

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:

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

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

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

9	If the New York taxable income is:	The tax is:
10	Not over \$17,150	4% of the New York taxable income
11	Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
12		\$17,150
13	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
14		\$23,600
15	Over \$27,900 but not over \$43,000	\$1,202 plus 5.9% of excess over
16		\$27,900
17	Over \$43,000 but not over \$161,550	\$2,093 plus 5.97% of excess over
18		\$43,000
19	Over \$161,550 but not over \$323,200	\$9,170 plus 6.33% of excess over
20		\$161,550
21	Over \$323,200 but not over	\$19,403 plus 6.85% of excess
22	\$2,155,350	over \$323,200
23	<u>Over \$2,155,350 but not over</u>	<u>\$144,905 plus 9.85% of excess over</u>
24	<u>\$5,000,000</u>	<u>\$2,155,350</u>
25	<u>Over \$5,000,000 but not over</u>	<u>\$425,103 plus 10.85% of excess over</u>
26	<u>\$25,000,000</u>	<u>\$5,000,000</u>
27	<u>Over \$25,000,000</u>	<u>\$2,595,103 plus 11.85% of excess over</u>
28		<u>\$25,000,000</u>
29	[Over \$2,155,350	\$144,905 plus 8.82% of excess over
30		\$2,155,350]

31 (v) For taxable years beginning in two thousand twenty-two the follow-
32 ing rates shall apply:

33	If the New York taxable income is:	The tax is:
34	Not over \$17,150	4% of the New York taxable income
35	Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
36		\$17,150
37	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
38		\$23,600
39	Over \$27,900 but not over \$161,550	\$1,202 plus 5.85% of excess over
40		\$27,900
41	Over \$161,550 but not over \$323,200	\$9,021 plus 6.25% of excess over
42		\$161,550
43	Over \$323,200 but not over	\$19,124 plus
44	\$2,155,350	6.85% of excess over \$323,200
45	<u>Over \$2,155,350 but not over</u>	<u>\$144,626 plus 9.85% of excess over</u>
46	<u>\$5,000,000</u>	<u>\$2,155,350</u>
47	<u>Over \$5,000,000 but not over</u>	<u>\$424,824 plus 10.85% of excess over</u>
48	<u>\$25,000,000</u>	<u>\$5,000,000</u>
49	<u>Over \$25,000,000</u>	<u>\$2,594,824 plus 11.85% of excess over</u>
50		<u>\$25,000,000</u>
51	[Over \$2,155,350	\$144,626 plus 8.82% of excess over
52		\$2,155,350]

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

1	If the New York taxable income is:	The tax is:
2	Not over \$17,150	4% of the New York taxable income
3	Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
4		\$17,150
5	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
6		\$23,600
7	Over \$27,900 but not over \$161,550	\$1,202 plus 5.73% of excess over
8		\$27,900
9	Over \$161,550 but not over \$323,200	\$8,860 plus 6.17% of excess over
10		\$161,550
11	Over \$323,200 but not over	\$18,834 plus 6.85% of
12	\$2,155,350	excess over \$323,200
13	<u>Over \$2,155,350 but not over</u>	<u>\$144,336 plus 9.85% of excess over</u>
14	<u>\$5,000,000</u>	<u>\$2,155,350</u>
15	<u>Over \$5,000,000 but not over</u>	<u>\$424,534 plus 10.85% of excess over</u>
16	<u>\$25,000,000</u>	<u>\$5,000,000</u>
17	<u>Over \$25,000,000</u>	<u>\$2,594,534 plus 11.85% of excess over</u>
18		<u>\$25,000,000</u>
19	[Over \$2,155,350	\$144,336 plus 8.82% of excess over
20		\$2,155,350]

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

23	If the New York taxable income is:	The tax is:
24	Not over \$17,150	4% of the New York taxable income
25	Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
26		\$17,150
27	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
28		\$23,600
29	Over \$27,900 but not over \$161,550	\$1,202 plus 5.61% of excess over
30		\$27,900
31	Over \$161,550 but not over \$323,200	\$8,700 plus 6.09% of excess over
32		\$161,550
33	Over \$323,200 but not over	\$18,544 plus 6.85% of excess over
34	\$2,155,350	\$323,200
35	<u>Over \$2,155,350 but not over</u>	<u>\$144,046 plus 9.85% of excess over</u>
36	<u>\$5,000,000</u>	<u>\$2,155,350</u>
37	<u>Over \$5,000,000 but not over</u>	<u>\$424,244 plus 10.85% of excess over</u>
38	<u>\$25,000,000</u>	<u>\$5,000,000</u>
39	<u>Over \$25,000,000</u>	<u>\$2,594,244 plus 11.85% of excess over</u>
40		<u>\$25,000,000</u>
41	[Over \$2,155,350	\$144,047 plus 8.82% of excess over
42		\$2,155,350]

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

45	If the New York taxable income is:	The tax is:
46	Not over \$17,150	4% of the New York taxable income
47	Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
48		\$17,150
49	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
50		\$23,600
51	Over \$27,900 but not over \$161,550	\$1,202 plus 5.5% of excess over
52		\$27,900
53	Over \$161,550 but not over \$323,200	\$8,553 plus 6.00% of excess over
54		\$161,550
55	Over \$323,200 <u>but not over</u>	\$18,252 plus 6.85% of excess over
56	<u>\$2,155,350</u>	\$323,200

1	<u>Over \$2,155,350 but not over</u>	<u>\$143,754 plus 9.85% of excess over</u>
2	<u>\$5,000,000</u>	<u>\$2,155,350</u>
3	<u>Over \$5,000,000 but not over</u>	<u>\$423,952 plus 10.85% of excess over</u>
4	<u>\$25,000,000</u>	<u>\$5,000,000</u>
5	<u>Over \$25,000,000</u>	<u>\$2,593,952 plus 11.85% of excess over</u>
6		<u>\$25,000,000</u>

7 § 2. Clauses (iv), (v), (vi), (vii) and (viii) of subparagraph (B) of
8 paragraph 1 of subsection (b) of section 601 of the tax law, clauses
9 (iv), (v), (vi) and (vii) as amended by section 2 of part P of chapter
10 59 of the laws of 2019 and clause (viii) as added by section 2 of part R
11 of chapter 59 of the laws of 2017, are amended to read as follows:

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

14	If the New York taxable income is:	The tax is:
15	Not over \$12,800	4% of the New York taxable income
16	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
17		\$12,800
18	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
19		\$17,650
20	Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over
21		\$20,900
22	Over \$32,200 but not over \$107,650	\$1,568 plus 5.97% of excess over
23		\$32,200
24	Over \$107,650 but not over \$269,300	\$6,072 plus 6.33% of excess over
25		\$107,650
26	Over \$269,300 but not over	\$16,304 plus 6.85% of excess over
27	\$1,616,450	\$269,300
28	<u>Over \$1,616,450 but not over</u>	<u>\$108,584 plus 9.85% of excess over</u>
29	<u>\$5,000,000</u>	<u>\$1,616,450</u>
30	<u>Over \$5,000,000 but not over</u>	<u>\$441,864 plus 10.85% of excess over</u>
31	<u>\$25,000,000</u>	<u>\$5,000,000</u>
32	<u>Over \$25,000,000</u>	<u>\$2,611,864 plus 11.85% of excess over</u>
33		<u>\$25,000,000</u>

34 [~~Over \$1,616,450~~ ~~\$108,584 plus 8.82% of excess over~~
35 ~~\$1,616,450~~]

36 (v) For taxable years beginning in two thousand twenty-two the follow-
37 ing rates shall apply:

38	If the New York taxable income is:	The tax is:
39	Not over \$12,800	4% of the New York taxable income
40	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
41		\$12,800
42	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
43		\$17,650
44	Over \$20,900 but not over \$107,650	\$901 plus 5.85% of excess over
45		\$20,900
46	Over \$107,650 but not over \$269,300	\$5,976 plus 6.25% of excess over
47		\$107,650
48	Over \$269,300 but not over	\$16,079 plus 6.85% of excess
49	\$1,616,450	over \$269,300
50	<u>Over \$1,616,450 but not over</u>	<u>\$108,359 plus 9.85% of excess over</u>
51	<u>\$5,000,000</u>	<u>\$1,616,450</u>
52	<u>Over \$5,000,000 but not over</u>	<u>\$441,638 plus 10.85% of excess over</u>
53	<u>\$25,000,000</u>	<u>\$5,000,000</u>
54	<u>Over \$25,000,000</u>	<u>\$2,611,638 plus 11.85% of excess over</u>
55		<u>\$25,000,000</u>
56	[Over \$1,616,450 \$108,359 plus 8.82% of excess over	

1		\$1,616,450]
2	(vi) For taxable years beginning in two thousand twenty-three the	
3	following rates shall apply:	
4	If the New York taxable income is:	The tax is:
5	Not over \$12,800	4% of the New York taxable income
6	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
7		\$12,800
8	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
9		\$17,650
10	Over \$20,900 but not over \$107,650	\$901 plus 5.73% of excess over
11		\$20,900
12	Over \$107,650 but not over \$269,300	\$5,872 plus 6.17% of excess over
13		\$107,650
14	Over \$269,300 but not over	\$15,845 plus 6.85% of excess
15	\$1,616,450	over \$269,300
16	<u>Over \$1,616,450 but not over</u>	<u>\$108,125 plus 9.85% of excess over</u>
17	<u>\$5,000,000</u>	<u>\$1,616,450</u>
18	<u>Over \$5,000,000 but not over</u>	<u>\$441,404 plus 10.85% of excess over</u>
19	<u>\$25,000,000</u>	<u>\$5,000,000</u>
20	<u>Over \$25,000,000</u>	<u>\$2,611,404 plus 11.85% of excess over</u>
21		<u>\$25,000,000</u>
22	[Over \$1,616,450	\$108,125 plus 8.82% of excess over
23		\$1,616,450]
24	(vii) For taxable years beginning in two thousand twenty-four the	
25	following rates shall apply:	
26	If the New York taxable income is:	The tax is:
27	Not over \$12,800	4% of the New York taxable income
28	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
29		\$12,800
30	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
31		\$17,650
32	Over \$20,900 but not over \$107,650	\$901 plus 5.61% of excess over
33		\$20,900
34	Over \$107,650 but not over \$269,300	\$5,768 plus 6.09% of excess over
35		\$107,650
36	Over \$269,300 but not over	\$15,612 plus 6.85% of excess
37	\$1,616,450	over \$269,300
38	<u>Over \$1,616,450 but not over</u>	<u>\$107,892 plus 9.85% of excess over</u>
39	<u>\$5,000,000</u>	<u>\$1,616,450</u>
40	<u>Over \$5,000,000 but not over</u>	<u>\$441,171 plus 10.85% of excess over</u>
41	<u>\$25,000,000</u>	<u>\$5,000,000</u>
42	<u>Over \$25,000,000</u>	<u>\$2,611,171 plus 11.85% of excess over</u>
43		<u>\$25,000,000</u>
44	[Over \$1,616,450	\$107,892 plus 8.82% of excess over
45		\$1,616,450]
46	(viii) For taxable years beginning after two thousand twenty-four the	
47	following rates shall apply:	
48	If the New York taxable income is:	The tax is:
49	Not over \$12,800	4% of the New York taxable income
50	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
51		\$12,800
52	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
53		\$17,650
54	Over \$20,900 but not over \$107,650	\$901 plus 5.5% of excess over
55		\$20,900
56	Over \$107,650 but not over \$269,300	\$5,672 plus 6.00% of excess over

