to coaches, managers, handlers, athletic trainers, or (iii) a person with access to certain types of non-public information on any sports event overseen by that person's sports governing body, shall not be permitted to place a wager on a sports event that is overseen by that person's sports governing body so long as that person has been identified as a prohibited sports bettor in any lists provided by the sports governing body to the commission, casinos, and operators. Any person who knowingly violates this paragraph shall be liable for a civil penalty of not more than one thousand dollars.

(k) Casinos and operators shall adopt procedures to prevent persons from wagering on sports events who are prohibited from placing sports wagers. A casino or operator shall not accept wagers from any person:

(i) whose name appears on the exclusion list maintained by the commission and provided to the casino or operator;

(ii) whose name appears on any self-exclusion list maintained by the commission and provided to the casino or operator;

(iii) who is the operator, director, officer, owner, or employee of the operator or casino or any relative thereof living in the same household as such individual;

(iv) who has been identified in a list provided by the sports governing body to the commission and casino or operator, that identifies the individual by such personally identifiable information as specified by rules and regulations promulgated by the commission;

(v) who is an agent or proxy for any other person; or

(vi) who has identified themselves to the operator as a prohibited sports pool participant.

(l) The commission shall establish a hotline or other method of communication that allows any person to confidentially report information about prohibited conduct to the commission. The identity of any person reporting prohibited conduct to the commission shall remain confidential unless that person authorizes disclosure of his or her identity or until such time as the allegation of prohibited conduct is referred to law enforcement.

15. (a) Casinos shall use whatever data source they deem appropriate for determining the result of sports wagering involving tier one sports wagers.

(b) Casinos shall only use official league data in all sports wagering involving tier two sports wagers, if the relevant sports governing body is headquartered in the United States, possesses a feed of official league data, and makes such feed available for purchase by the casinos on commercially reasonable terms as determined by the commission.

(c) A sports governing body may notify the commission that it desires to require casinos to use official league data in sports wagering involving specific tier three sports wagers by providing notice in the form and manner as the commission may require. Upon receiving such notice, the commission shall review the request, seek input from the casinos on such a request, and if the commission deems it appropriate, promulgate regulations to require casinos to use official league data on sports wagering involving such tier three sports wagers if the relevant sports governing body possesses a feed of official league data, and makes such feed available for purchase by the casinos on commercially reasonable terms as determined by the commission.

(d) When determining whether or not a supplier of official league data is offering commercially reasonable terms, the commission shall consider

the amount charged by the supplier of official league data to gaming operators in other jurisdictions. This information shall be provided to the commission by the supplier of official league data upon request of the commission. Any entity providing data to a casino for the purpose of tier two sports wagers shall obtain a license as a casino vendor enterprise and such license shall be issued pursuant to the provisions of section thirteen hundred twenty-seven of this article and in accordance with the regulations promulgated by the commission.

(e) No casino shall enter into an agreement with a sports governing body or an entity expressly authorized to distribute official league data to be the exclusive recipient of their official league data.

(f) The commission shall promulgate regulations to allow an authorized sports bettor to file a complaint alleging an underpayment or non-payment of a winning sports wager. Any such regulations shall provide that the commission utilize the statistics, results, outcomes, and other data relating to a sporting event that have been obtained from the relevant sports governing body in determining the validity of such claim.

16. A casino shall not permit sports wagering by anyone they know, or should have known, to be a prohibited sports bettor.

17. Sports wagering conducted pursuant to the provisions of this section is hereby authorized.

18. The commission shall promulgate rules that require an operator to implement responsible gaming programs that include comprehensive employee trainings on responding to circumstances in which individuals present signs of a gambling addiction and requirements for casinos and operators under section thirteen hundred sixty-seven-a of this title to assess, prevent, and address problem gaming by users under the age of thirty. The commission shall establish a hotline or other method of communication that will allow any person to confidentially report information about prohibited conduct to the commission. The commission shall promulgate rules governing the investigation and resolution of a charge of any person purported to have engaged in prohibited conduct.

19. The conduct of sports wagering in violation of this section is prohibited.

20. (a) In addition to any criminal penalties provided for under article two hundred twenty-five of the penal law, any person, firm, corporation, association, agent, or employee, who is not authorized to offer sports wagering under this section or section thirteen hundred sixty-seven-a of this title, and who knowingly offers or attempts to offer sports wagering or mobile sports wagering in New York shall be liable for a civil penalty of not more than one hundred thousand dollars for each violation, not to exceed five million dollars for violations arising out of the same transaction or occurrence, which shall accrue to the state and may be recovered in a civil action brought by the commission.

(b) Any person, firm, corporation, association, agent, or employee who knowingly violates any procedure implemented under this section, or section thirteen hundred sixty-seven-a of this title, shall be liable for a civil penalty of not more than five thousand dollars for each violation, not to exceed fifty thousand dollars for violations arising out of the same transaction or occurrence, which shall accrue to the state and may be recovered in a civil action brought by the commission.

§ 2. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 1367-a to read as follows:

§ 1367-a. Mobile sports wagering. 1. (a) Except as provided in this subdivision, the terms in this section shall have the same meanings as

such terms are defined in subdivision one of section thirteen hundred sixty-seven of this title.

(b) "Operator" for purposes of this section, means a casino which has elected to offer a mobile sports wagering platform, an Indian Tribe (or agent of such Indian Tribe) that has entered into a tribal-state gaming compact in accordance with the Indian Gaming Regulatory Act, 25 U.S.C. 2710, that is in effect and has been ratified by the state and has entered into a sports wagering agreement to operate with the commission pursuant to this section, or the agent of such licensed gaming facility or such Indian Tribe.

2. (a) No casino shall administer, manage, or otherwise make available a mobile sports wagering platform to persons located in New York state unless registered with the commission pursuant to this section. A casino may use up to two mobile sports wagering platforms and brands provided that such platforms and brands have been reviewed and approved by the commission. A casino may contract with up to two independent operators to provide its mobile sports wagering platforms. An independent operator may display its brand on the platform in addition to the casino's brand.

(b) Registrations issued by the commission shall remain in effect for five years. The commission shall establish a process for renewal.

(c) The commission shall publish a list of all operators and casinos registered to offer mobile sports wagering in New York state pursuant to this section on the commission's website for public use.

3. In the event that a casino contracts with an operator to provide its mobile sports wagering platform and brand, such operator shall obtain a license as a casino vendor enterprise prior to the execution of any such contract, and such license shall be issued pursuant to the provisions of section thirteen hundred twenty-seven of this article and in accordance with the regulations promulgated by the commission.

3-a. (a) As a condition of registration and operation of mobile sports wagering, each casino shall agree, upon a current or any future request of an Indian Tribe that has not entered into an agreement for mobile sports wagering with another casino, to provide a site for a mobile sports wagering server and related equipment for the Indian Tribe as directed by the commission, at no cost to the Indian Tribe except the direct and actual cost of hosting the server or other equipment used by the Indian Tribe as determined by the commission.

(b) As a condition of registration as an operator in New York state, an Indian Tribe shall enter into an agreement with the commission with respect to mobile sports wagering:

(i) To follow the requirements imposed on casinos and operators under this section and section thirteen hundred sixty-seven of this title with respect to the Indian Tribe's mobile sports wagering; to adhere to the regulations promulgated by the commission pursuant to this section with respect to mobile sports wagering, and to submit to the commission's enforcement of this section and section thirteen hundred sixty-seven of this title and regulations promulgated thereunder with respect to mobile sports wagering, including by waiving tribal sovereign immunity for the sole and limited purpose of such enforcement. Nothing herein shall be construed as requiring an Indian Tribe's agreement to adhere to the requirements of section thirteen hundred sixty-seven of this title for gaming conducted on tribal lands as a condition of offering mobile sports wagering under this section;

(ii) To waive the Indian Tribe's exclusive geographic right to offer and conduct mobile sports wagering, but not otherwise;

(iii) To remit payment to the state equal to tax on sports wagering revenue imposed under section thirteen hundred sixty-seven of this title with respect to mobile sports wagering;

(iv) Not to offer or to conduct mobile gaming other than mobile sports wagering pursuant to this section unless such mobile gaming is otherwise authorized by state or federal law; and

(v) To locate the server or other equipment used by the Indian Tribe or its agent to accept mobile sports wagering at a casino as defined in paragraph (e) of subdivision one of section thirteen hundred sixty-seven of this title that has applied for and is eligible to register as an operator of mobile sports wagering pursuant to this section and to pay the actual cost of hosting the server or other equipment as determined by the commission.

(c) All agreements entered into casinos and Indian Tribes with respect to hosting mobile sports wagering platforms for an Indian Tribe:

(i) Must be approved by the commission prior to taking effect and before registration of the casino or Indian Tribe as an operator under this section;

(ii) Must provide that the Indian Tribe may, at its sole discretion, terminate the agreement and all commitments, undertakings and waivers made by the Indian Tribe thereunder, except that the Indian Tribe's waiver of its exclusive geographic right to offer and conduct mobile sports wagering shall survive the termination of the agreement;

(iii) Shall be limited in applicability solely to the Indian Tribe's operation of mobile sports betting and shall not extend to any other operation or activity of the Indian Tribe; and

(iv) Shall not create any rights or privileges to any third party who is not a party to the agreement, except that the commission shall have the power to enforce the agreement including by revoking or suspending the registration of a party that fails to comply with its obligations under the agreement.

(d) No mobile sports wagering may be conducted within an Indian Tribe's exclusive geographic area unless the Indian Tribe with exclusive geographic right to that area is registered as an operator under this section. Operators shall use geo-location and geo-fencing technology to ensure that mobile sports wagering is not available to persons who are physically located in an Indian Tribe's exclusive geographic area, unless the Indian Tribe with exclusive geographic right to that area is registered as an operator under this section.

3-b. (a) The commission shall promulgate regulations to implement the provisions of this section, including:

(i) the development of the initial form of the application for registration;

(ii) responsible protections with regard to compulsive play safeguards for fair play;

(iii) requiring that operators adopt controls to prevent minors from creating accounts and placing wagers;

(iv) requiring that operators adopt controls to maintain the efficiency of self-exclusion limits; and

(v) requiring that operators utilize commercially reasonable technological means of verifying account holders' identities.

(b) The commission shall prescribe the initial form of the application for registration, for operators, which shall require, but not be limited to:

(i) the full name and principal address of the operator;

(ii) if a corporation, the name of the state in which incorporated and the full names and addresses of any partner, officer, director, shareholder holding ten percent or more equity, and ultimate equitable owners;

(iii) if a business entity other than a corporation, the full names and addresses of the principals, partners, shareholders holding five percent or more equity, and ultimate equitable owners;

(iv) whether such corporation or entity files information and reports with the United States Securities and Exchange Commission as required by section thirteen of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a-78kk; or whether the securities of the corporation or entity are regularly traded on an established securities market in the United States;

(v) the type and estimated number of contests to be conducted annually; and

(vi) a statement of the assets and liabilities of the operator.

(c) The commission may require the full names and addresses of the officers and directors of any creditor of the operator, and of those stockholders who hold more than ten percent of the stock of the creditor.

(d) Upon receipt of an application for registration for each individual listed on such application as an officer or director, the commission shall submit to the division of criminal justice services a set of fingerprints, and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. Upon receipt of the fingerprints, the division of criminal justice services shall promptly forward a set of the individual's fingerprints to the federal bureau of investigation for the purpose of a nationwide criminal history record check to determine whether such individual has been convicted of a criminal offense in any state other than New York or in a federal jurisdiction. The division of criminal justice services shall promptly provide the requested criminal history information to the commission. For the purposes of this section, the term "criminal history information" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services and the federal bureau of investigation. All such criminal history information sent to the commission pursuant to this subdivision shall be confidential and shall not be published or in any way disclosed to persons other than the commission, unless otherwise authorized by law.

(e) Upon receipt of criminal history information pursuant to paragraph (d) of this subdivision, the commission shall make a determination to approve or deny an application for registration; provided, however, that before making a determination on such application, the commission shall provide the subject of the record with a copy of such criminal history information and a copy of article twenty-three-A of the correction law and inform such prospective applicant seeking to be credentialed of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to the regulations and procedures established by the division of criminal justice services. The commission may deny any application for registration, or suspend, refuse to renew, or revoke any existing registration issued pursuant to this article, upon the finding that the operator or registrant, or any partner, officer, director, or shareholder:

(i) has knowingly made a false statement of material fact or has deliberately failed to disclose any material information required by the commission;

(ii) has had a gaming registration or license denied, suspended, or revoked in any other state or country for just cause;

(iii) has legally defaulted in the payment of any substantial financial obligation or debt due to any state or political subdivision; or

(iv) has at any time knowingly failed in an important respect to comply with any requirement outlined in this section, any other provision of this article, any regulations promulgated by the commission or any additional requirements of the commission.

(f) All determinations to approve or deny an application pursuant to this article shall be performed in a manner consistent with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law. When the commission denies an application, the operator shall be afforded notice and the right to be heard and offer proof in opposition to such determination in accordance with the regulations of the commission.

4. (a) As a condition of registration in New York state, each operator shall implement the following measures:

(i) limit each authorized sports bettor to one active and continuously used account on their platform, and prevent anyone they know, or should have known to be a prohibited sports bettor from maintaining accounts or participating in any sports wagering offered by such operator;

(ii) adopt appropriate safeguards to ensure, to a reasonable degree of certainty, that authorized sports bettors are physically located within the state when engaging in mobile sports betting;

(iii) prohibit minors from participating in any sports wagering, which includes:

(1) if an operator becomes or is made aware that a minor has created an account, or accessed the account of another, such operator shall promptly, within no more than two business days, refund any deposit received from the minor, whether or not the minor has engaged in or attempted to engage in sports wagering; provided, however, that any refund may be offset by any prizes already awarded;

(2) each operator shall provide parental control procedures to allow parents or guardians to exclude minors from access to any sports wagering or platform. Such procedures shall include a toll-free number to call for help in establishing such parental controls; and

(3) each operator shall take appropriate steps to confirm that an individual opening an account is not a minor;

(iv) when referencing the chances or likelihood of winning in advertisements or upon placement of a sports wager, make clear and conspicuous statements that are not inaccurate or misleading concerning the chances of winning and the number of winners;

(v) enable authorized sports bettors to exclude themselves from sports wagering and take reasonable steps to prevent such bettors from engaging in sports wagering from which they have excluded themselves;

(vi) permit any authorized sports bettor to permanently close an account registered to such bettor, on any and all platforms supported by such operator, at any time and for any reason;

(vii) offer introductory procedures for authorized sports bettors, that shall be prominently displayed on the main page of such operator platform, that explain sports wagering;

(viii) implement measures to protect the privacy and online security of authorized sports bettors and their accounts;

(ix) offer all authorized sports bettors access to his or her account history and account details;

(x) ensure authorized sports bettors' funds are protected upon deposit and segregated from the operating funds of such operator and otherwise protected from corporate insolvency, financial risk, or criminal or civil actions against such operator;

(xi) list on each website, in a prominent place, information concerning assistance for compulsive play in New York state, including a toll-free number directing callers to reputable resources containing further information, which shall be free of charge;

(xii) ensure no sports wagering shall be based on a prohibited sports event;

(xiii) permit account holders to establish self-exclusion gaming limits on a daily, weekly, and monthly basis that enable the account holder to identify the maximum amount of money an account holder may deposit during such period of time;

(xiv) when an account holder's lifetime deposits exceed two thousand five hundred dollars, the operator shall prevent any wagering until the patron immediately acknowledges, and acknowledges each year thereafter, that the account holder has met the deposit threshold and may elect to establish responsible gaming limits or close the account, and the account holder has received disclosures from the operator concerning problem gambling resources;

(xv) maintain a publicly accessible internet page dedicated to responsible play, a link to which must appear on the operator's website and in any mobile application or electronic platform on which a bettor may place wagers. The responsible play page shall include: a statement of the operator's policy and commitment to responsible gaming; information regarding, or links to information regarding, the risks associated with gambling and the potential signs of problem gaming; the availability of self-imposed responsible gaining limits; a link to a problem gaming webpage maintained by the office of addiction services and supports; and such other information or statements as the commission may require by rule; and

(xvi) submit annually a problem gaming plan to the commission that includes: the objectives of and timetables for implementing the plan; identification of the persons responsible for implementing and maintaining the plan; procedures for identifying users with suspected or known problem gaming behavior; procedures for providing information to users concerning problem gaming identification and resources; procedures to prevent gaming by minors and self-excluded persons; and such other problem gaming information as the commission may require by rule.

(b) Operators shall not directly or indirectly operate, promote, or advertise any platform or sports wagering to persons located in New York state unless registered pursuant to this article.

(c) Operators shall not offer any sports wagering based on any prohibited sports event.

(d) Operators shall not permit sports wagering by anyone they know, or should have known, to be a prohibited sports bettor.

(e) Advertisements for contests and prizes offered by an operator shall not target prohibited sports bettors, minors, or self-excluded persons.

(f) Operators shall prohibit the use of third-party scripts or scripting programs for any exchange wagering contest and ensure that measures are in place to deter, detect and, to the extent reasonably possible, prevent cheating, including collusion, and the use of cheating devices,

including use of software programs that submit exchange wagering sports wagers unless otherwise approved by the commission.

(g) Operators shall develop and prominently display procedures on the main page of such operator's platform for the filing of a complaint by an authorized sports bettor against such operator. An initial response shall be given by such operator to such bettor filing the complaint within forty-eight hours. A complete response shall be given by such operator to such bettor filing the complaint within ten business days. An authorized sports bettor may file a complaint alleging a violation of the provisions of this article with the commission.