1		\$107,650
2	Over \$269,300 <u>but not over</u>	\$15,371 plus 6.85% of excess over
3	<u>\$1,616,450</u>	\$269,300
4	<u>Over \$1,616,450 but not over</u>	<u>\$107,651 plus 9.85% of excess over</u>
5	<u>\$5,000,000</u>	<u>\$1,616,450</u>
6	<u>Over \$5,000,000 but not over</u>	<u>\$440,930 plus 10.85% of excess over</u>
7	<u>\$25,000,000</u>	<u>\$5,000,000</u>
8	<u>Over \$25,000,000</u>	<u>\$2,610,930 plus 11.85% of excess over</u>
9		<u>\$25,000,000</u>

10 § 3. Clauses (iv), (v), (vi), (vii) and (viii) of subparagraph (B) of
 11 paragraph 1 of subsection (c) of section 601 of the tax law, clauses
 12 (iv), (v), (vi) and (vii) as amended by section 3 of part P of chapter
 13 59 of the laws of 2019 and clause (viii) as added by section 3 of part R
 14 of chapter 59 of the laws of 2017, are amended to read as follows:

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

17	If the New York taxable income is:	The tax is:
18	Not over \$8,500	4% of the New York taxable income
19	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
20		\$8,500
21	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
22		\$11,700
23	Over \$13,900 but not over \$21,400	\$600 plus 5.9% of excess over
24		\$13,900
25	Over \$21,400 but not over \$80,650	\$1,042 plus 5.97% of excess over
26		\$21,400
27	Over \$80,650 but not over \$215,400	\$4,579 plus 6.33% of excess over
28		\$80,650
29	Over \$215,400 but not over	\$13,109 plus 6.85% of excess
30	\$1,077,550	over \$215,400
31	<u>Over \$1,077,550 but not over</u>	<u>\$72,166 plus 9.85% of excess over</u>
32	<u>\$5,000,000</u>	<u>\$1,077,550</u>
33	<u>Over \$5,000,000 but not over</u>	<u>\$437,739 plus 10.85% of excess over</u>
34	<u>\$25,000,000</u>	<u>\$5,000,000</u>
35	<u>Over \$25,000,000</u>	<u>\$2,607,739 plus 11.85% of excess over</u>
36		<u>\$25,000,000</u>
37	Over \$1,077,550	\$72,166 plus 8.82% of excess over
38		\$1,077,550

39 (v) For taxable years beginning in two thousand twenty-two the follow-
 40 ing rates shall apply:

41	If the New York taxable income is:	The tax is:
42	Not over \$8,500	4% of the New York taxable income
43	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
44		\$8,500
45	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
46		\$11,700
47	Over \$13,900 but not over \$80,650	\$600 plus 5.85% of excess over
48		\$13,900
49	Over \$80,650 but not over \$215,400	\$4,504 plus 6.25% of excess over
50		\$80,650
51	Over \$215,400 but not over	\$12,926 plus 6.85% of excess
52	\$1,077,550	over \$215,400
53	<u>Over \$1,077,550 but not over</u>	<u>\$7,983 plus 9.85% of excess over</u>
54	<u>\$5,000,000</u>	<u>\$1,077,550</u>
55	<u>Over \$5,000,000 but not over</u>	<u>\$458,345 plus 10.85% of excess over</u>

1	<u>\$25,000,000</u>	<u>\$5,000,000</u>
2	<u>Over \$25,000,000</u>	<u>\$2,628,345 plus 11.85% of excess over</u>
3		<u>\$25,000,000</u>
4	[Over \$1,077,550	\$71,984 plus 8.82% of excess over
5		\$1,077,550]
6	(vi) For taxable years beginning in two thousand twenty-three the	
7	following rates shall apply:	
8	If the New York taxable income is:	The tax is:
9	Not over \$8,500	4% of the New York taxable income
10	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
11		\$8,500
12	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
13		\$11,700
14	Over \$13,900 but not over \$80,650	\$600 plus 5.73% of excess over
15		\$13,900
16	Over \$80,650 but not over \$215,400	\$4,424 plus 6.17% of excess over
17		\$80,650
18	Over \$215,400 but not over	\$12,738 plus 6.85% of excess
19	\$1,077,550	over \$215,400
20	<u>Over \$1,077,550 but not over</u>	<u>\$71,975 plus 9.85% of excess over</u>
21	<u>\$5,000,000</u>	<u>\$1,077,550</u>
22	<u>Over \$5,000,000 but not over</u>	<u>\$458,157 plus 10.85% of excess over</u>
23	<u>\$25,000,000</u>	<u>\$5,000,000</u>
24	<u>Over \$25,000,000</u>	<u>\$2,628,157 plus 11.85% of excess over</u>
25		<u>\$25,000,000</u>
26	[Over \$1,077,550	\$71,796 plus 8.82% of excess over
27		\$1,077,550]

28	(vii) For taxable years beginning in two thousand twenty-four the	
29	following rates shall apply:	
30	If the New York taxable income is:	The tax is:
31	Not over \$8,500	4% of the New York taxable income
32	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
33		\$8,500
34	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
35		\$11,700
36	Over \$13,900 but not over \$80,650	\$600 plus 5.61% of excess over
37		\$13,900
38	Over \$80,650 but not over \$215,400	\$4,344 plus 6.09% of excess over
39		\$80,650
40	Over \$215,400 but not over	\$12,550 plus 6.85% of excess
41	\$1,077,550	over \$215,400
42	<u>Over \$1,077,550 but not over</u>	<u>\$71,607 plus 9.85% of excess over</u>
43	<u>\$5,000,000</u>	<u>\$1,077,550</u>
44	<u>Over \$5,000,000 but not over</u>	<u>\$457,969 plus 10.85% of excess over</u>
45	<u>\$25,000,000</u>	<u>\$5,000,000</u>
46	<u>Over \$25,000,000</u>	<u>\$2,627,969 plus 11.85% of excess over</u>
47		<u>\$25,000,000</u>
48	[Over \$1,077,550	\$71,608 plus 8.82% of excess over
49		\$1,077,550]

50	(viii) For taxable years beginning after two thousand twenty-four the	
51	following rates shall apply:	
52	If the New York taxable income is:	The tax is:
53	Not over \$8,500	4% of the New York taxable income
54	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
55		\$8,500
56	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over

1		\$11,700
2	Over \$13,900 but not over \$80,650	\$600 plus 5.50% of excess over
3		\$13,900
4	Over \$80,650 but not over \$215,400	\$4,271 plus 6.00% of excess over
5		\$80,650
6	Over \$215,400 <u>but not over</u>	\$12,356 plus 6.85% of excess over
7	<u>\$1,077,550</u>	\$215,400
8	<u>Over \$1,077,550 but not over</u>	<u>\$71,413 plus 9.85% of excess over</u>
9	<u>\$5,000,000</u>	<u>\$1,077,550</u>
10	<u>Over \$5,000,000 but not over</u>	<u>\$457,775 plus 10.85% of excess over</u>
11	<u>\$25,000,000</u>	<u>\$5,000,000</u>
12	<u>Over \$25,000,000</u>	<u>\$2,627,775 plus 11.85% of excess over</u>
13		<u>\$25,000,000</u>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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-

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

8 (h) Partnership taxable income. Partnership taxable income of an
9 electing partnership means the sum of (1) the electing partnership's
10 pass-through adjusted net income (not less than zero), allocated to New
11 York State pursuant to subdivision (b) of section eight hundred sixty-
12 two of this article; and (2) the electing partnership's proportionate
13 share of any pass-through adjusted net income (not less than zero) from
14 a partnership of which it is a partner to the extent it was sourced to
15 New York by such partnership pursuant to the principles of article twen-
16 ty-two of this chapter. For purposes of determining partnership taxable
17 income, an entity that is a disregarded entity as described in section
18 301.7701-2(c)(2)(i) of internal revenue service regulations for federal
19 income tax purposes is also disregarded in determining the profit
20 percentage of the electing partnership that are owned by partners or
21 members who are subject to tax pursuant to article twenty-two of this
22 chapter or that are owned by partners or members who are residents of
23 New York State.

24 (i) S corporation taxable income. S corporation taxable income of an
25 electing S corporation means the electing S corporation's pass-through
26 adjusted net income (not less than zero) allocated to New York State
27 pursuant to subdivision (c) of section eight hundred sixty-two of this
28 article. For purposes of determining S corporation taxable income, an
29 entity that is a disregarded entity as described in regulation section
30 301.7701-2(c)(2)(i) for federal income tax purposes is also disregarded
31 in determining the profit percentage of the electing S corporation that
32 are owned by shareholders who are subject to tax pursuant to article
33 twenty-two of this chapter or that are owned by shareholders who are
34 residents of New York State pursuant to the provisions of article twen-
35 ty-two of this chapter.

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

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

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

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

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

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

15 (3) Abatement of penalties. If a termination occurs pursuant to this
16 subdivision solely because a partner, member or shareholder of an other-
17 wise eligible partnership or eligible S corporation died during the
18 taxable year and the successor to the decedent's interest in the part-
19 nership or S corporation is an entity that will result in the partner-
20 ship or the S corporation not being an eligible partnership or S corpo-
21 ration, no addition to tax will be imposed pursuant to subsection (c) of
22 section six hundred eighty-five of this chapter on the partners, members
23 and shareholders of such partnership or S corporation solely for under-
24 payment of estimated personal income tax as a result of the termination
25 of the election made pursuant to this article.

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

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

43 (c) Allocation to New York by an electing S corporation. In determin-
44 ing the amount of S corporation taxable income, the adjusted net income
45 of the electing S corporation shall be allocated to this state by multi-
46 plying the adjusted net income of the electing S corporation by the
47 business apportionment factor of the electing S corporation as calcu-
48 lated pursuant to section two hundred ten-A of this chapter.

49 § 863. Pass-through entity tax credit. A partner or member in an
50 electing partnership or a shareholder of an electing S corporation
51 subject to tax under this article which partner's, member's or share-
52 holder's federal taxable income includes separately and non-separately
53 computed items from the electing partnership as described in section
54 702(a) of the Internal Revenue Code or from the electing S corporation
55 as described in section 1366(a) of the Internal Revenue Code and is
56 subject to tax under article twenty-two of this chapter, shall be

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (3) that all statements contained therein are true.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (c) Liability for tax. An electing partnership or electing S corpo-
13 ration shall be liable for the tax due pursuant to this article. In
14 addition, every individual eligible to claim a credit pursuant to
15 subsection (kkk) of section six hundred six of this chapter because he
16 or she is a partner or member in an electing partnership or a sharehold-
17 er in an electing S corporation shall be jointly and severally liable
18 for the tax imposed pursuant to this article on such electing partner-
19 ship or electing S corporation.

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

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

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

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

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

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

45 (ii) ninety-two percent; and

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

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

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

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

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

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

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

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

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

29 (B) ninety-two percent; and

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

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

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

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

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

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

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

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

3 [~~(a)~~] (d) Definition. For purposes of this section New York income
4 means:

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

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

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

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

19 1. All taxes, interest, penalties and fees collected or received by
20 the commissioner or the commissioner's duly authorized agent under arti-
21 cles nine (except section one hundred eighty-two-a thereof and except as
22 otherwise provided in section two hundred five thereof), nine-A,
23 twelve-A (except as otherwise provided in section two hundred eighty-
24 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
25 section three hundred twelve thereof), eighteen, nineteen, twenty
26 (except as otherwise provided in section four hundred eighty-two there-
27 of), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, twenty-
28 four-a, twenty-six, twenty-eight (except as otherwise provided in
29 section eleven hundred two or eleven hundred three thereof),
30 twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided
31 in section fourteen hundred twenty-one thereof), thirty-three and thir-
32 ty-three-A of this chapter shall be deposited daily in one account with
33 such responsible banks, banking houses or trust companies as may be
34 designated by the comptroller, to the credit of the comptroller. Such an
35 account may be established in one or more of such depositories. Such
36 deposits shall be kept separate and apart from all other money in the
37 possession of the comptroller. The comptroller shall require adequate
38 security from all such depositories. Of the total revenue collected or
39 received under such articles of this chapter, the comptroller shall
40 retain in the comptroller's hands such amount as the commissioner may
41 determine to be necessary for refunds or reimbursements under such arti-
42 cles of this chapter out of which amount the comptroller shall pay any
43 refunds or reimbursements to which taxpayers shall be entitled under the
44 provisions of such articles of this chapter. The commissioner and the
45 comptroller shall maintain a system of accounts showing the amount of
46 revenue collected or received from each of the taxes imposed by such
47 articles. The comptroller, after reserving the amount to pay such
48 refunds or reimbursements, shall, on or before the tenth day of each
49 month, pay into the state treasury to the credit of the general fund all
50 revenue deposited under this section during the preceding calendar month
51 and remaining to the comptroller's credit on the last day of such
52 preceding month, (i) except that the comptroller shall pay to the state
53 department of social services that amount of overpayments of tax imposed
54 by article twenty-two of this chapter and the interest on such amount
55 which is certified to the comptroller by the commissioner as the amount
56 to be credited against past-due support pursuant to subdivision six of

1 section one hundred seventy-one-c of this article, (ii) and except that
2 the comptroller shall pay to the New York state higher education
3 services corporation and the state university of New York or the city
4 university of New York respectively that amount of overpayments of tax
5 imposed by article twenty-two of this chapter and the interest on such
6 amount which is certified to the comptroller by the commissioner as the
7 amount to be credited against the amount of defaults in repayment of
8 guaranteed student loans and state university loans or city university
9 loans pursuant to subdivision five of section one hundred seventy-one-d
10 and subdivision six of section one hundred seventy-one-e of this arti-
11 cle, (iii) and except further that, notwithstanding any law, the comp-
12 troller shall credit to the revenue arrearage account, pursuant to
13 section ninety-one-a of the state finance law, that amount of overpay-
14 ment of tax imposed by article nine, nine-A, twenty-two, thirty, thir-
15 ty-A, thirty-B or thirty-three of this chapter, and any interest there-
16 on, which is certified to the comptroller by the commissioner as the
17 amount to be credited against a past-due legally enforceable debt owed
18 to a state agency pursuant to paragraph (a) of subdivision six of
19 section one hundred seventy-one-f of this article, provided, however, he
20 shall credit to the special offset fiduciary account, pursuant to
21 section ninety-one-c of the state finance law, any such amount credita-
22 ble as a liability as set forth in paragraph (b) of subdivision six of
23 section one hundred seventy-one-f of this article, (iv) and except
24 further that the comptroller shall pay to the city of New York that
25 amount of overpayment of tax imposed by article nine, nine-A, twenty-
26 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any
27 interest thereon that is certified to the comptroller by the commission-
28 er as the amount to be credited against city of New York tax warrant
29 judgment debt pursuant to section one hundred seventy-one-l of this
30 article, (v) and except further that the comptroller shall pay to a
31 non-obligated spouse that amount of overpayment of tax imposed by arti-
32 cle twenty-two of this chapter and the interest on such amount which has
33 been credited pursuant to section one hundred seventy-one-c, one hundred
34 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or
35 one hundred seventy-one-l of this article and which is certified to the
36 comptroller by the commissioner as the amount due such non-obligated
37 spouse pursuant to paragraph six of subsection (b) of section six
38 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct
39 a like amount which the comptroller shall pay into the treasury to the
40 credit of the general fund from amounts subsequently payable to the
41 department of social services, the state university of New York, the
42 city university of New York, or the higher education services corpo-
43 ration, or the revenue arrearage account or special offset fiduciary
44 account pursuant to section ninety-one-a or ninety-one-c of the state
45 finance law, as the case may be, whichever had been credited the amount
46 originally withheld from such overpayment, and (vii) with respect to
47 amounts originally withheld from such overpayment pursuant to section
48 one hundred seventy-one-l of this article and paid to the city of New
49 York, the comptroller shall collect a like amount from the city of New
50 York.

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

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

1 otherwise provided in section two hundred five thereof), nine-A,
2 twelve-A (except as otherwise provided in section two hundred eighty-
3 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
4 section three hundred twelve thereof), eighteen, nineteen, twenty
5 (except as otherwise provided in section four hundred eighty-two there-
6 of), twenty-D, twenty-one, twenty-two, twenty-four, twenty-four-a, twen-
7 ty-six, twenty-eight (except as otherwise provided in section eleven
8 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
9 nine-B, thirty-one (except as otherwise provided in section fourteen
10 hundred twenty-one thereof), thirty-three and thirty-three-A of this
11 chapter shall be deposited daily in one account with such responsible
12 banks, banking houses or trust companies as may be designated by the
13 comptroller, to the credit of the comptroller. Such an account may be
14 established in one or more of such depositories. Such deposits shall be
15 kept separate and apart from all other money in the possession of the
16 comptroller. The comptroller shall require adequate security from all
17 such depositories. Of the total revenue collected or received under such
18 articles of this chapter, the comptroller shall retain in the comp-
19 troller's hands such amount as the commissioner may determine to be
20 necessary for refunds or reimbursements under such articles of this
21 chapter out of which amount the comptroller shall pay any refunds or
22 reimbursements to which taxpayers shall be entitled under the provisions
23 of such articles of this chapter. The commissioner and the comptroller
24 shall maintain a system of accounts showing the amount of revenue
25 collected or received from each of the taxes imposed by such articles.
26 The comptroller, after reserving the amount to pay such refunds or
27 reimbursements, shall, on or before the tenth day of each month, pay
28 into the state treasury to the credit of the general fund all revenue
29 deposited under this section during the preceding calendar month and
30 remaining to the comptroller's credit on the last day of such preceding
31 month, (i) except that the comptroller shall pay to the state department
32 of social services that amount of overpayments of tax imposed by article
33 twenty-two of this chapter and the interest on such amount which is
34 certified to the comptroller by the commissioner as the amount to be
35 credited against past-due support pursuant to subdivision six of section
36 one hundred seventy-one-c of this article, (ii) and except that the
37 comptroller shall pay to the New York state higher education services
38 corporation and the state university of New York or the city university
39 of New York respectively that amount of overpayments of tax imposed by
40 article twenty-two of this chapter and the interest on such amount which
41 is certified to the comptroller by the commissioner as the amount to be
42 credited against the amount of defaults in repayment of guaranteed
43 student loans and state university loans or city university loans pursu-
44 ant to subdivision five of section one hundred seventy-one-d and subdivi-
45 sion six of section one hundred seventy-one-e of this article, (iii)
46 and except further that, notwithstanding any law, the comptroller shall
47 credit to the revenue arrearage account, pursuant to section
48 ninety-one-a of the state finance law, that amount of overpayment of tax
49 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
50 or thirty-three of this chapter, and any interest thereon, which is
51 certified to the comptroller by the commissioner as the amount to be
52 credited against a past-due legally enforceable debt owed to a state
53 agency pursuant to paragraph (a) of subdivision six of section one
54 hundred seventy-one-f of this article, provided, however, he shall cred-
55 it to the special offset fiduciary account, pursuant to section ninety-
56 one-c of the state finance law, any such amount creditable as a liabil-

1 ity as set forth in paragraph (b) of subdivision six of section one
2 hundred seventy-one-f of this article, (iv) and except further that the
3 comptroller shall pay to the city of New York that amount of overpayment
4 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
5 thirty-B or thirty-three of this chapter and any interest thereon that
6 is certified to the comptroller by the commissioner as the amount to be
7 credited against city of New York tax warrant judgment debt pursuant to
8 section one hundred seventy-one-l of this article, (v) and except
9 further that the comptroller shall pay to a non-obligated spouse that
10 amount of overpayment of tax imposed by article twenty-two of this chap-
11 ter and the interest on such amount which has been credited pursuant to
12 section one hundred seventy-one-c, one hundred seventy-one-d, one
13 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
14 ty-one-l of this article and which is certified to the comptroller by
15 the commissioner as the amount due such non-obligated spouse pursuant to
16 paragraph six of subsection (b) of section six hundred fifty-one of this
17 chapter; and (vi) the comptroller shall deduct a like amount which the
18 comptroller shall pay into the treasury to the credit of the general
19 fund from amounts subsequently payable to the department of social
20 services, the state university of New York, the city university of New
21 York, or the higher education services corporation, or the revenue
22 arrearage account or special offset fiduciary account pursuant to
23 section ninety-one-a or ninety-one-c of the state finance law, as the
24 case may be, whichever had been credited the amount originally withheld
25 from such overpayment, and (vii) with respect to amounts originally
26 withheld from such overpayment pursuant to section one hundred seventy-
27 one-l of this article and paid to the city of New York, the comptroller
28 shall collect a like amount from the city of New York.