(h) Operators shall maintain records of all accounts belonging to authorized sports bettors and retain such records of all transactions in such accounts for the preceding five years.

(i) The server or other equipment which is used by an operator to accept mobile sports wagering shall be located in the licensed gaming facility in accordance with regulations promulgated by the commission.

(j) All mobile sports wagering initiated in this state shall be deemed to take place at the licensed gaming facility where the server or other equipment used by an operator to accept mobile sports wagering is located, regardless of the authorized sports bettor's physical location within this state.

(k) All mobile sports wagering shall be conducted in compliance with this section and section thirteen hundred sixty-seven of this title.

(l) Permit an Indian Tribe pursuant to paragraph (a) of subdivision three-a of this section to place at the licensed gaming facility the server or other equipment by which the Indian Tribe may accept mobile sports wagering, and to make commercially reasonable accommodations as may be necessary to place and operate the Indian Tribe's server or other equipment.

5. (a) Subject to regulations promulgated by the commission, casinos may enter into agreements with operators or affiliates to allow for authorized bettors to sign up to create and fund accounts on mobile sports wagering platforms offered by the casino.

(b) Authorized sports bettors may sign up to create their account on a mobile sports wagering platform in person at a casino, or an affiliate, or through an operators internet website accessed via a mobile device or computer, or mobile device applications.

(c) Authorized sports bettors may deposit and withdraw funds in their account on a mobile sports wagering platform in person at a casino, or an affiliate, electronically recognized payment methods, or via any other means approved by the commission.

(d) In accordance with regulations promulgated by the commission, casinos may enter into agreements with affiliates to locate self-service mobile sports betting kiosks, which are owned, operated and maintained by the casino, and connected via the internet to the casino, upon the premises of the affiliate. Authorized sports bettors may place account wagers, and place and redeem non-account cash wagers, at such kiosks.

(e) All agreements entered into between casinos and affiliates in relation to the provisions of this section shall be approved by the commission prior to taking effect and shall include a plan for the timely payment of liabilities due to the affiliate under the agreement; provided, however, that the commission shall not approve any such agreement between a casino and a racetrack licensed pursuant to this chapter or an operator of video lottery gaming at Aqueduct licensed pursuant to section one thousand six hundred seventeen-a of the tax law, until twelve months after the effective date of this paragraph; and provided,

further, that the commission shall not approve any such agreement between a casino and a professional sports stadium or arena, until twenty months after the effective date of this paragraph.

6. The commission shall annually cause a report to be prepared and distributed to the governor and the legislature on the impact of mobile sports wagering on problem gamblers in New York. The report shall include an assessment of problem gaming among persons under the age of thirty. The report shall be prepared by a non-governmental organization or entity with expertise in serving the needs of persons with gambling addictions. The report shall be prepared and distributed under the supervision of and in coordination with the commission. The costs associated with the preparation and distribution of the report shall be borne by operators and the commission shall be authorized to assess a fee against operators for these purposes. The commission shall also report periodically to the governor and the legislature on the effectiveness of the statutory and regulatory controls in place to ensure the integrity of mobile sports wagering operations.

§ 3. Section 104 of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 24 to read as follows:

24. To regulate sports wagering in New York state.

§ 4. Severability clause. If any provision of this act or application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the act, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 5. This act shall take effect immediately.

PART Z

Intentionally Omitted

PART AA

Intentionally Omitted

PART BB

Section 1. Paragraphs 4 and 5 of subdivision a of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, are amended and a new paragraph 6 is added to read as follows:

(4) fifty percent of the total amount for which tickets have been sold for games known as: (A) the "Daily Numbers Game" or "Win 4", discrete games in which the participants select no more than three or four of their own numbers to match with three or four numbers drawn by the [~~division~~] commission for purposes of determining winners of such games, (B) "Pick 10", offered no more than [~~once~~] twice daily, in which participants select from a specified field of numbers a subset of ten numbers to match against a subset of numbers to be drawn by the [~~division~~] commission from such field of numbers for the purpose of determining winners of such game, (C) "Take 5", offered no more than [~~once~~] twice daily, in which participants select from a specified field of numbers a subset of five numbers to match against a subset of five numbers to be drawn by the [~~division~~] commission from such field of numbers for purposes of determining winners of such game; or

(5) forty percent of the total amount for which tickets have been sold for: (A) "Lotto", offered no more than [~~once~~] twice daily, a discrete game in which all participants select a specific subset of numbers to match a specific subset of numbers, as prescribed by rules and regulations promulgated and adopted by the [~~division~~] commission, from a larger specific field of numbers, as also prescribed by such rules and regulations and (B) with the exception of the game described in paragraph one of this subdivision, such other state-operated lottery games [~~which~~] that the [~~division~~] commission may introduce, offered no more than [~~once~~] twice daily, commencing on or after forty-five days following the official publication of the rules and regulations for such game.

(6) The commission shall make a report on the revenues derived from the additional lottery drawings pursuant to paragraphs four and five of subdivision a of this section and shall submit such report to the governor, the speaker of the assembly, and the temporary president of the senate by the first day of March two thousand twenty-two.

§ 2. This act shall take effect immediately and shall be deemed repealed one year after such date.

PART CC

Section 1. Sections 1368, 1369, 1370 and 1371 of the racing, pari-mutuel wagering and breeding law are renumbered sections 130, 131, 132 and 133.

§ 2. Title 9 of article 13 of the racing, pari-mutuel wagering and breeding law is REPEALED.

§ 3. Section 130 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and as renumbered by section one of this act, is amended to read as follows:

§ 130. [~~Establishment of the~~] The office of gaming inspector general. [~~There is hereby created within the commission the office of gaming inspector general. The head of the office shall be the gaming inspector general who shall be appointed by the governor by and with the advice and consent of the senate. The inspector general shall serve at the pleasure of the governor. The inspector general shall report directly to the governor. The person appointed as inspector general shall, upon his or her appointment, have not less than ten years professional experience in law, investigation, or auditing. The inspector general shall be compensated within the limits of funds available therefor, provided, however, such salary shall be no less than the salaries of certain state officers holding the positions indicated in paragraph (a) of subdivision one of section one hundred sixty-nine of the executive law.~~] The duties and responsibilities of the former office of the gaming inspector general are transferred to and encompassed by the office of the state inspector general as expressly referenced in article four-A of the executive law.

§ 4. Section 131 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and as renumbered by section one of this act, is amended to read as follows:

§ 131. [~~State gaming~~] Gaming inspector general; functions and duties. The [~~state~~] gaming inspector general shall have the following duties and responsibilities:

1. receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in the commission;

2. [~~inform the commission members of such allegations and the progress of investigations related thereto, unless special circumstances require confidentiality;~~

~~3.~~] determine with respect to such allegations whether disciplinary action, civil or criminal prosecution, or further investigation by an appropriate federal, state or local agency is warranted, and to assist in such investigations;

[~~4.~~] 3. prepare and release to the public written reports of such investigations, as appropriate and to the extent permitted by law, subject to redaction to protect the confidentiality of witnesses. The release of all or portions of such reports may be deferred to protect the confidentiality of ongoing investigations;

[~~5.~~] 4. review and examine periodically the policies and procedures of the commission with regard to the prevention and detection of corruption, fraud, criminal activity, conflicts of interest or abuse;

[~~6.~~] 5. recommend remedial action to prevent or eliminate corruption, fraud, criminal activity, conflicts of interest or abuse in the commission; [~~and~~

~~7.~~] 6. establish programs for training commission officers and employees [~~regarding~~] in regard to the prevention and elimination of corruption, fraud, criminal activity, conflicts of interest or abuse in the commission; and

7. make an annual report to the governor, the comptroller and the legislature concerning its work during the preceding year. Such report shall include but not be limited to the number of cases investigated, and the number of complaints received. Such initial report shall be due no later than the first day of April two thousand twenty-two, and then by the first day of April each year thereafter. Such report shall be made public and published on the website of the office of the state inspector general and on the website of the commission.

§ 5. Section 132 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and as renumbered by section one of this act, is amended to read as follows:

§ 132. Powers. The [~~state~~] gaming inspector general shall have the power to:

1. subpoena and enforce the attendance of witnesses;

2. administer oaths or affirmations and examine witnesses under oath;

3. require the production of any books and papers deemed relevant or material to any investigation, examination or review;

4. notwithstanding any law to the contrary, examine and copy or remove documents or records of any kind prepared, maintained or held by the commission;

5. require any commission officer or employee to answer questions concerning any matter related to the performance of his or her official duties. The refusal of any officer or employee to answer questions shall be cause for removal from office or employment or other appropriate penalty;

6. monitor the implementation by the commission of any recommendations made by the state inspector general; and

7. perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of the office.

§ 6. Section 133 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and as renumbered by section one of this act, is amended to read as follows:

§ 133. Responsibilities of the commission and its officers and employees. 1. Every commission officer or employee shall report promptly to

the [~~state~~] gaming inspector general any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse by another state officer or employee relating to his or her office or employment, or by a person having business dealings with the commission relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty under this article. Any officer or employee who acts pursuant to this subdivision by reporting to the [~~state~~] gaming inspector general or other appropriate law enforcement official improper governmental action as defined in section seventy-five-b of the civil service law shall not be subject to dismissal, discipline or other adverse personnel action.

2. The commission chair shall advise the governor within ninety days of the issuance of a report by the [~~state~~] gaming inspector general as to the remedial action that the commission has taken in response to any recommendation for such action contained in such report.

§ 7. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 134 to read as follows:

§ 134. Transfer of employees. Upon the transfer of functions, powers, duties and obligations to the office of the state inspector general pursuant to this article, provision shall be made for the transfer of all gaming inspector general employees from within the gaming commission into the office of the state inspector general. Any employees transferred shall be transferred in accordance with the provisions of section seventy of the civil service law. Employees so transferred shall be transferred without further examination or qualification to the same or similar titles, shall remain in the same collective bargaining units and shall retain their respective civil service classifications, status and rights pursuant to their collective bargaining units and collective bargaining agreements.

§ 8. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 135 to read as follows:

§ 135. Transfer of records. All books, papers, records and property of the gaming inspector general within the gaming commission with respect to the functions, powers, duties and obligations transferred by section one hundred thirty of this article, are to be delivered to the appropriate successor offices within the office of the state inspector general, at such place and time, and in such manner as the office of the state inspector general may require.

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

PART DD

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license

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

§ 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as separately amended by chapter 243 and section 2 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

(iii) Of the sums retained by a receiving track located in Westchester county on races received from a franchised corporation, for the period commencing January first, two thousand eight and continuing through June thirtieth, two thousand [~~twenty-one~~] twenty-two, the amount used exclusively for purses to be awarded at races conducted by such receiving track shall be computed as follows: of the sums so retained, two and

one-half percent of the total pools. Such amount shall be increased or decreased in the amount of fifty percent of the difference in total commissions determined by comparing the total commissions available after July twenty-first, nineteen hundred ninety-five to the total commissions that would have been available to such track prior to July twenty-first, nineteen hundred ninety-five.

§ 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as separately amended by section 3 of part Z of chapter 59 and chapter 243 of the laws of 2020, is amended to read as follows:

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

§ 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

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

§ 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is not conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [~~twenty-one~~] twenty-two. Every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven that have entered into a written agreement with such facility's representative horsemen's organization as approved by the commission, one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live full-card simulcast signal of thoroughbred tracks (which may include quarter horse or mixed meetings provided that all such wagering on such races shall be construed to be thoroughbred races) located in another state or foreign country, subject to the following provisions; provided, however, no such written agreement shall be

required of a franchised corporation licensed in accordance with section one thousand seven of this article:

§ 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

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

§ 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

§ 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, [~~2021~~] 2022; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

§ 8. Section 54 of chapter 346 of the laws of 1990, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, as amended by section 8 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

§ 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [~~2021~~] 2022; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

§ 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as separately amended by section 9 of part Z of chapter 59 and chapter 243 of the laws of 2020, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets are presented for payment

before April first of the year following the year of their purchase, less an amount that shall be established and retained by such franchised corporation of between twelve to seventeen percent of the total deposits in pools resulting from on-track regular bets, and fourteen to twenty-one percent of the total deposits in pools resulting from on-track multiple bets and fifteen to twenty-five percent of the total deposits in pools resulting from on-track exotic bets and fifteen to thirty-six percent of the total deposits in pools resulting from on-track super exotic bets, plus the breaks. The retention rate to be established is subject to the prior approval of the commission.

Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, the following percentages of the total pool for regular and multiple bets five percent of regular bets and four percent of multiple bets plus twenty percent of the breaks; for exotic wagers seven and one-half percent plus twenty percent of the breaks, and for super exotic bets seven and one-half percent plus fifty percent of the breaks.

For the period April first, two thousand one through December thirty-first, two thousand [~~twenty-one~~] twenty-two, such tax on all wagers shall be one and six-tenths percent, plus, in each such period, twenty percent of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one percent of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three percent of super exotic bets and for the period April first, two thousand one through December thirty-first, two thousand [~~twenty-one~~] twenty-two, such payment shall be seven-tenths of one percent of regular, multiple and exotic pools.

§ 10. This act shall take effect immediately.

PART EE

Section 1. Section 19 of part W-1 of chapter 109 of the laws of 2006 amending the tax law and other laws relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, as amended by section 1 of part U of chapter 60 of the laws of 2016, is amended to read as follows:

§ 19. This act shall take effect immediately; provided, however, that sections one through thirteen of this act shall take effect September 1, 2006 and shall be deemed repealed on September 1, [~~2021~~] 2026 and such repeal shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law, and shall apply to

sales made, fuel compounded or manufactured, and uses occurring on or after such date, and with respect to sections seven through eleven of this act, in accordance with applicable transitional provisions of sections 1106 and 1217 of the tax law; provided, however, that the commissioner of taxation and finance shall be authorized on and after the date this act shall have become a law to adopt and amend any rules or regulations and to take any steps necessary to implement the provisions of this act; provided further that sections fourteen through sixteen of this act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2006.

§ 2. This act shall take effect immediately.

PART FF

Section 1. Subsection (e) of section 42 of the tax law, as added by section 1 of part RR of chapter 60 of the laws of 2016, is amended to read as follows:

(e) For taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and two hundred fifty dollars. For taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and three hundred dollars. For taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and five hundred dollars. For taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and four hundred dollars. For taxable years beginning on or after January first, two thousand twenty-one and before January first, two thousand [~~twenty-two~~] twenty-five, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and six hundred dollars.

§ 2. Section 5 of part RR of chapter 60 of the laws of 2016 amending the tax law relating to creating a farm workforce retention credit is amended to read as follows:

§ 5. This act shall take effect immediately and shall apply only to taxable years beginning on or after January 1, 2017 and before January 1, [~~2022~~] 2025.

§ 3. This act shall take effect immediately.

PART GG

Section 1. Subdivision 4 of section 22 of the public housing law, as amended by section 5 of part H of chapter 60 of the laws of 2016, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be one hundred [~~four~~] nineteen million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not

apply to allowance to a taxpayer of the credit with respect to an eligible low-income building for each year of the credit period.

§ 2. Subdivision 4 of section 22 of the public housing law, as amended by section one of this act, is amended to read as follows:

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

§ 3. Subdivision 4 of section 22 of the public housing law, as amended by section two of this act, is amended to read as follows:

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

§ 4. Subdivision 4 of section 22 of the public housing law, as amended by section three of this act, is amended to read as follows:

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

§ 5. Subdivision 4 of section 22 of the public housing law, as amended by section four of this act, is amended to read as follows:

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

§ 6. This act shall take effect immediately; provided, however, section two of this act shall take effect April 1, 2022; section three of this act shall take effect April 1, 2023; section four of this act shall take effect April 1, 2024; and section five of this act shall take effect April 1, 2025.

PART HH

Section 1. Section 5 of part HH of chapter 59 of the laws of 2014, amending the tax law relating to a musical and theatrical production credit, as amended by section 1 of part III of chapter 59 of the laws of 2018, is amended to read as follows:

§ 5. This act shall take effect immediately, provided that section two of this act shall take effect on January 1, 2015, and shall apply to taxable years beginning on or after January 1, 2015, with respect to "qualified production expenditures" and "transportation expenditures" paid or incurred on or after such effective date, regardless of whether the production of the qualified musical or theatrical production

commenced before such date, provided further that this act shall expire and be deemed repealed [~~8 years after such date~~] January 1, 2026.

§ 2. Paragraph 1 of subdivision (e) of section 24-a of the tax law, as added by section 1 of part HH of chapter 59 of the laws of 2014, is amended to read as follows:

(1) The aggregate amount of tax credits allowed under this section, subdivision forty-seven of section two hundred ten-B and subsection (u) of section six hundred six of this chapter in any calendar year shall be [~~four~~] eight million dollars. Such aggregate amount of credits shall be allocated by the department of economic development among taxpayers in order of priority based upon the date of filing an application for allocation of musical and theatrical production credit with such department. If the total amount of allocated credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for such year under this section, such excess shall be treated as having been applied for on the first day of the subsequent year.

§ 3. This act shall take effect immediately, provided, however, that the amendments to section 24-a of the tax law made by section two of this act shall not affect the expiration and repeal of such section and shall be deemed to expire and repeal therewith.

PART II

Section 1. Paragraph (a) and subparagraph 2 of paragraph (b) of subdivision 29 of section 210-B of the tax law, as amended by section 1 of part B of chapter 59 of the laws of 2020, are amended to read as follows:

(a) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand [~~twenty-two~~] twenty-four, a taxpayer shall be allowed a credit, to be computed as provided in this subdivision, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subdivision, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(2) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand [~~twenty-one~~] twenty-three; and

§ 2. Paragraph 1 and subparagraph (B) of paragraph 2 of subsection (a-2) of section 606 of the tax law, as amended by section 2 of part B of chapter 59 of the laws of 2020, are amended to read as follows:

(1) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand [~~twenty-two~~] twenty-four, a taxpayer shall be allowed a credit, to be computed as provided in this subsection, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subsection, the taxpayer may not use the hiring of a qualified veteran that is the basis

for this credit in the basis of any other credit allowed under this article.