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

32 2. Such fund shall consist of (a) fifty percent of receipts from the
33 imposition of personal income taxes pursuant to article twenty-two of
34 the tax law, less such amounts as the commissioner of taxation and
35 finance may determine to be necessary for refunds, ~~and~~ (b) fifty
36 percent of receipts from the imposition of employer compensation expense
37 taxes pursuant to article twenty-four of the tax law, less such amounts
38 as the commissioner of taxation and finance may determine to be neces-
39 sary for refunds, and (c) fifty percent of receipts from the imposition
40 of the pass-through entity taxes pursuant to article twenty-four-A of
41 the tax law, less such amounts as the commission of taxation and finance
42 may determine to be necessary for refunds.

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

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

14 (c) Beginning on the first day of each month, the comptroller shall
15 deposit all of the receipts collected pursuant to sections eight hundred
16 sixty-four and eight hundred sixty-five of the tax law in the revenue
17 bond tax fund until the amount of monthly receipts anticipated to be
18 deposited pursuant to the certificate required in paragraph (b) of
19 subdivision five of this section are met. On or before the twelfth day
20 of each month, the commissioner of taxation and finance shall certify to
21 the state comptroller the amounts specified in paragraph (c) of subdivi-
22 sion two of this section relating to the preceding month and, in addi-
23 tion, no later than March thirty-first of each fiscal year the commis-
24 sioner of taxation and finance shall certify such amounts relating to
25 the last month of such fiscal year. The amounts so certified shall be
26 deposited by the state comptroller in the revenue bond tax fund.

27 (a) The state comptroller shall from time to time, but in no event
28 later than the fifteenth day of each month (other than the last month of
29 the fiscal year) and no later than the thirty-first day of the last
30 month of each fiscal year, pay over and distribute to the credit of the
31 general fund of the state treasury all moneys in the revenue bond tax
32 fund, if any, in excess of the aggregate amount required to be set aside
33 for the payment of cash requirements pursuant to paragraph (b) of this
34 subdivision, provided that an appropriation has been made to pay all
35 amounts specified in any certificate or certificates delivered by the
36 director of the budget pursuant to paragraph (b) of this subdivision as
37 being required by each authorized issuer as such term is defined in
38 section sixty-eight-a of this chapter for the payment of cash require-
39 ments of such issuers for such fiscal year. Subject to the rights of
40 holders of debt of the state, in no event shall the state comptroller
41 pay over and distribute any moneys on deposit in the revenue bond tax
42 fund to any person other than an authorized issuer pursuant to such
43 certificate or certificates (i) unless and until the aggregate of all
44 cash requirements certified to the state comptroller as required by such
45 authorized issuers to be set aside pursuant to paragraph (b) of this
46 subdivision for such fiscal year shall have been appropriated to such
47 authorized issuers in accordance with the schedule specified in the
48 certificate or certificates filed by the director of the budget or (ii)
49 if, after having been so certified and appropriated, any payment
50 required to be made pursuant to paragraph (b) of this subdivision has
51 not been made to the authorized issuers which was required to have been
52 made pursuant to such certificate or certificates; provided, however,
53 that no person, including such authorized issuers or the holders of
54 revenue bonds, shall have any lien on moneys on deposit in the revenue
55 bond tax fund. Any agreement entered into pursuant to section sixty-
56 eight-c of this chapter related to any payment authorized by this

1 section shall be executory only to the extent of such revenues available
2 to the state in such fund. Notwithstanding subdivisions two and three of
3 this section, in the event the aggregate of all cash requirements certi-
4 fied to the state comptroller as required by such authorized issuers to
5 be set aside pursuant to paragraph (b) of this subdivision for the
6 fiscal year beginning on April first shall not have been appropriated to
7 such authorized issuers in accordance with the schedule specified in the
8 certificate or certificates filed by the director of the budget or, (ii)
9 if, having been so certified and appropriated, any payment required to
10 be made pursuant to paragraph (b) of this subdivision has not been made
11 pursuant to such certificate or certificates, all receipts collected
12 pursuant to section six hundred seventy-one of the tax law, ~~and~~
13 section eight hundred fifty-four of the tax law, section eight hundred
14 sixty-four of the tax law, and section eight hundred sixty-five of the
15 tax law shall be deposited in the revenue bond tax fund until the great-
16 er of forty percent of the aggregate of the receipts from the imposition
17 of (A) the personal income tax imposed by article twenty-two of the tax
18 law, ~~and~~ (B) the employer compensation expense tax imposed by article
19 twenty-four of the tax law, and (C) the pass-through entity tax imposed
20 by article twenty-four-A of the tax law for the fiscal year beginning on
21 April first and as specified in the certificate or certificates filed by
22 the director of the budget pursuant to this paragraph or a total of
23 twelve billion dollars has been deposited in the revenue bond tax fund.
24 Notwithstanding any other provision of law, if the state has appropri-
25 ated and paid to the authorized issuers the amounts necessary for the
26 authorized issuers to meet their requirements for the current fiscal
27 year pursuant to the certificate or certificates submitted by the direc-
28 tor of the budget pursuant to paragraph (b) of this section, the state
29 comptroller shall, on the last day of each fiscal year, pay to the
30 general fund of the state all sums remaining in the revenue bond tax
31 fund on such date except such amounts as the director of the budget may
32 certify are needed to meet the cash requirements of authorized issuers
33 during the subsequent fiscal year.

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

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

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

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

3 5-a. "Child care services" means those services undertaken or spon-
4 sored by a participant in this program meeting the requirements of
5 "child day care" as defined in paragraph (a) of subdivision one of
6 section three hundred ninety of the social services law or any child
7 care services in the city of New York whereby a permit to operate such
8 child care services is required pursuant to the health code of the city
9 of New York.

10 13-a. "Net new child care services expenditures" means the calculation
11 of new, annual participant expenditures on child care services whether
12 internal or provided by a third party (including coverage for full or
13 partial discount of employee rates), minus any revenues received by the
14 participant through a third-party operator (i.e. rent paid to the
15 participant by the child care provider) or employees and may be further
16 defined by the commissioner in regulations. For the purposes of this
17 definition, expenditures for child care services that a participant has
18 incurred prior to admission to this program shall not be eligible for
19 the credit.

20 § 2. Paragraphs (k) and (l) of subdivision 1 of section 353 of the
21 economic development law, as amended by section 2 of part L of chapter
22 59 of the laws of 2020, are amended and a new paragraph (m) is added to
23 read as follows:

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

25 (l) as a company operating in one of the industries listed in para-
26 graphs (b) through (e) of this subdivision and engaging in a green
27 project as defined in section three hundred fifty-two of this
28 article~~[-]~~; or

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

31 § 2-a. Subdivision 3 of section 354 of the economic development law,
32 as amended by section 3 of part G of chapter 61 of the laws of 2011, is
33 amended to read as follows:

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

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

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

6 2. Excelsior investment tax credit component. A participant in the
7 excelsior jobs program shall be eligible to claim a credit on qualified
8 investments. In a project that is not a green project, the credit shall
9 be equal to two percent of the cost or other basis for federal income
10 tax purposes of the qualified investment. In a green project, the credit
11 shall be equal to five percent of the cost or other basis for federal
12 income tax purposes of the qualified investment. In a project for child
13 care services, the credit shall be equal to five percent of the cost or
14 other basis for federal income tax purposes of the qualified investment
15 in child care services. A participant may not claim both the excelsior
16 investment tax credit component and the investment tax credit set forth
17 in subdivision one of section two hundred ten-B, subsection (a) of
18 section six hundred six, the former subsection (i) of section fourteen
19 hundred fifty-six, or subdivision (q) of section fifteen hundred eleven
20 of the tax law for the same property in any taxable year, except that a
21 participant may claim both the excelsior investment tax credit component
22 and the investment tax credit for research and development property. In
23 addition, a taxpayer who or which is qualified to claim the excelsior
24 investment tax credit component and is also qualified to claim the
25 brownfield tangible property credit component under section twenty-one
26 of the tax law may claim either the excelsior investment tax credit
27 component or such tangible property credit component, but not both with
28 regard to a particular piece of property. A credit may not be claimed
29 until a business enterprise has received a certificate of tax credit,
30 provided that qualified investments made on or after the issuance of the
31 certificate of eligibility but before the issuance of the certificate of
32 tax credit to the business enterprise, may be claimed in the first taxa-
33 ble year for which the business enterprise is allowed to claim the cred-
34 it. Expenses incurred prior to the date the certificate of eligibility
35 is issued are not eligible to be included in the calculation of the
36 credit.

37 2-a. Excelsior child care services tax credit component. A participant
38 shall be eligible to claim a credit on its net new child care services
39 expenditures for its operation, sponsorship or direct financial support
40 of a child care services program. The credit shall be equal to six
41 percent of the net new child care services expenditures as defined in
42 this chapter.

43 6. Claim of tax credit. The business enterprise shall be allowed to
44 claim the credit as prescribed in section thirty-one of the tax law. No
45 costs used by an entertainment company as the basis for the allowance of
46 a tax credit described in this section shall be used by such enter-
47 tainment company to claim any other credit allowed pursuant to the tax
48 law. No costs or expenditures for child care services used by a partic-
49 ipant to claim the credit as prescribed in section forty-four of the tax
50 law shall be used for the allowance of a tax credit described in this
51 section.

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

54 (2-a) the excelsior child care services tax credit component;

1 § 5. Subdivision (a) of section 44 of the tax law, as added by section
2 1 of part L of chapter 59 of the laws of 2019, is amended to read as
3 follows:

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

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

22 PART E

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

26 (b) (1) A corporation classed as a "taxicab" or "omnibus",
27 (i) which is organized, incorporated or formed under the laws of any
28 other state, country or sovereignty, and
29 (ii) which neither owns nor leases property in this state in a corpo-
30 rate or organized capacity, nor
31 (iii) maintains an office in this state in a corporate or organized
32 capacity, but
33 (iv) which is doing business or employing capital in this state by
34 conducting at least one but fewer than twelve trips into this state
35 during the calendar year, shall [~~annually pay a tax equal to fifteen~~
36 ~~dollars for each trip conducted into this state~~] not be taxed under the
37 provisions of this article. If the only property a corporation owns or
38 leases in this state is a vehicle or vehicles used to conduct trips, it
39 shall not be considered, for purposes of clause (ii) of this subpara-
40 graph, to be owning or leasing property in this state.

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

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

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

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

8 1-A. The term "New York S corporation" means, with respect to any
9 taxable year, a corporation subject to tax under this article [~~for which~~
10 ~~an election is in effect pursuant to~~] and described in paragraph (i) or
11 (ii) of subsection (a) of section six hundred sixty of this chapter [~~for~~
12 ~~such year~~], and any such year shall be denominated a "New York S year" [~~r~~
13 ~~and such election shall be denominated a "New York S election"~~]. The
14 term "New York C corporation" means, with respect to any taxable year, a
15 corporation subject to tax under this article which is not a New York S
16 corporation, and any such year shall be denominated a "New York C year".
17 The term "termination year" means any taxable year of a corporation
18 during which the corporation's status as a New York S [~~election~~] corpo-
19 ration terminates on a day other than the first day of such year. The
20 portion of the taxable year ending before the first day for which such
21 termination is effective shall be denominated the "S short year", and
22 the portion of such year beginning on such first day shall be denomi-
23 nated the "C short year". The term "New York S termination year" means
24 any termination year which is [~~not~~] also an S termination year for
25 federal purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (1) There shall be added to federal adjusted gross income the amount
32 of increase in basis with respect to such stock or indebtedness pursuant
33 to subsection (a) of section thirteen hundred seventy-six of the inter-
34 nal revenue code as such section was in effect for taxable years begin-
35 ning before January first, nineteen hundred eighty-three and subpara-
36 graphs (A) and (B) of paragraph one of subsection (a) of section
37 thirteen hundred sixty-seven of such code, for each taxable year of the
38 corporation beginning, in the case of a corporation taxable under arti-
39 cle nine-A of this chapter, after December thirty-first, nineteen
40 hundred eighty and before January first, two thousand twenty-two, and in
41 the case of a corporation taxable under former article thirty-two of
42 this chapter, after December thirty-first, nineteen hundred ninety-six
43 and before January first, two thousand fifteen, for which the election
44 provided for in subsection (a) of section six hundred sixty of this
45 article was not in effect, and

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

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

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

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

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

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

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

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

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

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

32 (a) Partner's and shareholder's modifications. In determining New York
33 adjusted gross income and New York taxable income of a resident partner
34 or a resident shareholder of an S corporation [~~(other than an S corpo-~~
35 ~~ration which is a New York C corporation)~~], any modification described
36 in subsections (b), (c) or (d) of section six hundred twelve, subsection
37 (c) of section six hundred fifteen or paragraphs (2) or (3) of
38 subsection (d) of such section, which relates to an item of partnership
39 or S corporation income, gain, loss or deduction shall be made in
40 accordance with the partner's distributive share or the shareholder's
41 pro rata share, for federal income tax purposes, of the item to which
42 the modification relates. Where a partner's distributive share or a
43 shareholder's pro rata share of any such item is not required to be
44 taken into account separately for federal income tax purposes, the part-
45 ner's or shareholder's share of such item shall be determined in accord-
46 ance with his or her share, for federal income tax purposes, of partner-
47 ship or S corporation taxable income or loss generally. In the case of a
48 New York S termination year, his or her pro rata share of any such item
49 shall be determined under subsection (s) of section six hundred twelve.

50 § 15. Subparagraph (E-1) of paragraph 1 of subsection (b) of section
51 631 of the tax law, as added by section 3 of part C of chapter 57 of the
52 laws of 2010, is amended to read as follows:

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

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

5 § 16. The section heading and paragraph 2 of subsection (a) of section
6 632 of the tax law, the section heading as amended by chapter 606 of the
7 laws of 1984, and paragraph 2 of subsection (a) as amended by section 71
8 of part A of chapter 59 of the laws of 2014, are amended to read as
9 follows:

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

11 (2) In determining New York source income of a nonresident shareholder
12 of an S corporation [~~where the election provided for in~~] subject to
13 subsection (a) of section six hundred sixty of this article [~~is in~~
14 ~~effect~~], there shall be included only the portion derived from or
15 connected with New York sources of such shareholder's pro rata share of
16 items of S corporation income, loss and deduction entering into his or
17 her federal adjusted gross income, increased by reductions for taxes
18 described in paragraphs two and three of subsection (f) of section thir-
19 teen hundred sixty-six of the internal revenue code, as such portion
20 shall be determined under regulations of the commissioner consistent
21 with the applicable methods and rules for allocation under article
22 nine-A of this chapter [~~, regardless of whether or not such item or~~
23 ~~reduction is included in entire net income under article nine-A for the~~
24 ~~tax year~~]. If a nonresident is a shareholder in an S corporation [~~where~~
25 ~~the election provided for in~~] subject to subsection (a) of section six
26 hundred sixty of this article [~~is in effect~~], and the S corporation has
27 distributed an installment obligation under section 453(h)(1)(A) of the
28 Internal Revenue Code, then any gain recognized on the receipt of
29 payments from the installment obligation for federal income tax purposes
30 will be treated as New York source income allocated in a manner consist-
31 ent with the applicable methods and rules for allocation under article
32 nine-A of this chapter in the year that the assets were sold. In addi-
33 tion, if the shareholders of the S corporation have made an election
34 under section 338(h)(10) of the Internal Revenue Code, then any gain
35 recognized on the deemed asset sale for federal income tax purposes will
36 be treated as New York source income allocated in a manner consistent
37 with the applicable methods and rules for allocation under article
38 nine-A of this chapter in the year that the shareholder made the section
39 338(h)(10) election. For purposes of a section 338(h)(10) election, when
40 a nonresident shareholder exchanges his or her S corporation stock as
41 part of the deemed liquidation, any gain or loss recognized shall be
42 treated as the disposition of an intangible asset and will not increase
43 or offset any gain recognized on the deemed assets sale as a result of
44 the section 338(h)(10) election.

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

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

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

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

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

22 (A) General. Every entity which is a partnership, other than a public-
23 ly traded partnership as defined in section 7704 of the federal Internal
24 Revenue Code, subchapter K limited liability company or an S corporation
25 [~~for which the election provided for in subsection (a) of section six~~
26 ~~hundred sixty of this part is in effect~~], which has partners, members or
27 shareholders who are nonresident individuals, as defined under
28 subsection (b) of section six hundred five of this article, or C corpo-
29 rations, and which has any income derived from New York sources, deter-
30 mined in accordance with the applicable rules of section six hundred
31 thirty-one of this article as in the case of a nonresident individual,
32 shall pay estimated tax on such income on behalf of such partners,
33 members or shareholders in the manner and at the times prescribed by
34 subsection (c) of section six hundred eighty-five of this article. For
35 purposes of this paragraph, the term "estimated tax" shall mean a part-
36 ner's, member's or shareholder's distributive share or pro rata share of
37 the entity income derived from New York sources, multiplied by the high-
38 est rate of tax prescribed by section six hundred one of this article
39 for the taxable year of any partner, member or shareholder who is an
40 individual taxpayer, or paragraph (a) of subdivision one of section two
41 hundred ten of this chapter for the taxable year of any partner, member
42 or shareholder which is a C corporation, whether or not such C corpo-
43 ration is subject to tax under article nine, nine-A or thirty-three of
44 this chapter, and reduced by the distributive share or pro rata share of
45 any credits determined under section one hundred eighty-seven, one
46 hundred eighty-seven-a, six hundred six or fifteen hundred eleven of
47 this chapter, whichever is applicable, derived from the entity.

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

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

3 § 660. [~~Election by shareholders of S corporations~~] Tax treatment of
4 federal S corporations. (a) [~~Election.~~] If a corporation is an eligible
5 S corporation, the shareholders of the corporation [~~may elect in the~~
6 ~~manner set forth in subsection (b) of this section to~~] shall take into
7 account, to the extent provided for in this article (or in article thir-
8 teen of this chapter, in the case of a shareholder which is a taxpayer
9 under such article), the S corporation items of income, loss, deduction
10 and reductions for taxes described in paragraphs two and three of
11 subsection (f) of section thirteen hundred sixty-six of the internal
12 revenue code which are taken into account for federal income tax
13 purposes for the taxable year. [~~No election under this subsection shall~~
14 ~~be effective unless all shareholders of the corporation have so~~
15 ~~elected.~~] An eligible S corporation is (i) [~~an S~~] a corporation that has
16 elected to be an S corporation for federal income tax purposes pursuant
17 to section thirteen hundred sixty-two of the internal revenue code which
18 is subject to tax under article nine-A of this chapter, or (ii) [~~an S~~] a
19 corporation that has elected to be an S corporation for federal income
20 tax purposes pursuant to section thirteen hundred sixty-two of the
21 internal revenue code which is the parent of a qualified subchapter S
22 subsidiary as defined in subparagraph (B) of paragraph three of
23 subsection (b) of section thirteen hundred sixty-one of the internal
24 revenue code subject to tax under article nine-A[~~, where the sharehold-~~
25 ~~ers of such parent corporation are entitled to make the election under~~
26 ~~this subsection by reason of subparagraph three of paragraph (k) of~~
27 ~~subdivision nine of section two hundred eight~~] of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 ~~(2) the commissioner determines that the circumstances resulting in~~
55 ~~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

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

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

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

1 be allocated by the governor's office for motion picture and television
2 development among taxpayers in accordance with subdivision (a) of this
3 section. If the commissioner of economic development determines that the
4 aggregate amount of tax credits available from additional pool 2 for the
5 empire state film production tax credit have been previously allocated,
6 and determines that the pending applications from eligible applicants
7 for the empire state film post production tax credit pursuant to section
8 thirty-one of this article is insufficient to utilize the balance of
9 unallocated empire state film post production tax credits from such
10 pool, the remainder, after such pending applications are considered,
11 shall be made available for allocation in the empire state film tax
12 credit pursuant to this section, subdivision twenty of section two
13 hundred ten-B and subsection (gg) of section six hundred six of this
14 chapter. Also, if the commissioner of economic development determines
15 that the aggregate amount of tax credits available from additional pool
16 2 for the empire state film post production tax credit have been previ-
17 ously allocated, and determines that the pending applications from
18 eligible applicants for the empire state film production tax credit
19 pursuant to this section is insufficient to utilize the balance of unal-
20 located film production tax credits from such pool, then all or part of
21 the remainder, after such pending applications are considered, shall be
22 made available for allocation for the empire state film post production
23 credit pursuant to this section, subdivision thirty-two of section two
24 hundred ten-B and subsection (qq) of section six hundred six of this
25 chapter. The governor's office for motion picture and television devel-
26 opment must notify taxpayers of their allocation year and include the
27 allocation year on the certificate of tax credit. Taxpayers eligible to
28 claim a credit must report the allocation year directly on their empire
29 state film production credit tax form for each year a credit is claimed
30 and include a copy of the certificate with their tax return. In the case
31 of a qualified film that receives funds from additional pool 2, no
32 empire state film production credit shall be claimed before the later of
33 the taxable year the production of the qualified film is complete, or
34 the taxable year immediately following the allocation year for which the
35 film has been allocated credit by the governor's office for motion
36 picture and television development.