(B) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand [~~twenty-one~~] twenty-three; and

§ 3. Paragraph 1 and subparagraph (B) of paragraph 2 of subdivision (g-1) of section 1511 of the tax law, as amended by section 3 of part B of chapter 59 of the laws of 2020, are amended to read as follows:

(1) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand [~~twenty-two~~] twenty-four, a taxpayer shall be allowed a credit, to be computed as provided in this subdivision, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subdivision, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(B) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand [~~twenty-one~~] twenty-three; and

§ 4. This act shall take effect immediately.

PART JJ

Section 1. Section 12 of part V of chapter 61 of the laws of 2011, amending the economic development law, the tax law and the real property tax law, relating to establishing the economic transformation and facility redevelopment program and providing tax benefits under that program, is amended to read as follows:

§ 12. This act shall take effect immediately and shall expire and be deemed repealed December 31, [~~2021~~] 2022.

§ 2. Paragraph (a) of subdivision 11 of section 400 of the economic development law, as amended by section 1 of part GG of chapter 58 of the laws of 2020, is amended to read as follows:

(a) a correctional facility, as defined in paragraph (a) of subdivision four of section two of the correction law, that has been selected by the governor of the state of New York for closure after April first, two thousand eleven but no later than March thirty-first, two thousand [~~twenty-one~~] twenty-two; or

§ 3. This act shall take effect immediately; provided, however, that the amendments to section 400 of the economic development law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART KK

Intentionally Omitted

PART LL

Intentionally Omitted

PART MM

Section 1. Paragraph 1 of subsection (d) of section 606 of the tax law, as amended by section 1 of part Q of chapter 63 of the laws of 2000, is amended to read as follows:

(1) General. A taxpayer shall be allowed a credit as provided herein equal to (i) the applicable percentage of the earned income credit allowed under section thirty-two of the internal revenue code for the same taxable year, (ii) reduced by the credit permitted under subsection (b) of this section.

The applicable percentage shall be (i) seven and one-half percent for taxable years beginning in nineteen hundred ninety-four, (ii) ten percent for taxable years beginning in nineteen hundred ninety-five, (iii) twenty percent for taxable years beginning after nineteen hundred ninety-five and before two thousand, (iv) twenty-two and one-half percent for taxable years beginning in two thousand, (v) twenty-five percent for taxable years beginning in two thousand one, (vi) twenty-seven and one-half percent for taxable years beginning in two thousand two, [~~and~~] (vii) thirty percent for taxable years beginning in two thousand three**, and (viii) forty percent for taxable years beginning in two thousand twenty-one** and thereafter. [~~**Provided, however, that if the reversion event, as defined in this paragraph, occurs, the applicable percentage shall be twenty percent for taxable years ending on or after the date on which the reversion event occurred. The reversion event shall be deemed to have occurred on the date on which federal action, including but not limited to, administrative, statutory or regulatory changes, materially reduces or eliminates New York state's allocation of the federal temporary assistance for needy families block grant, or materially reduces the ability of the state to spend federal temporary assistance for needy families block grant funds for the earned income credit or to apply state general fund spending on the earned income credit toward the temporary assistance for needy families block grant maintenance of effort requirement, and the commissioner of the office of temporary and disability assistance shall certify the date of such event to the commissioner of taxation and finance, the director of the division of the budget, the speaker of the assembly and the temporary president of the senate.**~~]

§ 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2021.

PART NN

Section 1. The tax law is amended by adding a new section 601-b to read as follows:

§ 601-b. Additional tax on capital gains. (a) There is hereby imposed, in addition to the tax imposed under section six hundred one of this article, an additional tax on capital gains.

(b) Capital gains shall mean the amount of an individual's New York taxable income attributable to adjusted net capital gain, as defined in subparagraph (3) of section 1(h) of the internal revenue code.

(c) The additional tax imposed under this section shall be equal to one percent.

(d) This section shall not apply to the taxpayers subject to subsections (a), (b), and (c) of section six hundred one of this part with a New York taxable income less than one million dollars.

(e) The department may adopt rules and regulations as necessary to implement the provisions of this section.

§ 2. This act shall take effect immediately, and shall apply to taxable years beginning on or after January 1, 2021.

PART OO

Section 1. The tax law is amended by adding a new section 183-b to read as follows:

§ 183-b. Business tax surcharge on transportation and transmission corporations. 1. In addition to the tax imposed by sections one hundred eighty-three and one hundred eighty-three-a of this article, every corporation, joint-stock company or association that is subject to section one hundred eighty-three of this article, shall pay for the privilege of exercising its corporate franchise, or doing business, or of employing capital, or of owning or leasing property in such corporate or organized capacity, or of maintaining an office in such district, a tax surcharge shall be computed at the rate of eighteen percent of the tax imposed under section one hundred eighty-three of this article; provided, however, that such surcharge shall be applied only if the highest taxable base calculated under section one hundred eighty-three of this article is more than seventy-five thousand dollars.

2. Notwithstanding any contrary provisions of state or local law, the tax surcharge imposed under this section shall not be allowed as a deduction in the computation of any state or local tax imposed under this chapter or any chapter or local law. Furthermore, the credits otherwise allowable under this article shall not be allowed against the tax surcharge imposed by this section.

§ 2. The tax law is amended by adding a new section 184-b to read as follows:

§ 184-b. Business tax surcharge on transportation and transmission corporations. 1. In addition to the tax imposed by sections one hundred eighty-four and one hundred eighty-four-a of this article, every corporation, joint-stock company or association, shall pay for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in the state in such corporate or organized capacity, or of maintaining an office in such district, a tax surcharge, which tax surcharge, shall be computed at the rate of eighteen percent of the tax imposed under section one hundred eighty-four of this article for taxable years; provided, however, that such surcharge shall be applied only if the gross earnings calculated under section one hundred eighty-four of this article is more than twenty million dollars.

2. Notwithstanding any contrary provisions of state or local law, the tax surcharge imposed under this section shall not be allowed as a deduction in the computation of any state or local tax imposed under this chapter or any chapter or local law. Furthermore, the credits otherwise allowable under this article shall not be allowed against the tax surcharge imposed by this section.

§ 3. The tax law is amended by adding a new section 186-h to read as follows:

§ 186-h. Business tax surcharge on utility and telecommunication services. 1. (a) Every provider of telecommunication services doing business in the state shall pay a tax surcharge, in addition to the tax imposed by paragraph (a) of subdivision one of sections one hundred eighty-six-a and one hundred eighty-six-c of this article, to be computed at the rate of eighteen percent of the tax imposed under such sections. Provided however, such tax surcharge shall only be applied if

the gross income calculated under paragraph (a) of subdivision one of section one hundred eighty-six-a of this article is more than one million five hundred thousand dollars.

(b) Every utility and every other utility doing business in the state shall pay a tax surcharge in addition to tax imposed by paragraph (b) or (c) of subdivision one of section one hundred eighty-six-a and section one hundred eighty-six-c of this article, to be computed at the rate of eighteen percent of the tax imposed under paragraph (b) or (c) of subdivision one of section one hundred eighty-six-a of this article. Provided, however, that such surcharge shall only be applied if the gross income calculated under such paragraph of section one hundred eighty-six-a is more than three hundred million dollars.

(c) Notwithstanding any other provision of state or local law, the tax surcharge imposed by this section shall not be allowed as a deduction and shall, to the extent deductible in determining federal adjusted gross income, be added to federal adjusted gross income, in the computation of any tax imposed under this chapter or any other chapter of state or local law. Furthermore, the credits otherwise allowable under this article shall not be allowed against the tax surcharge imposed by this section.

2. (a) There is hereby imposed a surcharge on the gross receipts from telecommunication services, in addition to the excise tax imposed by subparagraph one of paragraph (a) of subdivision two of section one hundred eighty-six-e of this article, at the rate of eighteen percent of the tax imposed by subparagraph one of paragraph (a) of subdivision two of section one hundred eighty-six-e of this article and such surcharge shall only be applied if the gross receipts calculated under such section is more than fifty million dollars.

(b) There is hereby imposed a surcharge on the gross receipts from mobile telecommunication services, in addition to the excise tax imposed by subparagraph two of paragraph (a) of subdivision two of section one hundred eighty-six-e of this article, at the rate of eighteen percent of the tax imposed by subparagraph two of paragraph (a) of subdivision two of section one hundred eighty-six-e of this article and such tax surcharge shall only be applied if the gross receipts calculated under such section is more than fifty million dollars.

(c) All the definitions and other provisions of section one hundred eighty-six-e of this article shall apply to the tax imposed by this subdivision with such modification and limitation as may be necessary in order to adapt the language of such section one hundred eighty-six-e of this article to the surcharge imposed by this subdivision within the state so as to include any mobile telecommunications service provided by a home service provider where the mobile telecommunications customer's place of primary use is within the state.

3. Notwithstanding any other provision of state or local law, the tax surcharge imposed by this section shall not be allowed as a deduction and shall, to the extent deductible in determining federal adjusted gross income, be added to federal adjusted gross income, in the computation of any tax imposed under this chapter or any other chapter of state or local law. Furthermore, the credits otherwise allowable under this article shall not be allowed against the tax surcharge imposed by this section.

§ 4. The tax law is amended by adding a new section 209-N to read as follows:

§ 209-N. Business tax surcharge on franchise corporations. 1. (a) For the privilege of exercising its corporate franchise, or of doing busi-

ness, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the state, for all or any part of its taxable year, there is hereby imposed on every corporation, other than a New York S corporation, subject to tax under section two hundred nine of this article, or any receiver, referee, trustee, assignee or other fiduciary, or any officer or agent appointed by any court, who conducts the business of any such corporation, a tax surcharge, in addition to the tax imposed under sections two hundred nine and two hundred nine-b of this article, to be computed at the rate of eighteen percent of the tax imposed under section two hundred nine of this article. Provided, however, this surcharge shall only be applied if the entire net income of the taxpayer calculated under such section is more than one million dollars.

(b) All the definitions and other provisions of section two hundred nine of this article shall apply to the tax imposed by this section with such modification and limitation as may be necessary in order to adapt the language of such section two hundred nine of this article to the surcharge imposed by this section.

2. Notwithstanding any contrary provisions of state or local law, the tax surcharge imposed under this section shall not be allowed as a deduction in the computation of any tax imposed under this chapter. Furthermore, the credits otherwise allowable under this article shall not be allowed against the tax surcharge imposed by this section.

§ 5. The tax law is amended by adding a new section 1506 to read as follows:

§ 1506. Business tax surcharge on insurance corporations. (a) Every domestic insurance corporation and every foreign or alien insurance corporation, and every life insurance corporation described in subdivision (b) of section fifteen hundred one of this article, for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property within the state in a corporate or organized capacity, or of maintaining an office in the state, except corporations specified in subdivision (c) of section fifteen hundred twelve of this article, shall pay, in addition to the taxes otherwise imposed by this article, a tax surcharge on the taxes imposed under this article after the deduction of any credits otherwise allowable under this article as allocated to such district.

(b) Such tax surcharge shall be computed at the rate of eighteen percent of the taxes imposed under sections fifteen hundred one, fifteen hundred two-a, and fifteen hundred ten of this article, as limited or otherwise determined by subdivision (a) or (b) of section fifteen hundred five of this article, after the deduction of any credits otherwise allowable under this article. Provided, however, such surcharge shall only be applied, in case of life insurance corporations, if the entire net income calculated under section fifteen hundred three is more than two million dollars; and in case of non-life insurance corporations, the surcharge shall only be applied if the gross direct premiums less return premiums written on risks located or resident in this state that are subject to the tax under section fifteen hundred two-a and fifteen hundred ten of this article is more than fifty million dollars.

(c) Notwithstanding any contrary provisions of state or local law, the tax surcharge imposed under this section shall not be allowed as a deduction in the computation of any state or local tax imposed under this chapter or any chapter or local law. The credits set forth in

section fifteen hundred eleven of this article shall not be allowed against the tax surcharge imposed by this section.

(d) (1) If, by the laws of any state other than this state, or by the action of any public official of such other state, any insurer organized or domiciled in this state, or the duly authorized agents thereof, subject to the business tax surcharge imposed by this section shall be required to pay taxes for the privilege of doing business in such other state which taxes are imposed or assessed because of the taxes imposed or assessed under this section, in computing the tax imposed by this section a credit shall be allowed for taxes paid to other states, which credit shall be determined pursuant to the provisions of this section; provided, however, the credit allowed any insurer under this subdivision shall in no event be greater than the tax surcharge payable by such insurer pursuant to this section for the taxable year with respect to which such amount has been imposed or assessed by such other states.

(2) In addition to any other requirements of this article, an insurer claiming a credit under this subdivision shall attach to the returns required pursuant to this section and section fifteen hundred fifteen of this article a computation identifying the credit attributable to taxes paid to other states because of the tax surcharge imposed by this section, which credit shall be further broken down to reflect amounts and taxable years to which the retaliatory taxes giving rise to the credit relate. The credit attributable to taxes paid to other states because of the tax surcharge imposed by this section shall be the difference between:(i) the credit which would be claimed by the insurer pursuant to subdivision (c) of section fifteen hundred eleven of this article if the tax surcharge imposed by this section were permitted in the computation of such credit, and (ii) the credit which is claimed by such insurer pursuant to such subdivision (c).

(3) To the extent not inconsistent with the provisions of this subdivision, the provisions of paragraphs four and five of subdivision (c) of section fifteen hundred eleven of this article shall apply with respect to the credit allowed under this subdivision.

(4) No credit against taxes paid to other jurisdictions under subdivision (c) of section fifteen hundred eleven of this article shall be allowed for any taxes paid under this section by any domestic insurance corporation, including life insurance corporations subject to tax under this section.

§ 6. Subdivision 1 of section 197-a of the tax law, as amended by section 8 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

1. Every taxpayer subject to the taxes imposed under sections one hundred eighty-two, one hundred eighty-two-a, former section one hundred eighty-two-b, one hundred eighty-four, one hundred eighty-six-a or one hundred eighty-six-e of this article shall make a declaration of its estimated tax for the current taxable year, containing such information as the commissioner may prescribe by regulations or instructions, if such estimated tax can reasonably be expected to exceed one thousand dollars. If a taxpayer is subject to the tax surcharge imposed under section one hundred eighty-four-a or one hundred eighty-six-c of this article [~~and~~], such taxpayer's estimated tax under section one hundred eighty-four or one hundred eighty-six-a of this article and such taxpayer's estimated tax under section one hundred eighty-three-b, one hundred eighty-four-b or one hundred eighty-six-h of this article, respectively, can reasonably be expected to exceed one thousand dollars, such taxpayer

shall also make a declaration of its estimated tax surcharge for the current taxable year.

§ 7. Paragraph (a) of subdivision 1 of section 197-b of the tax law, as amended by section 7 of part Q of chapter 60 of the laws of 2016, is amended to read as follows:

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

§ 8. Subdivision (a) of section 213-a of the tax law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

(a) Requirement of declaration.--Every taxpayer subject to the tax imposed by section two hundred nine of this [~~chapter~~] **article** shall make a declaration of its estimated tax for the current privilege period, containing such information as the commissioner of taxation and finance may prescribe by regulations or instructions, if such estimated tax can reasonably be expected to exceed one thousand dollars. If a taxpayer is subject to the tax surcharge imposed under section two hundred nine-B of this article **or such taxpayer's estimated tax surcharge under section two hundred nine-N of this article** and such taxpayer's estimated tax under section two hundred nine of this article can reasonably be expected to exceed one thousand dollars, such taxpayer shall also make a declaration of its estimated tax surcharge for the current privilege period.

§ 9. Subdivision (a) of section 213-b of the tax law, as amended by section 4 of part Z of chapter 59 of the laws of 2019, is amended to read as follows:

(a) First installments for certain taxpayers.--In privilege periods of twelve months ending at any time during the calendar year nineteen hundred seventy and thereafter, every taxpayer subject to the tax imposed by section two hundred nine of this [~~chapter~~] **article** must pay with the report required to be filed for the preceding privilege period, or with an application for extension of the time for filing the report, for taxable years beginning before January first, two thousand sixteen, and must pay on or before the fifteenth day of the third month of such privilege periods, for taxable years beginning on or after January first, two thousand sixteen, an amount equal to (i) twenty-five percent of the second preceding year's tax if the second preceding year's tax exceeded one thousand dollars but was equal to or less than one hundred thousand dollars, or (ii) forty percent of the second preceding year's tax if the second preceding year's tax exceeded one hundred thousand dollars. If the second preceding year's tax under section two hundred nine of this [~~chapter~~] **article** exceeded one thousand dollars and the taxpayer is subject to the tax surcharge imposed by section two hundred nine-B **or two hundred nine-N** of this [~~chapter~~] **article**, the taxpayer must also pay with the tax surcharge report required to be filed for the second preceding privilege period, or with an application for extension of the time for filing the report, for taxable years beginning before January first, two thousand sixteen, and must pay on or before the fifteenth day of the third month of such privilege periods, for taxable years beginning on or after January first, two thousand sixteen, an amount equal to (i) twenty-five percent of the tax surcharge imposed for the second preceding year if the second preceding year's tax was equal to or less than one hundred thousand dollars, or (ii) forty percent of the tax surcharge imposed for the second preceding year if the second preceding year's tax exceeded one hundred thousand dollars. Provided, however, that every taxpayer that is a New York S corporation must pay with the report required to be filed for the preceding privilege period, or with an application for extension of the time for filing the report, an amount equal to (i) twenty-five percent of the preceding year's tax if the preceding year's tax exceeded one thousand dollars but was equal to or less than one hundred thousand dollars, or (ii) forty percent of the preceding year's tax if the preceding year's tax exceeded one hundred thousand dollars.