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

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

1 for the empire state film post production tax credit pursuant to section
2 thirty-one of this article is insufficient to utilize the balance of
3 unallocated empire state film post production tax credits from such
4 pool, the remainder, after such pending applications are considered,
5 shall be made available for allocation in the empire state film tax
6 credit pursuant to this section, subdivision twenty of section two
7 hundred ten-B and subsection (gg) of section six hundred six of this
8 chapter. Also, if the commissioner of economic development determines
9 that the aggregate amount of tax credits available from additional pool
10 2 for the empire state film post production tax credit have been previ-
11 ously allocated, and determines that the pending applications from
12 eligible applicants for the empire state film production tax credit
13 pursuant to this section is insufficient to utilize the balance of unal-
14 located film production tax credits from such pool, then all or part of
15 the remainder, after such pending applications are considered, shall be
16 made available for allocation for the empire state film post production
17 credit pursuant to this section, subdivision thirty-two of section two
18 hundred ten-B and subsection (qq) of section six hundred six of this
19 chapter. The governor's office for motion picture and television devel-
20 opment must notify taxpayers of their allocation year and include the
21 allocation year on the certificate of tax credit. Taxpayers eligible to
22 claim a credit must report the allocation year directly on their empire
23 state film production credit tax form for each year a credit is claimed
24 and include a copy of the certificate with their tax return. In the case
25 of a qualified film that receives funds from additional pool 2, no
26 empire state film production credit shall be claimed before the later of
27 the taxable year the production of the qualified film is complete, or
28 the taxable year immediately following the allocation year for which the
29 film has been allocated credit by the governor's office for motion
30 picture and television development.

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

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

1 thousand fifteen through two thousand [~~twenty-five~~] **twenty-six** of the
2 annual allocation made available to the empire state film post
3 production credit pursuant to paragraph four of subdivision (e) of
4 section twenty-four of this article. Such aggregate amount of credits
5 shall be allocated by the governor's office for motion picture and tele-
6 vision development among taxpayers in order of priority based upon the
7 date of filing an application for allocation of post production credit
8 with such office. If the total amount of allocated credits applied for
9 under this paragraph in any year exceeds the aggregate amount of tax
10 credits allowed for such year under this paragraph, such excess shall be
11 treated as having been applied for on the first day of the next year. If
12 the total amount of allocated tax credits applied for under this para-
13 graph at the conclusion of any year is less than five million dollars,
14 the remainder shall be treated as part of the annual allocation for two
15 thousand seventeen made available to the empire state film post
16 production credit pursuant to paragraph four of subdivision (e) of
17 section twenty-four of this article. However, in no event may the total
18 of the credits allocated under this paragraph and the credits allocated
19 under paragraph five of subdivision (a) of section twenty-four of this
20 article exceed five million dollars in any year during the period two
21 thousand fifteen through two thousand [~~twenty-five~~] **twenty-six**.

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

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

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

7 § 6. This act shall take effect immediately; provided, however, that
8 the amendments made by section five of this act shall apply to applica-
9 tions that are filed with the governor's office for motion picture and
10 television development on or after April 1, 2021; provided, further,
11 however that the amendments to paragraph 4 of subdivision (e) of section
12 24 of the tax law made by section two of this act shall take effect on
13 the same date and in the same manner as section 5 of chapter 683 of the
14 laws of 2019, as amended, takes effect.

15 PART G

16 Section 1. Paragraph 3 of subsection (v) of section 685 of the tax
17 law, as amended by section 3 of part I of chapter 59 of the laws of
18 2018, is amended to read as follows:

19 (3) Failure to provide complete and correct employee withholding
20 reconciliation information. In the case of a failure by an employer to
21 provide complete and correct quarterly withholding information relating
22 to individual employees on a quarterly combined withholding, wage
23 reporting and unemployment insurance return covering each calendar quar-
24 ter of a year, such employer shall, unless it is shown that such failure
25 is due to reasonable cause and not due to willful neglect, pay a penalty
26 equal to the product of [~~fifty~~ one hundred dollars multiplied by the
27 number of employees for whom such information is incomplete or incor-
28 rect; provided, however, that if the number of such employees cannot be
29 determined from the quarterly combined withholding, wage reporting and
30 unemployment insurance return, the commissioner may utilize any informa-
31 tion in the commissioner's possession in making such determination. The
32 total amount of the penalty imposed pursuant to this paragraph on an
33 employer for any such failure for each calendar quarter of a year shall
34 not exceed [~~ten~~ twenty thousand dollars.

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

37 PART H

38 Intentionally Omitted

39 PART I

40 Intentionally Omitted

41 PART J

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

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

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

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

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

33 § 4. Intentionally omitted.

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

38 (1) Either, all of the taxes described in article twenty-eight of this
39 chapter, at the same uniform rate, as to which taxes all provisions of
40 the local laws, ordinances or resolutions imposing such taxes shall be
41 identical, except as to rate and except as otherwise provided, with the
42 corresponding provisions in such article twenty-eight, including the
43 definition and exemption provisions of such article, so far as the
44 provisions of such article twenty-eight can be made applicable to the
45 taxes imposed by such city or county and with such limitations and
46 special provisions as are set forth in this article. The taxes author-
47 ized under this subdivision may not be imposed by a city or county
48 unless the local law, ordinance or resolution imposes such taxes so as
49 to include all portions and all types of receipts, charges or rents,
50 subject to state tax under sections eleven hundred five and eleven
51 hundred ten of this chapter, except as otherwise provided. Notwith-
52 standing the foregoing, a tax imposed by a city or county authorized
53 under this subdivision shall not include the tax imposed on charges for
54 admission to race tracks and simulcast facilities under subdivision (f)
55 of section eleven hundred five of this chapter. (i) Any local law, ordi-
56 nance or resolution enacted by any city of less than one million or by

1 any county or school district, imposing the taxes authorized by this
2 subdivision, shall, notwithstanding any provision of law to the contra-
3 ry, exclude from the operation of such local taxes all sales of tangible
4 personal property for use or consumption directly and predominantly in
5 the production of tangible personal property, gas, electricity, refrig-
6 eration or steam, for sale, by manufacturing, processing, generating,
7 assembly, refining, mining or extracting; and all sales of tangible
8 personal property for use or consumption predominantly either in the
9 production of tangible personal property, for sale, by farming or in a
10 commercial horse boarding operation, or in both; and all sales of fuel
11 sold for use in commercial aircraft and general aviation aircraft; and,
12 unless such city, county or school district elects otherwise, shall omit
13 the provision for credit or refund contained in clause six of subdivi-
14 sion (a) or subdivision (d) of section eleven hundred nineteen of this
15 chapter. (ii) Any local law, ordinance or resolution enacted by any
16 city, county or school district, imposing the taxes authorized by this
17 subdivision, shall omit the residential solar energy systems equipment
18 and electricity exemption provided for in subdivision (ee), the commer-
19 cial solar energy systems equipment and electricity exemption provided
20 for in subdivision (ii), the commercial fuel cell electricity generating
21 systems equipment and electricity generated by such equipment exemption
22 provided for in subdivision (kk) and the clothing and footwear exemption
23 provided for in paragraph thirty of subdivision (a) of section eleven
24 hundred fifteen of this chapter, unless such city, county or school
25 district elects otherwise as to such residential solar energy systems
26 equipment and electricity exemption, such commercial solar energy
27 systems equipment and electricity exemption, commercial fuel cell elec-
28 tricity generating systems equipment and electricity generated by such
29 equipment exemption or such clothing and footwear exemption.

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

33 (1) Or, one or more of the taxes described in subdivisions (b), (d),
34 (e) and (f) of section eleven hundred five of this chapter, at the same
35 uniform rate, including the transitional provisions in section eleven
36 hundred six of this chapter covering such taxes, but not the taxes
37 described in subdivisions (a) and (c) of section eleven hundred five of
38 this chapter. Provided, further, that where the tax described in subdivi-
39 sion (b) of section eleven hundred five of this chapter is imposed,
40 the compensating use taxes described in clauses (E), (G) and (H) of
41 subdivision (a) of section eleven hundred ten of this chapter shall also
42 be imposed. Provided, further, that where the taxes described in subdivi-
43 sion (b) of section eleven hundred five of this chapter are imposed,
44 such taxes shall omit: (A) the provision for refund or credit contained
45 in subdivision (d) of section eleven hundred nineteen of this chapter
46 with respect to such taxes described in such subdivision (b) of section
47 eleven hundred five unless such city or county elects to provide such
48 provision or, if so elected, to repeal such provision; (B) the exemption
49 provided in paragraph two of subdivision (ee) of section eleven hundred
50 fifteen of this chapter unless such county or city elects otherwise; (C)
51 the exemption provided in paragraph two of subdivision (ii) of section
52 eleven hundred fifteen of this chapter, unless such county or city
53 elects otherwise; and (D) the exemption provided in paragraph two of
54 subdivision (kk) of section eleven hundred fifteen of this chapter,
55 unless such county or city elects otherwise; and provided further that
56 where the tax described in subdivision (f) of such section eleven

1 hundred five is imposed, such tax shall not apply to charges for admis-
2 sion to race tracks and simulcast facilities.