§ 10. Subdivisions (a) and (b) of section 1513 of the tax law, subdivision (a) as amended by chapter 166 of the laws of 1991 and subdivision (b) as amended by section 25 of part H3 of chapter 62 of the laws of 2003, are amended to read as follows:

(a) Requirements of declaration.--Every taxpayer subject to the taxes imposed under this article shall make a declaration of its estimated tax for the current taxable year, containing such information as the commissioner of taxation and finance may prescribe by regulations or instructions, if such estimated tax can reasonably be expected to exceed one thousand dollars. If a taxpayer is subject to the tax surcharge imposed by section fifteen hundred five-a **of this article** and such taxpayer's estimated tax under this article can **(without regard to section fifteen hundred five-a or fifteen hundred six of this article) and such taxpayer's estimated tax under this article can** (without regard to section fifteen hundred five-a thereof) reasonably be expected to exceed one thousand dollars, such taxpayer shall also make a declaration of its estimated tax surcharge for the current taxable year.

(b) Definition of estimated tax and estimated tax surcharge. The terms "estimated tax" and "estimated tax surcharge" mean the amounts which the

taxpayer estimates to be the taxes imposed by sections fifteen hundred one, fifteen hundred two-a and fifteen hundred ten of this article or the tax surcharge imposed by section fifteen hundred five-a **or fifteen hundred six** of this article, respectively, for the current taxable year, less the sum of any credits which it estimates to be allowable against such taxes or tax surcharge, respectively.

§ 11. Paragraphs 1 and 2 of subdivision (a) of section 1514 of the tax law, paragraph 1 as amended by section 15 and paragraph 2 as amended by section 15-a of part Q of chapter 60 of the laws of 2016, are amended to read as follows:

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

(2) For taxable years beginning on or after January first, nineteen hundred ninety-nine, every taxpayer subject to tax under paragraph one of subdivision (b) of section fifteen hundred ten of this article shall pay in each such year an amount equal to forty percent of the tax imposed under such article for the second preceding taxable year, if such second preceding year's tax exceeded one thousand dollars. If such second preceding year's tax exceeded one thousand dollars and such taxpayer is subject to the tax surcharge imposed by section fifteen hundred five-a **or fifteen hundred six** of this article, such taxpayer shall also pay an amount equal to forty percent of the tax surcharge imposed under section fifteen hundred five-a **or fifteen hundred six** of this article for the second preceding taxable year.

§ 12. Notwithstanding any provision of law to the contrary, in determination of the amount of the estimated surcharge payment imposed by this act shall be prescribed by regulations of the commissioner of taxation and finance. The commissioner of taxation and finance shall adjust the methods of such estimated surcharge payment in regard to the first taxable year beginning on or after January 1, 2021 in a manner as to result in an amount substantially equal to the tax reasonably estimated to be due for such taxable year. In addition, such commissioner shall adjust the due date on the installment payment so that the taxpayers may have reasonable time to report such payment to be made quarterly or as soon as practicable for such taxable year. Any regulations to implement the surcharge shall be adopted and become effective as soon as practicable and the commissioner of taxation and finance may adopt such regulations on an emergency basis notwithstanding anything to the contrary in the state administrative procedure act. Further, no addition to tax

under subsection (c) of section 1085 of the tax law shall be imposed with respect to required declarations or payments of estimated tax surcharge under this act provided that the taxpayers file such declarations otherwise required to be filed and payments otherwise made no later than the date determined by the commissioner on which an installment of estimated tax surcharge is required to be paid.

§ 13. This act shall take effect immediately and shall apply to taxable years on or after January 1, 2021 and shall expire and be deemed repealed December 31, 2025.

PART PP

Section 1. Subparagraph (iv) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(iv) for taxable years beginning before January first, two thousand sixteen, if the business income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the business income base; if the business income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-tenth percent of the excess of the business income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) four and thirty-five hundredths percent of the excess of the business income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars**. For taxable years beginning on or after January first, two thousand twenty-one the amount shall be four percent of the taxpayer's business income base**;

§ 2. Paragraph (d) of subdivision 1 of section 210-B of the tax law, as amended by section 31 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(d) Except as otherwise provided in this paragraph, the credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the fixed dollar minimum amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowable under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit allowed for a taxable year commencing prior to January first, nineteen hundred eighty-seven and not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years but in no event shall such credit be carried over to taxable years commencing on or after January first, two thousand two, and any amount of credit allowed for a taxable year commencing on or after January first, nineteen hundred eighty-seven and not deductible in such year may be carried over to the fifteen taxable years next following such taxable year and may be deducted from the taxpayer's tax for such year or years. In lieu of such carryover, any such taxpayer which qualifies as a new business under paragraph (f) of this subdivision **or a taxpayer that qualifies as an eligible farmer for purposes of paragraph (b) of subdivision eleven of this section** may elect to treat the amount of such carryover as an overpayment of tax to be credited or refunded in accordance with the provisions of section ten hundred eighty-six of this chapter, provided, however, the provisions of subsection (c) of section ten hundred eight-

y-eight of this chapter notwithstanding, no interest shall be paid thereon.

§ 3. Paragraph 5 of subsection (a) of section 606 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(5) If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess allowed for a taxable year commencing prior to January first, nineteen hundred eighty-seven may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years, but in no event shall such credit be carried over to taxable years commencing on or after January first, nineteen hundred ninety-seven, and any amount of credit allowed for a taxable year commencing on or after January first, nineteen hundred eighty-seven and not deductible in such year may be carried over to the ten taxable years next following such taxable year and may be deducted from the taxpayer's tax for such year or years. In lieu of carrying over any such excess, a taxpayer who qualifies as an owner of a new business for purposes of paragraph ten of this subsection **or a taxpayer who qualifies as an eligible farmer for purposes of paragraph two of subsection (n) of this section** may, at his option, receive such excess as a refund. Any refund paid pursuant to this paragraph shall be deemed to be a refund of an overpayment of tax as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 4. Paragraph 39 of subsection (c) of section 612 of the tax law, as added by section 1 of part Y of chapter 59 of the laws of 2013, is amended to read as follows:

(39) In the case of a taxpayer who is a small business who has business income and/or farm income as defined in the laws of the United States, an amount equal to three percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand thirteen, an amount equal to three and three-quarters percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand fourteen, [~~and~~] an amount equal to five percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand fifteen**, and an amount equal to fifteen percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand twenty**. For the purposes of this paragraph, the term small business shall mean a sole proprietor or a farm business who employs one or more persons during the taxable year and who has net business income or net farm income of less than two hundred fifty thousand dollars.

§ 5. Paragraph 1 of subsection (c) of section 1085 of the tax law, as amended by section 4 of part KK of chapter 59 of the laws of 2018, is amended to read as follows:

(1) If any taxpayer**, except a New York S corporation as defined in subdivision one-A of section two hundred eight of this chapter,** fails to file a declaration of estimated tax under article nine-A of this chapter, or fails to pay all or any part of an amount which is applied as an installment against such estimated tax, it shall be deemed to have made

an underpayment of estimated tax. There shall be added to the tax for the taxable year an amount at the underpayment rate set by the commissioner pursuant to section one thousand ninety-six of this article, or if no rate is set, at the rate of seven and one-half percent per annum upon the amount of the underpayment for the period of the underpayment but not beyond the fifteenth day of the fourth month following the close of the taxable year. Provided, however, that, for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen, no amount shall be added to the tax with respect to the portion of such tax related to the amount of any interest deductions directly or indirectly attributable to the amount included in exempt CFC income pursuant to subparagraph (ii) of paragraph (b) of subdivision six-a of section two hundred eight of this chapter or the forty percent reduction of such exempt CFC income in lieu of interest attribution if the election described in paragraph (b) of subdivision six-a of such section is made. The amount of the underpayment shall be, with respect to any installment of estimated tax computed on the basis of either the preceding year's tax or the second preceding year's tax, the excess of the amount required to be paid over the amount, if any, paid on or before the last day prescribed for such payment or, with respect to any other installment of estimated tax, the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to ninety-one percent of the tax shown on the return for the taxable year (or if no return was filed, ninety-one percent of the tax for such year) over the amount, if any, of the installment paid on or before the last day prescribed for such payment. In any case in which there would be no underpayment if "eighty percent" were substituted for "ninety-one percent" each place it appears in this subsection, the addition to the tax shall be equal to seventy-five percent of the amount otherwise determined. No underpayment shall be deemed to exist with respect to a declaration or installment otherwise due on or after the termination of existence of the taxpayer.

§ 6. This act shall take effect immediately; provided however that sections two and three of this act shall apply to property acquired by purchase on or after January 1, 2021, and section five of this act shall apply to taxable years beginning on or after January 1, 2021.

PART QQ

Section 1. Subparagraph (A) of paragraph 1 of subsection (oo) of section 606 of the tax law, as amended by section 1 of part RR of chapter 59 of the laws of 2018, is amended and a new paragraph 6 is added to read as follows:

(A) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure**, and one hundred fifty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure that is a small project,** under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand twenty-

five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state; provided, however, the credit shall not exceed one hundred thousand dollars.

(6) For purposes of this subsection the term "small project" means qualified rehabilitation expenditures totaling two million five hundred thousand dollars or less.

§ 2. Subparagraph (i) of paragraph (a) of subdivision 26 of section 210-B of the tax law, as amended by section 2 of part RR of chapter 59 of the laws of 2018, is amended and a new paragraph (f) is added to read as follows:

(i) For taxable years beginning on or after January first, two thousand ten, and before January first, two thousand twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer for the same taxable year with respect to a certified historic structure**, and one hundred fifty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure that is a small project,** under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars.

(f) For purposes of this subdivision "small project" means qualified rehabilitation expenditures totaling two million five hundred thousand dollars or less.

§ 3. Subparagraph (A) of paragraph 1 of subdivision (y) of section 1511 of the tax law, as amended by section 3 of part RR of chapter 59 of the laws of 2018, is amended and a new paragraph 6 is added to read as follows:

(A) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure**, and one hundred fifty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure that is a small project,** under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47 with respect to a certified historic structure located within the state.

Provided, however, the credit shall not exceed one hundred thousand dollars.

(6) For purposes of this subdivision "small project" means qualified rehabilitation expenditures totaling two million five hundred thousand dollars or less.

§ 4. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2022.

PART RR

Section 1. Subdivisions 17 and 20-a of section 352 of the economic development law, subdivision 17 as amended by section 1 of part K and subdivision 20-a as added by section 1 of part ZZ of chapter 59 of the laws of 2017, are amended and a new subdivision 18-a is added to read as follows:

17. "Qualified investment" means an investment in tangible property (including a building or a structural component of a building) owned by a business enterprise which:

(a) is depreciable pursuant to section one hundred sixty-seven of the internal revenue code;

(b) has a useful life of four years or more;

(c) is acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code;

(d) has a situs in this state; [~~and~~]

(e) is placed in service in the state on or after the date the certificate of eligibility is issued to the business enterprise**; and**

(f) demolition and remediation of costs incurred and paid in the leased building by the business enterprise in a public housing development in the state, as determined by the commissioner.

18-a. "Community significant project" means (a) a business creating or retaining current jobs as determined by the commissioner, with particular emphasis on employment and/or training of current public housing residents; (b) currently located or to be located in existing leased space of a building in a public housing development in the state that is owned and operated by a public housing authority created under article thirteen of the public housing law; (c) which makes significant qualified capital investments to start a business, or improve services and working conditions for an existing business, when located in such public housing space; and (d) creates at least five new net jobs or retaining current jobs or makes qualified capital investments to such space of a building. The commissioner shall promulgate regulations pursuant to section three hundred fifty-six of this article to determine what additional criteria a business must meet to be eligible as a community significant project, including, but not limited to, incentivizing child care providers and other businesses that support the needs of the workforce residing in such public housing and the social and health needs of residents in such public housing, ensuring that residents are not displaced and ensuring that services or programs being offered to public housing residents by either a public housing authority or an entity already onsite, are not displaced in order to locate or expand a business in a public housing development.

20-a. "Significant capital investment" means a project which will be either a newly constructed facility or a newly constructed addition to, expansion of or improvement of a facility, consisting of tangible personal property and other tangible property, including buildings and structural components of buildings, that are depreciable pursuant to

section one hundred sixty-seven of the internal revenue code, have a useful life of four years or more, are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code, and that is equal to or exceeds (a) one million dollars for a manufacturer; (b) two hundred fifty thousand dollars for an agriculture business; (c) three million dollars for a financial services firm or back office operation; (d) fifteen million dollars for a distribution center; (e) three million dollars for a scientific research and development firm; [~~or~~] (f) three million dollars for other businesses**; or (g) one million dollars for a community significant project**.

§ 2. Subdivisions 1, 3 and 4 of section 353 of the economic development law, subdivision 1 as amended by section 2 of part L of chapter 59 of the laws of 2020, subdivision 3 as separately amended by section 2 of part K and section 2 of part ZZ and subdivision 4 as separately amended by section 3 of part K and section 2 of part ZZ of chapter 59 of the laws of 2017, are amended to read as follows:

1. To be a participant in the excelsior jobs program, a business entity shall operate in New York state predominantly:

(a) as a financial services data center or a financial services back office operation;

(b) in manufacturing;

(c) in software development and new media;

(d) in scientific research and development;

(e) in agriculture;

(f) in the creation or expansion of back office operations in the state;

(g) in a distribution center;

(h) in an industry with significant potential for private-sector economic growth and development in this state as established by the commissioner in regulations promulgated pursuant to this article. In promulgating such regulations the commissioner shall include job and investment criteria;

(i) as an entertainment company;

(j) in music production;

(k) as a life sciences company; [~~or~~]

(l) as a company operating in one of the industries listed in paragraphs (b) through (e) of this subdivision and engaging in a green project as defined in section three hundred fifty-two of this article**;**

or

(m) as a community significant project.

3. For the purposes of this article, in order to participate in the excelsior jobs program, a business entity operating predominantly in manufacturing must create at least five net new jobs; a business entity operating predominately in agriculture must create at least five net new jobs; a business entity operating predominantly as a financial service data center or financial services customer back office operation must create at least twenty-five net new jobs; a business entity operating predominantly in scientific research and development must create at least five net new jobs; a business entity operating predominantly in software development must create at least five net new jobs; a business entity creating or expanding back office operations must create at least twenty-five net new jobs; a business entity operating predominately in music production must create at least five net new jobs; a business entity operating predominantly as an entertainment company must create or obtain at least one hundred net new jobs; [~~or~~] a business entity operating predominantly as a distribution center in the state must

create at least fifty net new jobs, notwithstanding subdivision five of this section; [~~or~~] a business entity operating predominately as a life sciences company must create at least five net new jobs; [~~or~~] a business entity must be a regionally significant project as defined in this article; or **a community significant project as defined in this article; or**

4. A business entity operating predominantly in one of the industries referenced in paragraphs (a) through (h) or in paragraph (k) **or (m)** of subdivision one of this section but which does not meet the job requirements of subdivision three of this section must have at least twenty-five full-time job equivalents unless such business is a business entity operating predominantly in manufacturing then it must have at least five full-time job equivalents and must demonstrate that its benefit-cost ratio is at least ten to one.

§ 3. Paragraph (a) of subdivision 4 of section 355 of the economic development law, as amended by section 4 of part G of chapter 61 of the laws of 2011, is amended to read as follows:

(a) A participant in the excelsior jobs program who either qualified as a regionally significant project**, a community significant project** or is located in an investment zone shall be eligible to claim a credit for a period of ten years. **For the purposes of this subdivision, the lease payment paid by the business enterprise pursuant to a public housing development in this state shall be eligible real property tax for purposes of this subdivision.**

§ 4. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2022.

PART SS

Section 1. Notwithstanding any inconsistent provision of law, for taxable years beginning in two thousand twenty and before two thousand twenty-two, the Commissioner of Taxation and Finance is authorized to waive employment location requirements for any business receiving a credit authorized under the tax law, if the recipient can demonstrate that the employment location requirement of such credit would have otherwise been met if not for the restrictions related to the state of emergency declared pursuant to executive order 202 of 2020 or any extension or subsequent executive order issued in response to the novel coronavirus (COVID-19) pandemic, and the related employee remained employed by such business and is or was authorized or required to perform assigned work duties and requirements from a remote location.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 7, 2020.

PART TT

Section 1. Clause (i) of subparagraph 1 of paragraph (b) of subdivision 1 of section 210 of the tax law, as amended by section 18 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(i) The amount prescribed by this paragraph shall be computed at .15 percent for each dollar of the taxpayer's total business capital, or the portion thereof apportioned within the state as hereinafter provided for taxable years beginning before January first, two thousand sixteen. However, in the case of a cooperative housing corporation as defined in the internal revenue code, the applicable rate shall be .04 percent until taxable years beginning on or after January first, two thousand twenty. The rate of tax for subsequent tax years shall be as follows:

.125 percent for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen; .100 percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .075 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen; .050 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty; .025 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and zero percent for years beginning on or after January first, two thousand twenty-one. The rate of tax for a qualified New York manufacturer shall be .132 percent for taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, .106 percent for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen, .085 percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .056 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen; .038 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, thousand twenty; .019 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and [~~zero~~] **.15** percent for years beginning on or after January first, two thousand twenty-one.

§ 2. This shall take effect immediately.

PART UU

Section 1. Paragraph 7 of subdivision (c) of section 1261 of the tax law is REPEALED.

§ 2. Subparagraph (ii) of paragraph 5 of subdivision (c) of section 1261 of the tax law, as amended by section 2 of part ZZ of chapter 56 of the laws of 2020, is amended to read as follows:

(ii) After withholding the taxes, penalties and interest imposed by the city of New York on and after August first, two thousand eight as provided in subparagraph (i) of this paragraph, the comptroller shall withhold a portion of such taxes, penalties and interest sufficient to deposit annually into the central business district tolling capital lockbox established pursuant to section five hundred fifty-three-j of the public authorities law: (A) in state fiscal year two thousand nineteen - two thousand twenty, one hundred twenty-seven million five hundred thousand dollars; (B) in state fiscal year two thousand twenty - two thousand twenty-one, one hundred seventy million dollars; (C) in state fiscal year two thousand twenty-one - two thousand twenty-two and every succeeding state fiscal year, an amount equal to one hundred one percent of the amount deposited in the immediately preceding state fiscal year. The funds shall be deposited monthly in equal installments. During the period that the comptroller is required to withhold amounts and make payments described in this paragraph, the city of New York has no right, title or interest in or to those taxes, penalties and interest required to be paid into the above referenced central business district tolling capital lockbox. [~~In addition, the comptroller shall withhold a portion of such taxes, penalties and interest in the amount of two hundred million dollars, to be withheld in four quarterly installments~~

~~on January fifteenth, April fifteenth, July fifteenth and October fifteenth of each year, and shall deposit such amounts into the New York State Agency Trust Fund, Distressed Provider Assistance Account.~~]

§ 3. This act shall take effect April 1, 2021; provided however that the amendments to subparagraph (ii) of paragraph 5 of subdivision (c) of section 1261 of the tax law made by section two of this act shall not affect the expiration of such subparagraph and shall be deemed to expire therewith.

PART VV

Section 1. The real property law is amended by adding a new section 291-k to read as follows:

§ 291-k. Recording of mezzanine debt and preferred equity investments. 1. Whenever a mortgage instrument is recorded in the office of the recording officer of any county, any mezzanine debt or preferred equity investment related to the real property upon which the mortgage instrument is filed shall also be recorded with such mortgage instrument. For the purposes of this section, "mezzanine debt" and "preferred equity investments" shall mean debt carried by a borrower that may be subordinate to the primary lien and is senior to the common shares of an entity or the borrower's equity and reported as assets for the purposes of financing such primary lien. This shall include non-traditional financing techniques such as a direct or indirect investment by a financing source in an entity that owns the equity interests of the underlying mortgage where the financing source has special rights or preferred rights such as: (i) the right to receive a special or preferred rate of return on its capital investment; and (ii) the right to an accelerated repayment of the investors' capital contribution.

2. This section shall apply to both mezzanine debt and preferred equity investments if both used by the borrower or mortgagor, or either mezzanine debt or preferred debt, if either is used by the borrower or mortgagor.

3. For purposes of this section, "mezzanine debt" and "preferred equity investments" shall not include debt on cooperative or common shares of a residential dwelling where the unit owner of a cooperative apartment is a shareholder of the ownership entity, has exclusive occupancy of such dwelling unit, and has established and delimited rights under a proprietary lease.

4. No remedy otherwise available to a secured party under the uniform commercial code shall be available to enforce a security agreement pertaining to mezzanine debt financing and/or preferred equity investments in relation to real property upon which a mortgage instrument is filed that is evidenced by a financing statement, unless that financing statement is filed and the tax imposed pursuant to the authority of subdivision four of section two hundred fifty-three of the tax law, has been paid.

§ 2. Section 9-601 of the uniform commercial code is amended by adding a new subsection (h) to read as follows:

(h) Security interest perfected by financing statement. 1. Notwithstanding any provision of law to the contrary, a security interest in mezzanine debt and/or preferred equity investments related to the real property upon which a mortgage instrument is filed, may only be perfected by the filing of a financing statement under subpart 1 of part 5 of this article and only after the payment of any taxes due pursuant to section two hundred fifty-three of the tax law.

2. For purposes of this section, the terms "mezzanine debt" and "preferred equity investments" shall have the same meaning as provided in section two hundred ninety-one-k of the real property law.

3. This section shall not be applicable to any debt on cooperative or common shares of a residential dwelling where the unit owner of a cooperative apartment is a shareholder of the ownership entity, has exclusive occupancy of such dwelling unit, and has established and delimited rights under a proprietary lease.

§ 3. Paragraph (a) of subdivision 2 of section 250 of the tax law, as amended by section 1 of part Q of chapter 60 of the laws of 2004, is amended to read as follows:

(a) **(1)** The term "mortgage" as used in this article includes every mortgage or deed of trust which imposes a lien on or affects the title to real property, notwithstanding that such property may form a part of the security for the debt or debts secured thereby. An assignment of rents to accrue from tenancies, subtenancies, leases or subleases of real property, within any city in the state having a population of one million or more, given as security for an indebtedness, shall be deemed a mortgage of real property for purposes of this article. Executory contracts for the sale of real property under which the vendee has or is entitled to possession shall be deemed to be mortgages for the purposes of this article and shall be taxable at the amount unpaid on such contracts. A contract or agreement by which the indebtedness secured by any mortgage is increased or added to, shall be deemed a mortgage of real property for the purpose of this article, and shall be taxable as such upon the amount of such increase or addition.

(2) Notwithstanding anything in this section or section two hundred fifty-five of this article to the contrary, a contract or agreement whereby the proceeds of any indebtedness secured by a mortgage of real property in any city in the state having a population of one million or more are used to reduce all or any part of a mortgagee's equity interest in a wraparound or similar mortgage of such real property shall be deemed a mortgage of real property for the purposes of this article and shall be taxable as such to the extent of the amount of such proceeds so used, without regard to whether the aggregate amount of indebtedness secured by mortgages of such real property is increased or added to.

(3) Notwithstanding any provision to the contrary in this section or section two hundred fifty-five of this article, "mezzanine debt" and "preferred equity investments" as such terms are defined in subdivision four of this section, shall be taxable and shall apply to taxes in subdivisions one, one-a and two of section two hundred fifty-three of this article, but shall not apply to any other taxes in this article on or after the effective date of this subparagraph.

§ 4. Section 250 of the tax law is amended by adding a new subdivision 4 to read as follows:

4. The term "mezzanine debt" and "preferred equity investment" shall have the same meaning as provided in section two hundred ninety-one-k of the real property law.

§ 5. Section 253 of the tax law as amended by adding a new subdivision 4 to read as follows:

4. (a) A tax, measured by the amount of principal debtor obligation which is under any contingency may be secured at the date of the execution thereof, or at any time thereafter, by a security agreement pertaining to mezzanine debt financing and/or preferred equity investments in relation to real property upon which a mortgage instrument is

filed, as evidenced by a financing statement, is imposed on the filing of the financing statement.

(b) The rate and incidence of the tax shall be determined pursuant to subdivisions one, one-a, and two of this section.

(c) Except as otherwise provided in this subdivision, all the provisions of this article relating to or applicable to the administration, collection, determination and distribution of the tax imposed by this section shall apply to the tax imposed under the authority of this subdivision with such modification as may be necessary to adapt such language to the tax so authorized. Any reference to a mortgage will be deemed to be a reference to a financing statement that evidences a security agreement. Such provisions shall apply with the same force and effect as if those provisions had been set forth in this subdivision except to the extent that any provision is either inconsistent with a provision of this subdivision or not relevant to the tax authorized by this subdivision.

(d) No remedy otherwise available to a secured party under the uniform commercial code shall be available to enforce a security agreement pertaining to mezzanine debt financing and/or preferred equity investments in relation to real property upon which a mortgage instrument is filed that is evidenced by a financing statement, unless that financing statement is filed and the tax imposed pursuant to the authority of this subdivision has been paid.

(e) For the purposes of this subdivision:

(1) "mezzanine debt" and "preferred equity investments" shall have the same meaning as provided in section two hundred ninety-one-k of the real property law.

(2) "financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(3) "security agreement" means an agreement that creates or provides for a security interest.

(f) Counties or cities authorized under this article to impose a tax are authorized and empowered to adopt and amend local laws to impose in such county or city a tax on the filing of financing statements pertaining to mezzanine debt financing and/or preferred equity investments in relation to real property upon which a mortgage instrument is filed. Any tax that has been imposed by a county or city under the authority of this article shall be deemed to include the authority to impose and collect the tax on the recording of a financing statement pertaining to mezzanine debt financing and/or preferred equity investments in relation to real property upon which a mortgage instrument is filed in the same manner as the local mortgage recording tax.

§ 6. Subdivision 1 and paragraph (a) of subdivision 2 of section 253-a of the tax law, as amended by chapter 343 of the laws of 1990, are amended to read as follows:

1. Any city in this state having a population of one million or more, acting through its local legislative body, is hereby authorized and empowered to adopt and amend local laws imposing in any such city (A) prior to February first, nineteen hundred eighty-two a tax of fifty cents, (B) on or after February first, nineteen hundred eighty-two and before July first, nineteen hundred eighty-two with respect to (i) one, two or three-family houses, individual cooperative apartments and individual residential condominium units, and (ii) real property securing a principal debt or obligation of less than five hundred thousand dollars, a tax of fifty cents, and with respect to all other real property a tax

of one dollar and twelve and one-half cents, (C) on and after July first, nineteen hundred eighty-two and before August first, nineteen hundred ninety with respect to real property securing a principal debt or obligation of less than five hundred thousand dollars, a tax of fifty cents, with respect to one, two or three-family houses, individual cooperative apartments and individual residential condominium units securing a principal debt or obligation of five hundred thousand dollars or more, a tax of sixty-two and one-half cents, and with respect to all other real property a tax of one dollar and twenty-five cents, and (D) on and after August first, nineteen hundred ninety with respect to real property securing a principal debt or obligation of less than five hundred thousand dollars, a tax of one dollar, with respect to one, two or three-family houses and individual residential condominium units securing a principal debt or obligation of five hundred thousand dollars or more, a tax of one dollar and twelve and one-half cents, and with respect to all other real property a tax of one dollar and seventy-five cents, for each one hundred dollars and each remaining major fraction thereof of principal debt or obligation which is or under any contingency may be secured at the date of execution thereof, or at any time thereafter, by a mortgage on such real property situated within such city and recorded on or after the date upon which such tax takes effect and a tax of one dollar on such mortgage if the principal debt or obligation which is or by any contingency may be secured by such mortgage is less than one hundred dollars. In each instance where the tax imposed pursuant to this subdivision is one dollar and twenty-five cents for each one hundred dollars and each remaining major fraction thereof of such principal debt or obligation, fifty percent of the total amount of such tax, including fifty percent of any interest or penalties thereon, shall be set aside in a special account by the commissioner of finance of such city. In each instance where the tax imposed pursuant to this subdivision is one dollar and seventy-five cents for each one hundred dollars and each remaining major fraction thereof of such principal debt or obligation, thirty-five and seven-tenths percent of the total amount of such tax, including thirty-five and seven-tenths percent of any interest or penalties thereon, shall also be set aside in such special account. Moneys in such account shall be used for payment by such commissioner to the state comptroller for deposit in the urban mass transit operating assistance account of the mass transportation operating assistance fund of any amount of insufficiency certified by the state comptroller pursuant to the provisions of subdivision six of section eighty-eight-a of the state finance law, and, on the fifteenth day of each month, such commissioner shall transmit all funds in such account on the last day of the preceding month, except the amount required for the payment of any amount of insufficiency certified by the state comptroller and such amount as he deems necessary for refunds and such other amounts necessary to finance the New York city transportation disabled committee and the New York city paratransit system as established by section fifteen-b of the transportation law, provided, however, that such amounts shall not exceed six percent of the total funds in the account but in no event be less than two hundred twenty-five thousand dollars beginning April first, nineteen hundred eighty-six, and further that beginning November fifteenth, nineteen hundred eighty-four and during the entire period prior to operation of such system, the total of such amounts shall not exceed three hundred seventy-five thousand dollars for the administrative expenses of such committee and fifty thousand dollars for the expenses of the agency designated pursuant to paragraph b of subdivision

five of such section, and other amounts necessary to finance the operating needs of the private bus companies franchised by the city of New York and eligible to receive state operating assistance under section eighteen-b of the transportation law, provided, however, that such amounts shall not exceed four percent of the total funds in the account, to the New York city transit authority for mass transit within the city. **The tax imposed under the authority of paragraph (D) of this subdivision is deemed to include a tax imposed on the filing of financing statements evidencing a security agreement pertaining to mezzanine debt financing and/or preferred equity investments in relation to real property upon which a mortgage instrument is filed.**

(a) For the purpose of determining whether a mortgage is subject to the tax authorized to be imposed by paragraph (B) or (C) of subdivision one of this section at a rate in excess of fifty cents, or by paragraph (D) of subdivision one of this section at a rate in excess of one dollar, for each one hundred dollars and each remaining major fraction thereof of principal debt or obligation, the principal debt or obligation which is or under any contingency may be secured at the date of execution thereof, or at any time thereafter, by such mortgage shall be aggregated with the principal debt or obligation which is or under any contingency may be secured at the date of execution thereof, or at any time thereafter, by any other mortgage, where such mortgages form part of the same or related transactions and have the same or related mortgagors **or related debtors in the case of a financing statement evidencing a security agreement pertaining to mezzanine debt financing and/or preferred equity investments in relation to real property upon which a mortgage instrument is filed**. If the commissioner of taxation and finance finds that a mortgage transaction or mortgage transactions have been formulated for the purpose of avoiding or evading a rate of tax authorized to be imposed under subdivision one of this section in excess of the lowest such authorized rate, rather than solely for an independent business or financial purpose, such commissioner shall treat all of the mortgages forming part of such transaction or transactions as a single mortgage for the purpose of determining the applicable rate of tax. For purposes of this subdivision, there shall be a presumption that all mortgages offered for recording within a period of twelve consecutive months having the same or related mortgagors **or related debtors** are part of a related transaction, and such presumption may be rebutted only with clear and convincing evidence to the contrary. The commissioner of taxation and finance may require such affidavits and forms, and may prescribe such rules and regulations, as he determines to be necessary to enforce the provisions of this subdivision. **Any reference to a mortgage in this subdivision includes a financing statement evidencing a security agreement pertaining to mezzanine debt financing and/or preferred equity investments in relation to real property upon which a mortgage instrument is filed.**

§ 7. Paragraph (a) of subdivision 1 of section 255 of the tax law is amended by adding a new subparagraph (iii) to read as follows:

(iii) Notwithstanding the provisions of subparagraph (i) of this paragraph, the taxes imposed by the authority under subparagraph three of paragraph (a) of subdivision two of section two hundred fifty of this article shall apply to mezzanine debt and/or preferred equity investments as such terms are defined by subdivision four of such section.

§ 8. Section 257 of the tax law is amended to read as follows:

§ 257. Payment of taxes. The taxes imposed by this article shall be payable on the recording of each mortgage of real property subject to

taxes [~~thereunder~~] **under this article and to taxes imposed by subparagraph three of paragraph (a) of subdivision two of section two hundred fifty of this article on and after the effective date of such subparagraph**. Such taxes shall be paid to the recording officer of any county in which the real property or any part thereof is situated. It shall be the duty of such recording officer to indorse upon each mortgage **and any mezzanine debt and/or preferred equity investment included with such mortgage** a receipt for the amount of the tax so paid. Any mortgage so indorsed may thereupon or thereafter be recorded by any recording officer and the receipt for such tax indorsed upon each mortgage shall be recorded therewith. The record of such receipt shall be conclusive proof that the amount of tax stated therein has been paid upon such mortgage**, including any mezzanine debt and/or preferred equity investment**.

§ 9. Subdivision 1 of section 258 of the tax law, as amended by chapter 241 of the laws of 1989, is amended to read as follows:

1. No mortgage of real property shall be recorded by any county clerk or register, unless there shall be paid the taxes imposed by and as in this article provided. No mortgage of real property which is subject to the taxes imposed by this article shall be released, discharged of record or received in evidence in any action or proceeding, nor shall any assignment of or agreement extending any such mortgage be recorded unless the taxes imposed thereon by this article shall have been paid as provided in this article. **For purposes of the taxes imposed and authorized by subparagraph three of paragraph (a) of subdivision two of section two hundred fifty of this article, unless such taxes shall have been paid, no mortgage of real property shall be recorded by any county clerk or register, nor shall such mortgage be released, discharged, recorded or received in evidence in any action or proceeding, nor shall any assignment of agreement extending such mortgage be recorded.** Provided, however, except as otherwise provided in subdivision two of this section, in order to obtain a release or discharge of record where the mortgagor is not liable for the special additional tax imposed under subdivision one-a of section two hundred fifty-three of this chapter, such mortgagor or any subsequent owner of the mortgaged property or a part thereof may pay the tax imposed under such subdivision one-a and penalty, and may either apply for the credit allowable under this chapter for payment of such additional tax or may maintain an action to recover the amounts so paid against any person liable for payment of the tax or any subsequent assignees or owners of such mortgage or consolidated mortgage of which such mortgage is a part, as if such amounts of tax and penalty were a debt personally owed by such persons to the mortgagor or subsequent owner. No judgment or final order in any action or proceeding shall be made for the foreclosure or the enforcement of any mortgage which is subject to any tax imposed by this article or of any debt or obligation secured by any such mortgage, unless the taxes**, including taxes authorized by subparagraph three of paragraph (a) of subdivision two of section two hundred fifty of this article** imposed by this article shall have been paid as provided in this article; and, except **as** otherwise provided in subdivision two of this section, whenever it shall appear that any mortgage has been recorded without payment of a tax imposed by this article there shall be added to the tax a sum equal to one-half of one per centum thereof for each month or fraction of a month for the period that the tax remains unpaid except where it could not be determined from the face of the instrument that a tax was due, or where an advance has been made on a prior advance mortgage or a corporate trust mortgage without payment of the tax, in which case there

shall be added to the tax a sum equal to one per centum thereof for each month or fraction of a month for the period that the tax remains unpaid. In any case where a mortgage of real property subject to a tax imposed by this article has heretofore been recorded or is hereafter recorded in good faith, and the county clerk or register has held such mortgage nontaxable or taxable at one amount, and it shall later appear that it was taxable or taxable at a greater amount, the commissioner of taxation and finance may remit the penalties in excess of one-half of one per centum per month.