3 § 7. Notwithstanding any provisions of law to the contrary and
4 notwithstanding the repeal of sections 227, 306 and 406, subparagraph
5 (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of
6 subdivision 5 of section 1009 of the racing, pari-mutuel, wagering and
7 breeding law by section one of this act, all provisions of such sections
8 227, 306 and 406, subparagraph (ii) of paragraph b of subdivision 4 of
9 section 1008 and paragraph b of subdivision 5 of section 1009, in
10 respect to the imposition, exemption, assessment, payment, payment over,
11 determination, collection, and credit or refund of tax, interest and
12 penalty imposed thereunder, the filing of forms and returns, the preser-
13 vation of records for the purposes of such tax, the disposition of
14 revenues, and any civil and criminal penalties applicable to the
15 violation of the provisions of such sections 227, 306 and 406, subpara-
16 graph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph
17 b of subdivision 5 of section 1009, shall continue in full force and
18 effect with respect to all such tax accrued for periods prior to the
19 effective date of this act in the same manner as they might if such
20 provisions were not repealed.

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

24

PART K

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

28 (d) (1) Except in respect to an overpayment made on a return described
29 in paragraph two of subdivision (a) of section eleven hundred thirty-six
30 of this part [~~or on a return described in subdivision (e) of section~~
31 ~~eleven hundred thirty-seven-A of this part~~], interest shall be allowed
32 and paid upon any refund made or credit allowed pursuant to this section
33 except as otherwise provided in paragraph two of this subdivision or
34 subdivision (e) of this section and except that no interest shall be
35 allowed or paid if the amount thereof would be less than one dollar.
36 Such interest shall be at the overpayment rate set by the commissioner
37 pursuant to section eleven hundred forty-two of this part, or if no rate
38 is set, at the rate of six percent per annum from the date when the tax,
39 penalty or interest refunded or credited was paid to a date preceding
40 the date of the refund check by not more than thirty days, provided,
41 however, that for the purposes of this subdivision any tax paid before
42 the last day prescribed for its payment shall be deemed to have been
43 paid on such last day. In the case of a refund or credit claimed on a
44 return of tax which is filed after the last date prescribed for filing
45 such return (determined with regard to extensions), or claimed on an
46 application for refund or credit, no interest shall be allowed or paid
47 for any day before the date on which the return or application is filed.
48 For purposes of this subdivision, a return or application for refund or
49 credit shall not be treated as filed until it is filed in processible
50 form. A return or application is in a processible form if it is filed on
51 a permitted form, and contains the taxpayer's name, address and identi-
52 fying number and the required signatures, and sufficient required infor-
53 mation (whether on the return or application or on required attachments)

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

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

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

15 PART L

16 Intentionally Omitted

17 PART M

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

21 (jj) Tangible personal property or services otherwise taxable under
22 this article sold to a related person shall not be subject to the taxes
23 imposed by section eleven hundred five of this article or the compensat-
24 ing use tax imposed under section eleven hundred ten of this article
25 where the purchaser can show that the following conditions have been met
26 to the extent they are applicable: (1)(i) the vendor and the purchaser
27 are referenced as either a "covered company" as described in section
28 243.2(f) or a "material entity" as described in section 243.2(1) of the
29 Code of Federal Regulations in a resolution plan that has been submitted
30 to an agency of the United States for the purpose of satisfying subpara-
31 graph 1 of paragraph (d) of section one hundred sixty-five of the Dodd-
32 Frank Wall Street Reform and Consumer Protection Act (the "Act") or any
33 successor law, or (ii) the vendor and the purchaser are separate legal
34 entities pursuant to a divestiture directed pursuant to subparagraph 5
35 of paragraph (d) of section one hundred sixty-five of such act or any
36 successor law; (2) the sale would not have occurred between such related
37 entities were it not for such resolution plan or divestiture; and (3) in
38 acquiring such property or services, the vendor did not claim an
39 exemption from the tax imposed by this state or another state based on
40 the vendor's intent to resell such services or property. A person is
41 related to another person for purposes of this subdivision if the person
42 bears a relationship to such person described in section two hundred
43 sixty-seven of the internal revenue code. The exemption provided by this
44 subdivision shall not apply to sales made, services rendered, or uses
45 occurring after June thirtieth, two thousand [~~twenty-one~~] twenty-four,
46 except with respect to sales made, services rendered, or uses occurring
47 pursuant to binding contracts entered into on or before such date; but
48 in no case shall such exemption apply after June thirtieth, two thousand
49 [~~twenty-four~~] twenty-seven.

50 § 2. This act shall take effect immediately.

51 PART N

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

4 (vi) every person described in subparagraph (i), (ii), (iii), (iv) or
5 (v) of this paragraph or every person who is a vendor solely by reason
6 of clause (D), (E) or (F) of subparagraph (i) of paragraph eight of
7 subdivision (b) of section eleven hundred one of this article who or
8 which has had its certificate of authority revoked under paragraph four
9 of this subdivision, shall file with the commissioner a certificate of
10 registration, in a form prescribed by the commissioner, at least twenty
11 days prior to commencing business or opening a new place of business or
12 such purchasing, selling or taking of possession or payment, whichever
13 comes first. Every person who is a vendor solely by reason of clause (D)
14 of subparagraph (i) of paragraph eight of subdivision (b) of section
15 eleven hundred one of this article shall file with the commissioner a
16 certificate of registration, in a form prescribed by such commissioner,
17 within thirty days after the day on which the cumulative total number of
18 occasions that such person came into the state to deliver property or
19 services, for the immediately preceding four quarterly periods ending on
20 the last day of February, May, August and November, exceeds twelve.
21 Every person who is a vendor solely by reason of clause (E) of subpara-
22 graph (i) of paragraph eight of subdivision (b) of section eleven
23 hundred one of this article shall file with the commissioner a certif-
24 icate of registration, in a form prescribed by such commissioner, within
25 thirty days after the day on which the cumulative total, for the imme-
26 diately preceding four quarterly periods ending on the last day of
27 February, May, August and November, of such person's gross receipts from
28 sales of property delivered in this state exceeds ~~three~~ **five** hundred
29 thousand dollars and number of such sales exceeds one hundred. Every
30 person who is a vendor solely by reason of clause (F) of subparagraph
31 (i) of paragraph eight of subdivision (b) of section eleven hundred one
32 of this article shall file with the commissioner a certificate of regis-
33 tration, in a form prescribed by such commissioner, within thirty days
34 after the day on which tangible personal property in which such person
35 retains an ownership interest is brought into this state by the person
36 to whom such property is sold, where the person to whom such property is
37 sold becomes or is a resident or uses such property in any manner in
38 carrying on in this state any employment, trade, business or profession.
39 Information with respect to the notice requirements of a purchaser,
40 transferee or assignee and such person's liability pursuant to the
41 provisions of subdivision (c) of section eleven hundred forty-one of
42 this chapter shall be included in or accompany the certificate of regis-
43 tration form furnished the applicant. The commissioner shall also
44 include with such information furnished to each applicant general infor-
45 mation about the tax imposed under this article including information on
46 records to be kept, returns and payments, notification requirements and
47 forms. Such certificate of registration may be amended in accordance
48 with rules promulgated by the commissioner.

49 § 2. This act shall take effect immediately.

50

PART O

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

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

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

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

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

15 (a) The real estate transfer tax imposed pursuant to section fourteen
 16 hundred two of this article shall be paid by the grantor and such tax
 17 shall not be payable, directly or indirectly, by the grantee except as
 18 provided in a contract between grantor and grantee or as otherwise
 19 provided in this section. If the grantor has failed to pay the tax
 20 imposed by this article at the time required by section fourteen hundred
 21 ten of this article or if the grantor is exempt from such tax, the gran-
 22 tee shall have the duty to pay the tax. Where the grantee has the duty
 23 to pay the tax because the grantor has failed to pay, such tax shall be
 24 the joint and several liability of the grantor and the grantee; provided
 25 that in the event of such failure, the grantee shall have a cause of
 26 action against the grantor for recovery of payment of such tax, interest
 27 and penalties by the grantee. In the case of a conveyance of residen-
 28 tial real property as defined in subdivision (a) of section fourteen
 29 hundred two-a of this article, if the tax imposed by this article is
 30 paid by the grantee pursuant to a contract between the grantor and the
 31 grantee, the amount of such tax shall be excluded from the calculation
 32 of consideration subject to tax under this article.

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

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

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

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

1 cy pursuant to article six of the public officers law. If any such
2 member, manager or authorized person of the limited liability company is
3 itself a limited liability company or other business entity other than a
4 publicly traded entity, a REIT, a UPREIT, or a mutual fund, the names
5 and addresses of the shareholders, directors, officers, members, manag-
6 ers and partners of the limited liability company or other business
7 entity shall also be disclosed until full disclosure of ultimate owner-
8 ship by natural persons is achieved. For purposes of this subdivision,
9 the terms "members", "managers", "authorized person", "limited liability
10 company" and "other business entity" shall have the same meaning as
11 those terms are defined in section one hundred two of the limited
12 liability company law.

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

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

26 (h) Notwithstanding the provisions of subdivision (a) of this section,
27 the commissioner may furnish information relating to real property
28 transfers obtained or derived from returns filed pursuant to this arti-
29 cle in relation to the real estate transfer tax, to the extent that such
30 information is also required to be reported to the commissioner by
31 section three hundred thirty-three of the real property law and section
32 five hundred seventy-four of the real property tax law and the rules
33 adopted thereunder, provided such information was collected through a
34 combined process established pursuant to an agreement entered into with
35 the commissioner pursuant to paragraph viii of subdivision one-e of
36 section three hundred thirty-three of the real property law. The commis-
37 sioner may redisclose such information to the extent authorized by
38 section five hundred seventy-four of the real property tax law. The
39 commissioner may also disclose any information reported pursuant to
40 paragraph two of subdivision (a) of section fourteen hundred nine of
41 this article.

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

50

PART P

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

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

1 forbidden from selling cigarettes or tobacco products pursuant to para-
 2 graph (j) of subdivision one of section four hundred eighty of this
 3 article shall possess cigarettes or tobacco products in any place of
 4 business, cart, stand, truck or other merchandising device in this state
 5 beginning on the tenth day after such cancellation, suspension, revoca-
 6 tion, or forbiddance and continuing for the duration of the same;
 7 provided however, such retail dealer shall not be prohibited before the
 8 tenth day after such cancellation, suspension, revocation, or forbid-
 9 dance from selling or transferring its inventory of lawfully stamped
 10 cigarettes or tobacco products on which the taxes imposed by this arti-
 11 cle have been assumed or paid to a properly registered retail dealer
 12 whose registration is not cancelled, suspended, or revoked or who has
 13 not been forbidden from selling cigarettes or tobacco products.

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

18 § 2. Intentionally omitted.