§ 10. Section 261 of the tax law is amended by adding a new subdivision 4 to read as follows:

4. Notwithstanding any other provision of law to the contrary in this section, commencing on or after April first, two thousand twenty-one, the balance of all moneys paid to the recording officer of each county during each month upon account of the taxes imposed pursuant to subdivision four of section two hundred fifty-three of this article, to the extent such distributions are not accounted in subdivisions one, two and three of this section, after deducting necessary expenses and apportionment under section two hundred sixty of this article, shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter.

§ 11. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, **eleven (except as otherwise provided in section two hundred fifty-three, section two hundred sixty-one, or any other section thereof),** twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit

of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New

York, the comptroller shall collect a like amount from the city of New York.

§ 12. Subdivision 1 of section 171-a of the tax law, as amended by section 4 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, **eleven (except as otherwise provided in section two hundred fifty-three, section two hundred sixty-one, or any other section thereof)**, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account,

pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 13. This act shall take effect immediately and shall apply to all moneys collected on or after April 1, 2021, provided, however, that section ten of this act shall take effect on the tenth day of the month following the date on which this act shall have become a law. Provided, further, that the amendments to subdivision 1 of section 171-a of the tax law made by section eleven of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 12 of chapter 90 of the laws of 2014, as amended, when upon such date the provisions of section twelve of this act shall take effect.

PART WW

Section 1. The tax law is amended by adding a new article 30-C to read as follows:

ARTICLE 30-C
SUPPLEMENTAL SURCHARGE ON OWNERS OF CERTAIN NON-PRIMARY RESIDENTIAL PROPERTIES

Section 1355. Supplemental surcharge on owners of certain non-primary residence properties in a city with a population of one million or more.
1356. Definitions.
1357. Imposition of supplemental surcharge.
1358. Owners subject to supplemental surcharge.
1359. Primary residence and/or relationship to owner or owners.
1360. Collection, levy and liens.
1361. Rules.
1362. Taxpayer's right.
1363. Deposit and disposition of revenue.

§ 1355. Supplemental surcharge on owners of certain non-primary residence properties in a city with a population of one million or more. Generally. Notwithstanding any provision of any general, specific or local law to the contrary, the commissioner is hereby authorized and empowered to adopt any rules and regulations promulgated in accordance with this article imposing a supplemental surcharge on owners of certain residential properties and dwelling units.

§ 1356. Definitions. As used in this article: 1. "Commissioner" means the commissioner of taxation and finance, or his or her designee.

2. "Department" means the department of taxation and finance.

3. "Five-year average market value" shall mean the average monetary value of the real property for the previous five years, using a comparable sale-based valuation method, as determined by the commissioner.

4. "Assessed value" shall mean the determination made of the value of the real property, using an income and expense approach, as determined by the commissioner.

5. "Assessed value attributable to a tenant-stockholder" shall mean the proportion of the assessed value of real property owned by a cooperative apartment corporation, represented by a tenant-stockholder's share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation.

§ 1357. Imposition of supplemental surcharge. Rules and regulations promulgated, as determined by the commissioner pursuant to this section may provide for a supplemental surcharge in a city with a population of one million or more, for fiscal years beginning on or after July first, two thousand twenty-one, in accordance with the following provisions:

1. For one, two or three family residences with a five-year average market value of five million dollars or higher, a supplemental surcharge of at least one-half percent and no more than four percent on the excess market value above five million dollars.

2. Provided, however, for residential real property held in the condominium form of ownership with an assessed value of three hundred thousand dollars or higher, a supplemental surcharge of at least ten percent and no more than thirteen and one-half percent of the excess assessed value above three hundred thousand dollars, as determined by the commissioner.

3. Provided, further, for dwelling units in real property held in the cooperative form of ownership with an assessed value attributable to a tenant-stockholder of three hundred thousand dollars or higher, a supplemental surcharge of at least ten percent and no more than thirteen and one-half percent of the excess assessed value above three hundred thousand dollars, as determined by the commissioner. The additional supplemental surcharges attributable to each tenant-stockholder shall be added by the cooperative apartment corporation to the amount of such

charges or taxes otherwise payable by or chargeable to such tenant-stockholder.

§ 1358. Owners subject to supplemental surcharge. Such supplemental surcharge shall be imposed on owners of class one property, as that term is defined in section eighteen hundred two of the real property tax law, excluding vacant land, that has a five-year average market value of over five million dollars and is not the primary residence of the owner or owners of such property, or the primary residence of the parent or child of such owner or owners, and all other residential real property held in condominium or cooperative form of ownership in a city with a population of one million or more, that has an assessed value of over three hundred thousand dollars and is not the primary residence of the owner or owners of such property, or the primary residence of the parent or child of such owner or owners.

§ 1359. Primary residence and/or relationship to owner or owners. 1. Proof of primary residence and the resident's or residents' relationship to the owner or owners shall be in the form of a certification as required by the rules and regulations of the commissioner. Notwithstanding the former, property owners who receive the STAR exemption or credit, or other exemption from real property tax administered by the department on the subject property for which primary residency is a requirement, shall not be required to file an additional certification of proof of primary residence.

2. The commissioner is hereby authorized to make a request and receive from a city with a population of one million or more records, not otherwise confidential, relevant to the commissioner's determination of primary residence status pursuant to this section, or any other information necessary to effectuate the purpose of this section.

§ 1360. Collection, levy and liens. 1. Collection procedures. The surcharges imposed by this article shall be collected by the commissioner, and the commissioner may establish the mode or time for the collection of any amount due under this article pursuant to section six hundred ninety-two of this chapter, if not otherwise specified. The commissioner shall, upon request, give a receipt for any sum collected under this article. The commissioner may authorize banks or trust companies which are depositories or financial agents of the state to receive and give a receipt for any surcharge imposed under this article in such manner, at such times, and under such conditions as the commissioner may prescribe; and shall prescribe the manner, times and conditions under which the receipt of such surcharge by such banks and trust companies is to be treated as payment of such surcharge to the commissioner.

2. Notice and demand for surcharge. The commissioner shall as soon as practicable give notice to each person liable for any amount of surcharge which has been assessed but remains unpaid, stating the amount and demanding payment thereof. Such notice shall be left at the usual place of business of such person or shall be sent by mail to such person's last known address. Four such notices shall be required before any warrant described in subdivision three of this section may be issued. All four notices shall be sent by mail at least thirty days apart from the previous notice. Except where the commissioner determines that collection would be jeopardized by delay, if any surcharge is assessed prior to the last date (including any date fixed by extension) prescribed for payment of such surcharge, payment of such surcharge shall not be demanded until after such date.

3. Issuance of warrant after notice and demand. If any person liable under this article for the payment of any surcharge neglects or refuses

to pay the same within the thirty days after the fourth and final notice and demand therefor is given to such person under subdivision two of this section, the commissioner may within six years after the date of such assessment issue a warrant directed to the sheriff of any county of the state, or to any officer or employee of the department, commanding such person to levy upon and sell such person's real and personal property for the payment of the amount assessed, with the cost of executing the warrant, and to return such warrant to the commissioner and pay to the commissioner the money collected by virtue thereof within sixty days after the receipt of the warrant. If the commissioner finds that the collection of the surcharge or other amount is in jeopardy, notice and demand for immediate payment of such surcharge may be made by the commissioner and upon failure or refusal to pay such surcharge or other amount the commissioner may issue a warrant without regard to the thirty-day period provided in this subdivision.

4. Copy of warrant to be filed and lien to be created. Any sheriff or officer or employee who receives a warrant under subdivision three of this section shall within five days thereafter file a copy with the clerk of the appropriate county. The clerk shall thereupon enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns the surcharge or other amounts for which the warrant is issued and the date when such copy is filed; and such amount shall thereupon be a binding lien upon the real, personal and other property of the taxpayer.

5. Judgment. When a warrant has been filed with the county clerk the commissioner shall, on behalf of the state, be deemed to have obtained judgment against the taxpayer for the surcharge or other amounts.

6. Execution. The sheriff or officer or employee shall thereupon proceed upon the judgment in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record, and a sheriff shall be entitled to the same fees for the sheriff's services in executing the warrant, to be collected in the same manner. An officer or employee of the department may proceed in any county or counties of this state and shall have all the powers of execution conferred by law upon sheriffs but shall be entitled to no fee or compensation in excess of actual expenses paid in connection with the execution of the warrant.

7. Taxpayer not a resident of this state. Where a notice and demand under subdivision two of this section shall have been given to a taxpayer who is not then a resident of this state, and it appears to the commissioner that it is not practicable to find in this state property of the taxpayer sufficient to pay the entire balance of the surcharge or other amount owing by such taxpayer who is not then a resident of this state, the commissioner may, in accordance with subdivision three of this section, issue a warrant directed to an officer or employee of the department, a copy of which warrant shall be mailed by certified or registered mail to the taxpayer at the taxpayer's last known address, either within or out of the state. Such warrant shall command the officer or employee to proceed in Albany county, and such officer or employee shall, within five days after receipt of the warrant, file the warrant and obtain a judgment in accordance with this section. Thereupon, the commissioner may authorize the institution of any action or proceeding to collect or enforce the judgment in any place and by any procedure that a civil judgment of the supreme court of the state of New York could be collected or enforced. The commissioner may also, in the commissioner's discretion, designate agents or retain counsel for the

purpose of collecting, outside the state of New York, any unpaid surcharges which have been assessed under this article against taxpayers who are not residents of this state, may fix the compensation of such agents and counsel to be paid out of money appropriated or otherwise lawfully available for payment thereof, and may require of them bonds or other security for the faithful performance of their duties, in such form and in such amount as the commissioner shall deem proper and sufficient.

8. Action by state for recovery of taxes. Action may be brought by the attorney general of the state at the instance of the commissioner as agent and trustee for the state to recover the amount of any unpaid surcharges which have been assessed under this article within six years prior to the date the action is commenced.

9. Release of lien. The commissioner, if he or she finds that the interests of the state will not thereby be jeopardized, and upon such conditions as the commissioner may require, may release any property from the lien of any warrant for unpaid surcharges filed pursuant to subdivision four or seven of this section, and such release may be recorded in the office of any recording officer in which such warrant has been filed.

§ 1361. Rules. The commissioner shall have, in addition to any other functions, powers and duties which have been or may be conferred on it by law, the power to make and promulgate rules to carry out the purposes of this section including, but not limited to, rules relating to the timing, form and manner of any certification required to be submitted under this section. The commissioner also may require by rule, the form, timing and manner of all filing and payment requirements including requiring any such filing requirements and payment of such surcharge amount due in electronic form.

§ 1362. Taxpayer's right. The taxpayer shall have the same right to commence a court action or proceeding or any other legal recourse against the commissioner that is granted to the taxpayer pursuant to article twenty-two of this chapter, except to the extent such provision is inconsistent with any provisions of this article.

§ 1363. Deposit and disposition of revenue. Any surcharge imposed by this article and collected and received by the commissioner shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter.

§ 2. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-C, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the

comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one

hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 3. Subdivision 1 of section 171-a of the tax law, as amended by section 4 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, **thirty-C,** thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be

credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 4. This act shall take effect immediately; provided, however, that the amendments to subdivision 1 of section 171-a of the tax law made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 12 of chapter 90 of the laws of 2014, as amended, when upon such date the provisions of section three of this act shall take effect.

PART XX

Section 1. Section 952 of the tax law, as amended by section 2 of part X of chapter 59 of the laws of 2014 and subsection (b) as amended by section 1 of part BB of chapter 59 of the laws of 2015, is amended to read as follows:

§ 952. Tax imposed. (a) A tax is hereby imposed on the transfer of the New York estate by every deceased individual who at his or her death was a resident of New York state.

(b) Computation of tax. The tax imposed by this section shall be computed on the deceased resident's New York taxable estate as follows:

If the New York taxable estate is:	The tax is:
Not over $500,000	3.06% of taxable estate
Over $500,000 but not over $1,000,000	$15,300 plus 5.0% of excess over $500,000
Over $1,000,000 but not over $1,500,000	$40,300 plus 5.5% of excess over $1,000,000
Over $1,500,000 but not over $2,100,000	$67,800 plus 6.5% of excess over $1,500,000
Over $2,100,000 but not over $2,600,000	$106,800 plus 8.0% of excess over $2,100,000
Over $2,600,000 but not over $3,100,000	$146,800 plus 8.8% of excess over $2,600,000
Over $3,100,000 but not over $3,600,000	$190,800 plus 9.6% of excess over $3,100,000
Over $3,600,000 but not over $4,100,000	$238,800 plus 10.4% of excess over $3,600,000
Over $4,100,000 but not over $5,100,000	$290,800 plus 11.2% of excess over $4,100,000
Over $5,100,000 but not over $6,100,000	$402,800 plus 12.0% of excess over $5,100,000
Over $6,100,000 but not over $7,100,000	$522,800 plus 12.8% of excess over $6,100,000
Over $7,100,000 but not over $8,100,000	$650,800 plus 13.6% of excess over $7,100,000
Over $8,100,000 but not over $9,100,000	$786,800 plus 14.4% of excess over $8,100,000
Over $9,100,000 but not over $10,100,000	$930,800 plus 15.2% of excess over $9,100,000
Over $10,100,000	$1,082,800 plus [~~16.0%~~] 20.0% of excess over $10,100,000

(c) Applicable credit amount. (1) A credit of the applicable credit amount shall be allowed against the tax imposed by this section as provided in this subsection. In the case of a decedent whose New York taxable estate is less than or equal to the basic exclusion amount, the applicable credit amount shall be the amount of tax that would be due under subsection (b) of this section on such decedent's New York taxable estate. In the case of a decedent whose New York taxable estate exceeds the basic exclusion amount by an amount that is less than or equal to five percent of such amount, the applicable credit amount shall be the amount of tax that would be due under subsection (b) of this section if the amount on which the tax is to be computed were equal to the basic exclusion amount multiplied by one minus a fraction, the numerator of which is the decedent's New York taxable estate minus the basic exclusion amount, and the denominator of which is five percent of the basic exclusion amount. Provided, however, that the credit allowed by this

subsection shall not exceed the tax imposed by this section, and no credit shall be allowed to the estate of any decedent whose New York taxable estate exceeds one hundred five percent of the basic exclusion amount.

(2) (A) For purposes of this section, the basic exclusion amount shall be as follows:

In the case of decedents dying on or after:	The basic exclusion amount is:
April 1, 2014 and before April 1, 2015	$ 2,062,500
April 1, 2015 and before April 1, 2016	3,125,000
April 1, 2016 and before April 1, 2017	4,187,500
April 1, 2017 and before January 1, 2019	5,250,000

(B) In the case of any decedent dying in a calendar year beginning on or after January first, two thousand nineteen, the basic exclusion amount shall be equal to:

(i) five million dollars, multiplied by

(ii) one plus the cost-of-living adjustment, which shall be the percentage by which the consumer price index for the preceding calendar year exceeds the consumer price index for calendar year two thousand ten.

(C) (i) For purposes of this paragraph, "consumer price index" means the most recent consumer price index for all-urban consumers published by the United States department of labor.

(ii) For purposes of clause (ii) of subparagraph (B) of this paragraph, the consumer price index for any calendar year shall be the average of the consumer price index as of the close of the twelve-month period ending on August thirty-first of such calendar year.

(iii) If any amount adjusted under this paragraph is not a multiple of ten thousand dollars, such amount shall be rounded to the nearest multiple of ten thousand dollars.

§ 2. This act shall take effect immediately.

PART YY

Section 1. Section 11-503 of the administrative code of the city of New York is amended by adding a new subdivision (q) to read as follows:

(q) Small business recovery tax credit. (1) Definitions. For purposes of this subdivision, the following terms have the following meanings:

(A) "Accommodation sector" means the portion of the economy consisting of establishments that provide lodging or short-term accommodations for travelers, vacationers, and others.

(B) "Arts, entertainment, and recreation sector" means the portion of the economy consisting of establishments that operate facilities or provide services to meet cultural, entertainment, and recreational interests of their patrons. This sector consists of: (i) establishments that are involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (ii) establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest; and (iii) establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure-time interests.

(C) "Average starting full-time employment" means the average number of full-time equivalent positions employed by a qualifying small business between January first, two thousand twenty-one, and March thirty-first, two thousand twenty-one.

(D) "Average ending full-time employment" means the average number of full-time equivalent positions employed by a qualifying small business

between April first, two thousand twenty-one, and December thirty-first, two thousand twenty-one.

(E) "Certificate of tax credit" means the document issued to a qualifying small business by the department of finance specifying the amount of the small business recovery tax credit that such qualifying small business may claim pursuant to this subdivision.

(F) "Chain" means a set of establishments that share a common brand or that are characterized by standardized options for decor, marketing, packaging, products and services.

(G) "Food services sector" means the portion of the economy consisting of establishments that are primarily organized and operated to prepare and provide food or beverages to customers for consumption.

(H) "Landlord" means a person who grants the right to use or occupy premises to any lessee, sublessee, licensee or concessionaire, whether or not such person is the owner of the premises.

(I) "Rent expense" means the consideration paid by a qualifying small business for the use or occupancy of business premises located within the city, valued in money, whether received in money or otherwise, including all credits and property or services of any kind and including any payment required to be made by the qualifying small business on behalf of the owner or landlord of the business premises for real estate taxes, water rents or charges, sewer rents or any other expenses, including insurance, normally payable by an owner or landlord, other than expenses for the improvement, repair or maintenance of the business premises, less the amounts received by such qualifying small business for the same period from any person for the use or occupancy of any part of such business premises.

(J) "Qualifying small business" means a natural person, or a business entity that is independently owned and operated and not part of a chain, that:

(i) operates predominantly in the accommodation sector, arts, entertainment, and recreation sector, or food services sector, provided that any such natural person or business entity operating in the food services sector both: (1) offered, prior to March two thousand twenty, the opportunity for consumption of food or beverages on the business premises operated by such person or entity; and (2) was required to close indoor dining in March two thousand twenty as a result of a ban on indoor dining arising from the COVID-19 pandemic;

(ii) pays rent as a lessee, sublessee, licensee or concessionaire to use or occupy business premises located within the city; and

(iii) has a total income of less than one million two hundred thousand dollars.

(K) "Small business recovery tax credit" means the small business recovery tax credit authorized by this subdivision.

(L) "Total income" means gross receipts minus the costs of goods sold as reported for federal income tax purposes on the federal income tax return of the taxpayer for the tax year immediately preceding the period for which the taxpayer is applying for the small business recovery tax credit.

(2) Eligibility criteria. To be eligible for the small business recovery tax credit, a taxpayer must:

(A) be a qualifying small business;

(B) file a return pursuant to subdivision (a) of section 11-514 of this chapter, even if, pursuant to paragraph four of such subdivision (a), such taxpayer is not required to file such a return because the

unincorporated business gross income of such taxpayer is less than ninety-five thousand dollars;

(C) operate a business premises at a location within the city that charges for admission or accepts payment for goods or services from retail customers who pay for such goods or receive such services on such premises; and

(D) demonstrate that its average ending full-time employment was not less than its average starting full-time employment.

(3) Application and approval process. (A) To apply for the small business recovery tax credit, a taxpayer must submit an application in the form and manner as prescribed by the commissioner of finance.

(B) The commissioner of finance shall establish procedures, including any application deadlines, for the submission of applications by taxpayers. As part of the application, each taxpayer must:

(i) demonstrate in a form and manner prescribed by the commissioner of finance that such taxpayer is eligible for the small business recovery tax credit pursuant to paragraph two of this subdivision;

(ii) notwithstanding section 11-538 of this chapter, agree to allow the department of finance to share information related to such taxpayer with any other state or city agency as necessary for the implementation and administration of the small business recovery tax credit, provided, however, that any information shared pursuant to this clause shall not be available for disclosure or inspection pursuant to article six of the public officers law; and

(iii) agree to provide any additional information deemed necessary by the department of finance for the implementation and administration of the small business recovery tax credit.

(C) After reviewing a completed application of a taxpayer and determining that such taxpayer meets the eligibility criteria for the small business recovery tax credit as set forth in this subdivision, the department of finance shall issue to such taxpayer a certificate of tax credit. A taxpayer may claim the amount identified on the certificate of tax credit only on its tax return for the taxable year that includes December thirty-first, two thousand twenty-one. Issuance or denial of a certificate of tax credit shall constitute a final determination of the department of finance unless, within thirty days, the taxpayer seeks administrative review by the commissioner of finance of such determination.

(4) Amount of the small business recovery tax credit. (A) Except as otherwise provided in subparagraphs (B), (C), and (D) of this paragraph, a taxpayer that meets the eligibility requirements set forth in paragraph two of this subdivision shall be allowed a credit against the tax imposed by this chapter in an amount equal to six percent of the rent expense of such taxpayer for calendar year two thousand twenty-one, provided that such amount shall not exceed ten thousand dollars.

(B) Notwithstanding subparagraph (A) of this paragraph, a taxpayer that meets the eligibility requirements set forth in paragraph two of this subdivision and has a total income that is greater than one million dollars but less than one million two hundred thousand dollars shall be allowed a credit in an amount that is the product of: (i) the amount that would otherwise be allowed under subparagraph (A) of this paragraph; and (ii) a fraction, the numerator of which is one million two hundred thousand dollars less the total income of the taxpayer, and the denominator of which is two hundred thousand dollars.

(C) To the extent the amount of the credit allowed by this subdivision exceeds the amount of tax due pursuant to this chapter, as calculated

without such credit, such excess amount shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section 11-526 of this chapter, provided, however, that notwithstanding the requirements of section 11-528 of this chapter to the contrary, no interest shall be paid thereon.

(D) Notwithstanding subparagraph (A) of this paragraph, the aggregate amount of credits allowed pursuant to this subdivision, subdivision twenty-three of section 11-604 , and subdivision twenty-three of section 11-654 of this title, shall not exceed fifty million dollars. If, after aggregating the amount of the credits allowed pursuant to each of such subdivisions, the department of finance determines that the value of such credits is greater than fifty million dollars, the department of finance shall allocate the amount of such credits among eligible taxpayers on a pro rata basis. The amount of the credit allocated to each taxpayer shall be the product of: (i) the amount of the credit prescribed by subparagraph (A) of this paragraph; and (ii) a fraction, the numerator of which is fifty million dollars, and the denominator of which is the aggregate amount of the credits allowed by the department of finance pursuant to this subdivision, subdivision twenty-three of section 11-604, and subdivision twenty-three of section 11-654 of this title.

(E) The commissioner of finance shall revoke a certificate of tax credit issued by the department of finance pursuant to this subdivision if it appears that the taxpayer is not a qualified small business or does not satisfy one or more of the other eligibility criteria set forth in paragraph two of this subdivision, or that any other requirement of the small business recovery tax credit has not been satisfied. Upon determining that a certificate of tax credit issued by the department of finance pursuant to this subdivision should be revoked, the amount of the credit claimed by such taxpayer prior to such revocation shall be added to the tax due pursuant to this chapter for the taxable year in which any such revocation becomes final. The commissioner of finance shall modify a certificate of tax credit issued by the department of finance pursuant to this subdivision if it appears that the rent expense provided by such taxpayer is not accurate and shall adjust the tax due pursuant to this subchapter for the taxable year in which any such modification becomes final in an amount consistent with such modification.

(5) Powers and duties of the commissioner. (A) The commissioner of finance may promulgate rules necessary to implement the provisions of this subdivision. Such rules shall establish an application process and eligibility criteria for the small business recovery tax credit, consistent with this subdivision, so as not to exceed the annual limitation on the aggregate amount of the tax credit authorized by this subdivision, the small business recovery tax credit authorized by subdivision twenty-three of section 11-604, and the small business recovery tax credit authorized by subdivision twenty-three of section 11-654 of this title set forth in subparagraph (D) of paragraph four of this subdivision.

(B) The commissioner of finance shall develop a certificate of tax credit that shall be issued to taxpayers that apply and are determined to be eligible for the small business recovery tax credit pursuant to this subdivision. Such certificate shall contain such information as required by the department of finance.

§ 2. Section 11-604 of the administrative code of the city of New York is amended by adding a new subdivision 23 to read as follows:

23. Small business recovery tax credit. (a) Definitions. For purposes of this subdivision, the following terms have the following meanings:

(1) "Accommodation sector" means the portion of the economy consisting of establishments that provide lodging or short-term accommodations for travelers, vacationers, and others.

(2) "Arts, entertainment, and recreation sector" means the portion of the economy consisting of establishments that operate facilities or provide services to meet cultural, entertainment, and recreational interests of their patrons. This sector consists of: (i) establishments that are involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (ii) establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest; and (iii) 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 starting full-time employment" means the average number of full-time equivalent positions employed by a qualifying small business between January first, two thousand twenty-one, and March thirty-first, two thousand twenty-one.

(4)"Average ending full-time employment" mean the average number of full-time equivalent positions employed by a qualifying small business between April first, two thousand twenty-one, and December thirty-first, two thousand twenty-one.

(5) "Certificate of tax credit" means the document issued to a qualifying small business by the department of finance specifying the amount of the small business recovery tax credit that such qualifying small business may claim pursuant to this subdivision.

(6) "Chain" means a set of establishments that share a common brand or that are characterized by standardized options for decor, marketing, packaging, products and services.

(7) "Food services sector" means the portion of the economy consisting of establishments that are primarily organized and operated to prepare and provide food or beverages to customers for consumption.

(8) "Landlord" means a person who grants the right to use or occupy premises to any lessee, sublessee, licensee or concessionaire, whether or not such person is the owner of the premises.

(9) "Qualifying small business" means a natural person, or a business entity that is independently owned and operated and not part of a chain, that:

(i) operates predominantly in the accommodation sector, arts, entertainment, and recreation sector, or food services sector, provided that any such natural person or business entity operating in the food services sector both: (A) offered, prior to March two thousand twenty, the opportunity for consumption of food or beverages on the business premises operated by such person or entity; and

(B) was required to close indoor dining in March two thousand twenty as a result of a ban on indoor dining arising from the COVID-19 pandemic;

(ii) pays rent as a lessee, sublessee, licensee or concessionaire to use or occupy business premises located within the city; and

(iii) has a total income of less than one million two hundred thousand dollars.

(10) "Rent expense" means the consideration paid by a qualifying small business for the use or occupancy of business premises located within the city, valued in money, whether received in money or otherwise,

including all credits and property or services of any kind and including any payment required to be made by a qualifying small business on behalf of the owner or landlord of the business premises for real estate taxes, water rents or charges, sewer rents or any other expenses, including insurance, normally payable by an owner or landlord, other than expenses for the improvement, repair or maintenance of the business premises, less the amounts received by such qualifying small business for the same period from any person for the use or occupancy of any part of such business premises.

(11) "Small business recovery tax credit" means the small business recovery tax credit authorized by this subdivision.

(12) "Total income" means gross receipts minus the cost of goods sold, as would have been reported by the taxpayer for federal income tax purposes on the federal income tax return of the taxpayer for the tax year immediately preceding the period for which the taxpayer is applying for the small business recovery tax credit if such taxpayer had not made an election under subchapter s of chapter one of the internal revenue code.

(b) Eligibility criteria. To be eligible for the small business recovery tax credit, a taxpayer must:

(1) be a qualifying small business;

(2) file a report pursuant to section 11-605 of this chapter, provided that such taxpayer may not file a combined report pursuant to subdivision four of such section;

(3) operate a business premises at a location within the city that charges for admission or accepts payment for goods or services from retail customers who pay for such goods or receive such services on such premises; and

(4) demonstrate that its average ending full-time employment was not less than its average starting full-time employment.

(c) Application and approval process. (1) To apply for the small business recovery tax credit, a taxpayer must submit an application in the form and manner as prescribed by the commissioner of finance.

(2) The commissioner of finance shall establish procedures, including any application deadlines, for the submission of applications by taxpayers. As part of the application each taxpayer must:

(i) demonstrate in a form and manner prescribed by the commissioner of finance that such taxpayer is eligible for the small business recovery tax credit pursuant to paragraph (b) of this subdivision;

(ii) notwithstanding section 11-688 of this chapter, agree to allow the department of finance to share information related to such taxpayer with any other state or local agency as necessary for the implementation and administration of the small business recovery tax credit, provided, however, that any information shared pursuant to this clause shall not be available for disclosure or inspection pursuant to article six of the public officers law; and

(iii) agree to provide any additional information deemed necessary by the department of finance for the implementation and administration of the small business recovery tax credit.

(3) After reviewing a completed application of a taxpayer and determining that such taxpayer meets the eligibility criteria for the small business recovery tax credit as set forth in this subdivision, the department of finance shall issue to such taxpayer a certificate of tax credit. A taxpayer may claim the amount identified on the certificate of tax credit only on its tax return for the taxable year that includes December thirty-first, two thousand twenty-one. Issuance or denial of a

certificate of tax credit shall constitute a final determination of the department of finance unless, within thirty days, the taxpayer seeks administrative review by the commissioner of finance of such determination.

(d) Amount of the small business recovery tax credit.

(1) Except as otherwise provided in subparagraphs two, three and four of this paragraph, a taxpayer that meets the eligibility requirements set forth in paragraph (b) of this subdivision shall be allowed a credit against the tax imposed by this subchapter in an amount equal to six percent of the rent expense of such taxpayer for calendar year two thousand twenty-one, provided that such amount shall not exceed ten thousand dollars.

(2) Notwithstanding subparagraph one of this paragraph, a taxpayer that meets the eligibility requirements set forth in paragraph (b) of this subdivision and has a total income that is greater than one million dollars but less than one million two hundred thousand dollars shall be allowed a credit in an amount that is the product of: (i) the amount that would otherwise be allowed under subparagraph one of this paragraph; and (ii) a fraction, the numerator of which is one million two hundred thousand dollars less the total income of the taxpayer, and the denominator of which is two hundred thousand dollars.

(3) To the extent the amount of the credit allowed by this subdivision exceeds the amount of tax due pursuant to this subchapter, as calculated without such credit, such excess amount shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section 11-677 of this chapter, provided, however, that notwithstanding the requirements of section 11-679 of this chapter to the contrary, no interest shall be paid thereon.

(4) Notwithstanding subparagraph one of this paragraph, the aggregate amount of credits allowed pursuant to this subdivision, subdivision (q) of section 11-503 of this title and subdivision twenty-three of section 11-654 of this chapter shall not exceed fifty million dollars. If, after aggregating the amount of the credits allowed pursuant to each of such subdivisions, the department of finance determines that the value of such credits is greater than fifty million dollars, the department of finance shall allocate the amount of such credits among eligible taxpayers on a pro rata basis. The amount of the credit allocated to each taxpayer shall be the product of: (i) the amount of the credit prescribed by subparagraph one of this paragraph; and (ii) a fraction, the numerator of which is fifty million dollars, and the denominator of which is the aggregate amount of the credits allowed by the department of finance pursuant to this subdivision, subdivision (q) of section 11-503 of this title and subdivision twenty-three of section 11-654 of this chapter.

(5) The commissioner of finance shall revoke a certificate of tax credit issued by the department of finance pursuant to this subdivision if it appears that the taxpayer is not a qualified small business or does not satisfy one or more of the other eligibility criteria set forth in paragraph (b) of this subdivision, or that any other requirement of the small business recovery tax credit has not been satisfied. Upon determining that a certificate of tax credit issued by the department of finance pursuant to this subdivision should be revoked, the amount of credit claimed by the taxpayer prior to such revocation shall be added to the tax due pursuant to this subchapter for the taxable year in which any such revocation becomes final. The commissioner of finance shall modify a certificate of tax credit issued by the department of finance

pursuant to this subdivision if it appears that the rent expense provided by such taxpayer is not accurate and shall adjust the tax due pursuant to this subchapter for the taxable year in which any such modification becomes final in an amount consistent with such modification.

(e) Powers and duties of the commissioner. (1) The commissioner of finance may promulgate rules necessary to implement the provisions of this subdivision. Such rules shall establish an application process and eligibility criteria for the small business recovery tax credit, consistent with this subdivision, so as not to exceed the annual limitation on the aggregate amount of the small business recovery tax credit authorized by this subdivision, the small business recovery tax credit authorized by subdivision (q) of section 11-503 of this title, and the small business recovery tax credit authorized by subdivision twenty-three of section 11-654 of this chapter set forth in subparagraph four of paragraph (d) of this subdivision.

(2) The commissioner of finance shall develop a certificate of tax credit that shall be issued to taxpayers that apply and are determined to be eligible for the small business recovery tax credit pursuant to this subdivision. Such certificate shall contain such information as required by the department of finance.

§ 3. Section 11-654 of the administrative code of the city of New York is amended by adding a new subdivision 23 to read as follows:

23. Small business recovery tax credit. (a) Definitions. For purposes of this subdivision, the following terms have the following meanings:

(1) "Accommodation sector" means the portion of the economy consisting of establishments that provide lodging or short-term accommodations for travelers, vacationers, and others.

(2) "Arts, entertainment, and recreation sector" means the portion of the economy consisting of establishments that operate facilities or provide services to meet cultural, entertainment, and recreational interests of their patrons. This sector consists of: (i) establishments that are involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (ii) establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest; and (iii) 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 starting full-time employment" means the average number of full-time equivalent positions employed by a qualifying small business between January first, two thousand twenty-one, and March thirty-first, two thousand twenty-one.

(4) "Average ending full-time employment" means the average number of full-time equivalent positions employed by a qualifying small business between April first, two thousand twenty-one, and December thirty-first, two thousand twenty-one.

(5) "Certificate of tax credit" means the document issued to a qualifying small business by the department of finance specifying the amount of the small business recovery tax credit that such qualifying small business may claim pursuant to this subdivision.

(6) "Chain" means a set of establishments that share a common brand or that are characterized by standardized options for decor, marketing, packaging, products and services.

(7) "Food services sector" means the portion of the economy consisting of establishments that are primarily organized and operated to prepare and provide food or beverages to customers for consumption.

(8) "Landlord" means a person who grants the right to use or occupy premises to any lessee, sublessee, licensee or concessionaire, whether or not such person is the owner of the premises.

(9) "Qualifying small business" means a natural person, or a business entity that is independently owned and operated and not part of a chain, that:

(i) operates predominantly in the accommodation sector, arts, entertainment, and recreation sector, or food services sector, provided that any such natural person or business entity operating in the food services sector both: (A) offered, prior to March two thousand twenty, the opportunity for consumption of food or beverages on the business premises operated by such person or entity; and

(B) was required to close indoor dining in March two thousand twenty as a result of a ban on indoor dining arising from the COVID-19 pandemic;

(ii) pays rent as a lessee, sublessee, licensee or concessionaire to use or occupy business premises located within the city; and

(iii) has a total income of less than one million two hundred thousand dollars.

(10) "Rent expense" means the consideration paid by a qualifying small business for the use or occupancy of business premises located within the city, valued in money, whether received in money or otherwise, including all credits and property or services of any kind and including any payment required to be made by the qualifying small business on behalf of the owner or landlord of the business premises for real estate taxes, water rents or charges, sewer rents or any other expenses, including insurance, normally payable by an owner or landlord, other than expenses for the improvement, repair or maintenance of the business premises, less the amounts received by such qualifying small business for the same period from any person for the use or occupancy of any part of such business premises.

(11) "Small business recovery tax credit" means the small business recovery tax credit authorized by this subdivision.

(12) "Total income" means gross receipts minus the cost of goods sold as reported for federal income tax purposes on the federal income tax return of the taxpayer for the tax year immediately preceding the period for which the taxpayer is applying for the small business recovery tax credit.

(b) Eligibility criteria. To be eligible for the small business recovery tax credit, a taxpayer must:

(1) be a qualifying small business;

(2) file a report pursuant to section 11-655 of this subchapter, and not file a combined report pursuant to section 11-654.3 of this subchapter;

(3) operate a business premises at a location within the city that charges for admission or accepts payment for goods or services from retail customers who pay for such goods or receive such service on such premises; and

(4) demonstrate that its average ending full-time employment was not less than its average starting full-time employment.

(c) Application and approval process.

(1) To apply for the small business recovery tax credit, a taxpayer must submit an application in the form and manner as prescribed by the commissioner of finance.

(2) The commissioner of finance shall establish procedures, including any application deadlines, for the submission of applications by taxpayers. As part of the application, each taxpayer must:

(i) demonstrate in a form and manner prescribed by the commissioner of finance that such taxpayer is eligible for the small business recovery tax credit pursuant to paragraph (b) of this subdivision;

(ii) notwithstanding section 11-688 of this chapter, agree to allow the department of finance to share information related to such taxpayer with any other state or local agency as necessary for the implementation and administration of the small business recovery tax credit, provided, however, that any information shared pursuant to this clause shall not be available for disclosure or inspection pursuant to article six of the public officers law; and

(iii) agree to provide any additional information deemed necessary by the department of finance for the implementation and administration of the small business recovery tax credit.

(3) After reviewing a completed application of a taxpayer and determining that such taxpayer meets the eligibility criteria for the small business recovery tax credit as set forth in this subdivision, the department of finance shall issue to such taxpayer a certificate of tax credit. A taxpayer may claim the amount identified on the certificate of tax credit only on its tax return for the taxable year that includes December thirty-first, two thousand twenty-one. Issuance or denial of a certificate of tax credit shall constitute a final determination of the department of finance unless, within thirty days, the taxpayer seeks administrative review by the commissioner of finance of such determination.

(d) Amount of the small business recovery tax credit. (1) Except as otherwise provided in subparagraphs two, three and four of this paragraph, a taxpayer that meets the eligibility requirements set forth in paragraph (b) of this subdivision shall be allowed a credit against the tax imposed by this subchapter in an amount equal to six percent of the rent expense of such taxpayer for calendar year two thousand twenty-one, provided that such amount shall not exceed ten thousand dollars.

(2) Notwithstanding subparagraph one of this paragraph, a taxpayer that meets the eligibility requirements set forth in paragraph (b) of this subdivision and has a total income that is greater than one million dollars but less than one million two hundred thousand dollars shall be allowed a credit in an amount that is the product of: (i) the amount that would otherwise be allowed under subparagraph one of this paragraph; and (ii) a fraction, the numerator of which is one million two hundred thousand dollars less the total income of the taxpayer, and the denominator of which is two hundred thousand dollars.

(3) To the extent the amount of the credit allowed by this subdivision exceeds the amount of tax due pursuant to this subchapter, as calculated without such credit, such excess amount shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section 11-677 of this chapter, provided, however, that notwithstanding the requirements of section 11-679 of this chapter to the contrary, no interest shall be paid thereon.

(4) Notwithstanding subparagraph one of this paragraph, the aggregate amount of credits allowed pursuant to this subdivision, subdivision (q) of section 11-503 of this title, and subdivision twenty-three of section

11-604 of this chapter shall not exceed fifty million dollars. If, after aggregating the amount of the credits allowed pursuant to each of such subdivisions, the department of finance determines that the value of such credits is greater than fifty million dollars, the department of finance shall allocate the amount of such credits among eligible taxpayers on a pro rata basis. The amount of the credit allocated to each taxpayer shall be the product of: (i) the amount of the credit prescribed by subparagraph one of this paragraph; and (ii) a fraction, the numerator of which is fifty million dollars, and the denominator of which is the aggregate amount of the credits allowed by the department of finance pursuant to this subdivision, subdivision (q) of section 11-503 of this title and subdivision twenty-three of section 11-604 of this chapter.

(5) The commissioner of finance shall revoke a certificate of tax credit issued by the department of finance pursuant to this subdivision if it appears that the taxpayer is not a qualified small business or does not satisfy one or more of the other eligibility criteria set forth in paragraph (b) of this subdivision, or that any other requirement of the small business recovery tax credit has not been satisfied. Upon determining that a certificate of tax credit issued by the department of finance pursuant to this subdivision should be revoked, the amount of the credit claimed by such taxpayer prior to such revocation shall be added to the tax due pursuant to this subchapter for the taxable year in which any such revocation becomes final. The commissioner shall modify a certificate of tax credit issued by the department of finance pursuant to this subdivision if it appears that the rent expense provided by such taxpayer is not accurate and shall adjust the tax due pursuant to this subchapter for the taxable year in which any such modification becomes final in an amount consistent with such modification.

(e) Powers and duties of the commissioner. (1) The commissioner of finance may promulgate rules necessary to implement the provisions of this subdivision. Such rules shall establish an application process and eligibility criteria for the small business recovery tax credit consistent with this subdivision, so as not to exceed the annual limitation on the aggregate amount of the tax credit authorized by this subdivision, the small business recovery tax credit authorized by subdivision (q) of section 11-503 of this title, and the small business recovery tax credit authorized by subdivision twenty-three of section 11-604 of this chapter, set forth in subparagraph four of paragraph (d) of this subdivision.

(2) The commissioner of finance shall develop a certificate of tax credit that shall be issued to taxpayers that apply and are determined to be eligible for the small business recovery tax credit pursuant to this subdivision. Such certificate shall contain such information as required by the department of finance.

§ 4. This act shall take effect immediately.

PART ZZ

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 46 to read as follows:

(46) Breast pump replacement parts and breast pump collection and storage supplies to an individual purchaser for home use. For purposes of this subdivision:

(A) "Breast pump replacement parts" shall mean items used in conjunction with a breast pump to collect milk expressed from a human breast

and shall include, but not be limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adapters; and bottles and bottle caps specific to the operation of the breast pump.

(B) "Breast pump collection and storage supplies" shall mean breast milk storage bags used to collect breast milk and to store collected breast milk until it is ready for consumption.

§ 2. This act shall take effect on the first day of a sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, beginning at least ninety days after the date this act shall have become a law and shall apply to sales made on or after such date.

PART AAA

Section 1. The section heading of section 421-f of the real property tax law, as amended by chapter 590 of the laws of 1994, is amended to read as follows:

Exemption of capital improvements to residential buildings and certain new construction.

§ 2. Section 421-f of the real property tax law is amended by adding a new subdivision 1-a to read as follows:

1-a. Buildings classified as class one property in section eighteen hundred two of this chapter reconstructed, altered, improved, or newly constructed in a special assessing unit that is not a city shall be exempt from taxation and special ad valorem levies to the extent provided hereinafter in the same manner and to the same extent to county, town, special district and school district taxes levied on the assessment roll prepared by such special assessing unit. Additional buildings and yard improvements shall be excluded from receiving this exemption. An application shall not be required to receive the exemption.

§ 3. Subdivisions 2 and 3 of section 421-f of the real property tax law, as amended by chapter 590 of the laws of 1994, subparagraph (ii) of paragraph (a) of subdivision 2 and subdivision 3 as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, are amended to read as follows:

2. (a) Such buildings shall be exempt for a period of one year to the extent of one hundred per centum of the increase in assessed value thereof attributable to such reconstruction, alteration or improvement, and new construction pursuant to subdivision one-a of this section, and for an additional period of seven years subject to the following:

(i) The extent of such exemption shall be decreased by twelve and one-half per centum of the "exemption base" each year during such additional period. The "exemption base" shall be the increase in assessed value as determined in the initial year of the term of the exemption, except as provided in subparagraph (ii) of this paragraph.

(ii) In any year in which a change in level of assessment of fifteen percent or more is certified for a final assessment roll pursuant to the rules of the commissioner, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption

shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the assessor does not have custody of the roll when such certification is received, the assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the assessor on the roll. The assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by title three of article five of this chapter for the correction of clerical errors.

(iii) [~~Such~~] **Except in a special assessing unit that is not a city, such** exemption shall be limited to eighty thousand dollars in increased market value, or such other sum less than eighty thousand dollars, but not less than five thousand dollars as may be provided by the local law or resolution, of the property attributable to such reconstruction, alteration or improvement and any increase in market value greater than such amount shall not be eligible for the exemption pursuant to this section. **In a special assessing unit that is not a city, the exemption shall be limited to seven hundred fifty thousand dollars in increased market value.** For the purposes of this section, the market value of the reconstruction, alteration or improvement**, or new construction as authorized by subdivision one-a of this section,** shall be equal to the increased assessed value attributable to such reconstruction, alteration [~~or~~]**,** improvement **or new construction** divided by the class [~~I~~] **one** ratio in a special assessing unit or the most recently established state equalization rate or special equalization rate in the remainder of the state, except where the state equalization rate or special equalization rate equals or exceeds ninety-five percent, in which case the increase in assessed value attributable to such reconstruction, alteration [~~or~~]**,** improvement **or new construction** shall be deemed to equal the market value of such reconstruction, alteration or improvement.

(b) [~~No~~] **Except in a special assessing unit that is not a city, no** such exemption shall be granted for reconstruction, alterations or improvements unless:

(i) such reconstruction, alteration or improvement was commenced subsequent to the effective date of the local law or resolution adopted pursuant to subdivision one of this section; and

(ii) the value of such reconstruction, alteration or improvement exceeds three thousand dollars; and

(iii) the greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old.

(c) For purposes of this section the terms reconstruction, alteration and improvement shall not include ordinary maintenance and repairs.

3. [~~Such~~] **Except in a special assessing unit that is not a city, such** exemption shall be granted only upon application by the owner of such building on a form prescribed by the commissioner. The application shall be filed with the assessor of the city, town, village or county having the power to assess property for taxation on or before the appropriate taxable status date of such city, town, village or county. **In a special assessing unit that is not a city, the exemption shall be applied based upon that completion of reconstruction, alteration, improvement or new construction on or before the applicable taxable status date of the special assessing unit; provided, however that the exemption for such**

reconstruction, alteration, improvement or new construction that occurred after the taxable status date of such special assessing unit for the two thousand nineteen -- two thousand twenty assessment roll and on or before the taxable status date of such special assessing unit for the two thousand twenty -- two thousand twenty-one assessment roll shall be applied beginning with the two thousand twenty-one -- two thousand twenty-two assessment roll.

§ 4. Subdivisions 5, 6 and 7 of section 421-f of the real property tax law, as amended by chapter 590 of the laws of 1994, are amended to read as follows:

5. For the purposes of this section, **except in a special assessing unit that is not a city,** a residential building shall mean any building or structure designed and occupied exclusively for residential purposes by not more than two families.

6. In the event that a building granted an exemption pursuant to this section ceases to be used primarily for residential purposes [~~or~~]**, is no longer classified as class one property in a special assessing unit that is not a city, or** title thereto is transferred to other than the heirs or distributees of the owner **in other than a special assessing unit that is not a city**, the exemption granted pursuant to this section shall cease.

7. (a) [~~A~~] **Except for a special assessing unit that is not a city, a** county, city, town or village may, by its local law, or school district, by its resolution:

(i) reduce the per centum of exemption otherwise allowed pursuant to this section;

(ii) limit eligibility for the exemption to those forms of reconstruction, alterations or improvements as are prescribed in such local law or resolution;

(iii) provide that the exemption shall be applicable only to those improvements which would otherwise result in an increase in the assessed valuation of the real property but which consist of an addition, remodeling or modernization to an existing residential structure to prevent physical deterioration of the structure or to comply with applicable building, sanitary, health and/or fire codes.

(b) No such local law or resolution shall reduce or repeal an exemption granted pursuant to this section until the expiration of the period for which such exemption was granted.

§ 5. Applicability. This act shall be applicable beginning with the two thousand twenty -- two thousand twenty-one assessment roll through and including the two thousand twenty-two -- two thousand twenty-three assessment roll.

§ 6. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

§ 7. This act shall take effect immediately.

PART BBB

Section 1. The agriculture and markets law is amended by adding a new article 27 to read as follows:

ARTICLE 27

NOURISH NEW YORK

Section 450. Declaration of legislative findings and intent.

451. Definitions.

452. Nourish New York program.

§ 450. Declaration of legislative findings and intent. While the Nourish New York program was developed in response to disrupted food supply chains due to the COVID-19 pandemic, it has emerged as an important innovation, significantly supporting the state's farms while providing nourishing fresh foods to people experiencing food insecurity. The COVID-19 crisis unveiled the weaknesses in our state's food supply system and has caused serious economic hardships for the state's farms and agribusinesses. But, in the ten months since its inception, Nourish New York has already strengthened the state's food supply network and expanded markets for New York farm products. The local food movement has also gained significant momentum during the pandemic, with increasing numbers of New Yorkers wanting to know where their food is sourced. This presents the state with a major opportunity to support our local economies and create greater equity in our food system by providing greater access to local, healthy options in food insecure areas through making the Nourish New York program permanent.

§ 451. Definitions. 1. "Food relief organization" means a religious organization or other not-for-profit that provides food for free to persons experiencing food insecurity, including but not limited to a food pantry, food bank, or soup kitchen or community-based organization that provides food for free to persons experiencing food insecurity.

2. "Surplus agricultural products" means consumable or edible agricultural products, including processed products, grown, produced or harvested in New York but shall not include beverages containing alcohol.

§ 452. Nourish New York program. 1. The commissioner, in cooperation with the commissioner of health, shall, to the extent permitted by state or federal appropriations for such purpose, facilitate and promote the purchase, processing and distribution of surplus agricultural products that are provided to food-insecure New Yorkers through food relief organizations at competitive wholesale prices. The goal of such program is to benefit as many food-insecure households and farmers as possible, but also, whenever possible, to:

(a) promote such agricultural products and processed food products sourced from small family-owned farms and businesses, including minority- or women-owned farms, food processing and food-service businesses;

(b) promote the preparation and packaging and delivery of such food for food-insecure households in a manner that: is practical for pickup or delivery; is practical for food preparation and storage; reduces food waste; promotes food safety; and is culturally and religiously appropriate as necessary; and

(c) distribute such food or provide access to New York farm products for food-insecure households in a cost-effective manner that is accessible for such households through local, community-based sites including, but not limited to, food pantries, other not-for-profit food programs, farmers' markets, and small food businesses in underserved communities.

The commissioner shall, in coordination with the commissioner of health, solicit the input of representatives of farmers, food relief organizations, food businesses, institutions of higher education with expertise in agriculture, food preparation, distribution and food insecurity and any other representatives the commissioners deem necessary to

produce a report to provide advice, guidance, and recommendations on how best to achieve the goals of the program. The commissioners shall provide such written report of the findings identifying any proposed recommendations to the governor, the speaker of the assembly, and the temporary president of the senate on or before February first, two thousand twenty-two, and shall publish such report on the department's website.

2. The commissioner shall provide technical assistance and information about the program to food relief organizations, producers of surplus agricultural products and the public, including, but not limited to, information posted on the department's website.

3. The commissioner shall provide means, which may include posting on the department's website, for producers to make available surplus agricultural products and for food relief organizations to access surplus agricultural products.

4. The commissioner of health, in consultation with the commissioner, shall review the current funding structure, funding adequacy and current service levels of the hunger prevention nutrition assistance program in all regions of the state. Review of current service levels shall take into account the size of the service area, the population in need of such hunger prevention nutrition assistance program and the need for additional facilities within a region in order to address increasing food insecurity and hunger. Following such review, the commissioner of health shall make and report any recommendations, including but not limited to, increasing the maximum amount of money each food pantry may be allocated by such program, whether such program funding should be indexed for inflation annually, and any structural and funding adequacy changes deemed necessary. Such report shall be completed and submitted to the governor and the legislature no later than February first, two thousand twenty-two.

5. The commissioner of health, in consultation with the commissioner, shall review and report on the need to establish a grant program to fund the purchase of cold storage equipment and vehicles for regional food banks, food pantries and other emergency food organizations. Such grant program shall prioritize regions of the state that have the highest demand for emergency food and regions of the state where regional food banks and pantries have determined the need for more capacity to safely store and transport perishable food before such food is distributed. Such report shall be completed and submitted to the governor and the legislature no later than February first, two thousand twenty-two.

§ 2. This act shall take effect immediately.

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

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