19 § 3. Intentionally omitted.

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

37 § 5. This act shall take effect immediately.

38 PART Q

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

41 1. Every distributor, noncommercial importer or other person shall, on
 42 or before the twentieth day of each month, file with the department of
 43 taxation and finance a return, on forms to be prescribed by the [~~tax~~
 44 ~~commission~~] commissioner and furnished by such department, stating sepa-
 45 rately the number of gallons, or lesser quantity, of beers, and the
 46 number of liters, or lesser quantity, of wines and liquors sold or used
 47 by such distributor, noncommercial importer or other person in this
 48 state during the preceding calendar month, except that the [~~tax-commis-~~
 49 ~~sion~~] commissioner may, if [~~it~~] he or she deems it necessary [~~in order~~]
 50 to [~~insure~~] facilitate the efficient reporting and payment of the tax
 51 imposed by this article, require returns to be made at such times and
 52 covering such periods as [~~it~~] he or she may deem necessary. Such return
 53 shall contain such further information as the [~~tax-commission~~] commis-
 54 sioner shall require. The fact that the name of the distributor, noncom-
 55 mercial importer or other person is signed to a filed return shall be

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

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

5 § 505. Returns. Every carrier subject to this article and every carri-
6 er to whom a certificate of registration was issued shall file on or
7 before the last day of each month a return for the preceding calendar
8 month where a carrier's total tax liability under this article for the
9 preceding calendar year exceeded [~~four~~] twelve thousand dollars. Where a
10 carrier's total tax liability under this article for the preceding
11 calendar year did not exceed [~~four~~] twelve thousand dollars or where a
12 carrier was not subject to such tax in the preceding calendar year,
13 returns shall be filed quarterly, on or before the last day of the
14 calendar month following each of the calendar quarters: January through
15 March, April through June, July through September and October through
16 December. Provided, however, if the commissioner consents thereto in
17 writing, any carrier may file a return on or before the thirtieth day
18 after the close of any different period, if the carrier's books are
19 regularly kept on a periodic basis other than a calendar month or quar-
20 ter. The commissioner may permit the filing of returns on an annual
21 basis, provided the carrier was subject to the tax under this article
22 during the entire preceding calendar year and the carrier's total tax
23 liability under this article for such year did not exceed [~~two hundred~~
24 ~~fifty~~] twelve hundred dollars. Such annual returns shall be filed on or
25 before January thirty-first of the succeeding calendar year. Returns
26 shall be filed with the commissioner on forms to be furnished by such
27 commissioner for such purpose and shall contain such data, information
28 or matter as the commissioner may require to be included therein. The
29 fact that a carrier's name is signed to a filed return shall be prima
30 facie evidence for all purposes that the return was actually signed by
31 such carrier. The commissioner may grant a reasonable extension of time
32 for filing returns whenever good cause exists and may waive the filing
33 of returns if a carrier is not subject to the tax imposed by this arti-
34 cle for the period covered by the return. Every return shall have
35 annexed thereto a certification to the effect that the statements
36 contained therein are true.

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

40 PART R

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

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

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

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

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

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

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

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

38 (a) Notwithstanding any provision of law to the contrary, any person
39 that dispatches a motor vehicle by any means that provides transporta-
40 tion that is subject to a surcharge imposed by this article, including
41 transportation network companies as defined in article forty-four-B of
42 the vehicle and traffic law, shall be liable for the surcharge imposed
43 by this article, except that in the case of taxicab trips and HAIL vehi-
44 cle trips that are also subject to tax pursuant to article twenty-nine-A
45 of this chapter[~~, only the taxicab owner or HAIL base liable for that~~
46 ~~tax shall be the person liable for the surcharge imposed by this arti-~~
47 ~~cle]; (1) the TSP shall be liable for the surcharge imposed by this
48 article for all trips for which the TSP collected the trip record and
49 the surcharge, and shall be responsible for filing returns; and, after
50 retaining any fees to which it is entitled pursuant to a contract with
51 such taxicab owner or HAIL vehicle owner, shall remit the surcharges on
52 such trips to the department.~~

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

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

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

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

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

36 PART S

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

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

1 calendar days specified in this paragraph have expired, the penalty can
2 be waived only for good cause shown by the tax return preparer or faci-
3 litator.

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

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

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

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

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

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

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

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

49 § 4. The second subdivision (g) of section 32 of the tax law is relet-
50 tered subdivision (i).

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

1 Intentionally Omitted

2 PART U

3 Intentionally Omitted

4 PART V

5 Section 1. This Part enacts into law components of legislation relat-
6 ing to the administration of the STAR program authorized by section 425
7 of the real property tax law and subsection (eee) of section 606 of the
8 tax law. Each component is wholly contained within a Subpart identified
9 as Subparts A through E. The effective date for each particular
10 provision contained within such Subpart is set forth in the last section
11 of such Subpart. Any provision in any section contained within a
12 Subpart, including the effective date of the Subpart, which makes refer-
13 ence to a section "of this act", when used in connection with that
14 particular component, shall be deemed to mean and refer to the corre-
15 sponding section of the Subpart in which it is found. Section three of
16 this Part sets forth the general effective date of this Part.

17 SUBPART A

18 Intentionally Omitted.

19 SUBPART B

20 Intentionally Omitted.

21 SUBPART C

22 Intentionally Omitted.

23 SUBPART D

24 Intentionally Omitted.

25 SUBPART E

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

28 § 2. Paragraph 3 of subdivision w of section 233 of the real property
29 law, as amended by section 18 of part B of chapter 389 of the laws of
30 1997, is amended to read as follows:

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

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

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

40 § 4. Paragraph (1) of subdivision 2 of section 425 of the real proper-
41 ty tax law is amended by adding a new subparagraph (iv) to read as
42 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

1 Intentionally Omitted

2 PART Y

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

7 § 1367. Sports wagering. 1. As used in this section:

8 (a) "Affiliate" means any off-track betting corporation, franchised
9 corporation, or race track licensed pursuant to this chapter, an opera-
10 tor of video lottery gaming at Aqueduct licensed pursuant to section
11 sixteen hundred seventeen-a of the tax law, which has an affiliate
12 agreement with a casino pursuant to section thirteen hundred sixty-sev-
13 en-a of this title. Any professional sports stadium or arena may serve
14 as an affiliate;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (p) "Mobile sports wagering platform" or "platform" means the combina-
16 tion of hardware, software, and data networks used to manage, adminis-
17 ter, or control sports wagering and any associated wagers accessible by
18 any electronic means including mobile applications and internet websites
19 accessed via a mobile device or computer;

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

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

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

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

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

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

50 (w) "Prohibited sports bettor" means:

51 (i) any officer or employee of the commission;

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

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

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

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

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

13 (vii) any individual with access to non-public confidential informa-
14 tion about sports wagering;

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

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

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

24 (xi) any minor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 ~~(e)~~ (d) The operator of a sports pool shall establish or display the
25 odds at which wagers may be placed on sports events.

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

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

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

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

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

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

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

3 ~~[4-]~~ 3. (a) All persons employed directly in wagering-related activ-
4 ities conducted within a sports wagering lounge shall be licensed as a
5 casino key employee or registered as a gaming employee, as determined by
6 the commission. All other employees who are working in the sports wager-
7 ing lounge may be required to be registered, if appropriate, in accord-
8 ance with regulations of the commission.

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

13 ~~[5-]~~ 4. Except as otherwise provided by this article, the commission
14 shall have the authority to regulate sports pools and the conduct of
15 sports wagering under this article to the same extent that the commis-
16 sion regulates other gaming. No casino shall be authorized to operate a
17 sports pool unless it has produced information, documentation, and
18 assurances concerning its financial background and resources, including
19 cash reserves, that are sufficient to demonstrate that it has the finan-
20 cial stability, integrity, and responsibility to operate a sports pool.
21 In developing rules and regulations applicable to sports wagering, the
22 commission shall examine the regulations implemented in other states
23 where sports wagering is conducted and shall, as far as practicable,
24 adopt a similar regulatory framework. The commission shall promulgate
25 regulations necessary to carry out the provisions of this section,
26 including, but not limited to, regulations governing the:

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

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

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

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

33 (e) method of issuing tickets;

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

35 (g) types of records which shall be kept;

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

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

38 (j) the use of global risk management;

39 (k) type of system for wagering; and

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

41 ~~[6-]~~ 5. Each operator shall adopt comprehensive house rules governing
42 sports wagering transactions with its ~~[patrons]~~ authorized sports
43 bettors. The rules shall specify the amounts to be paid on winning
44 wagers and the effect of schedule changes. The house rules, together
45 with any other information the commission deems appropriate, shall be
46 conspicuously displayed in the sports wagering lounge and included in
47 the terms and conditions of the account wagering system, and copies
48 shall be made readily available to ~~[patrons]~~ authorized sports bettors.

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

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

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

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

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

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

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

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

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

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

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

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

22 7. (a) Within thirty days of the end of each calendar quarter, a casi-
23 no offering sports wagering shall remit to the commission a sports
24 wagering royalty fee of one-fifth (.20) of one percent of the amount
25 wagered on sports events conducted by registered sports governing
26 bodies. The fee shall be remitted on a form as the commission may
27 require, on which the casino shall identify the percentage of wagering
28 during the reporting period attributable to each registered sport
29 governing body's sports events.

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

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

41 (d) (i) Persons who present sporting contests shall have authority to
42 remove spectators and others from any facility for violation any appli-
43 cable codes of conduct, and to deny persons access to all facilities
44 they control, to revoke season tickets or comparable licenses, and to
45 share information about such persons with others who present sporting
46 contests and with the appropriate jurisdictions' law enforcement author-
47 ities.

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

52 8. For the privilege of conducting sports wagering in the state, casi-
53 nos shall pay a tax equivalent to eight and one-half percent of their
54 sports wagering gross revenue, excluding sports wagering gross revenue
55 attributed to mobile sports wagering offered pursuant to section thir-
56 teen hundred sixty-seven-a of this title. Casinos shall pay a tax equiv-

1 alent of twelve percent of their sports wagering gross revenue attri-
2 buted to mobile sports wagering offered pursuant to section thirteen
3 hundred sixty-seven-a of this title.

4 9. The commission shall pay into the commercial gaming revenue fund
5 established pursuant to section ninety-seven-nnnn of the state finance
6 law eighty-five percent of the state tax imposed by this section; any
7 interest and penalties imposed by the commission relating to those
8 taxes; all penalties levied and collected by the commission; and the
9 appropriate funds, cash or prizes forfeited from sports wagering. The
10 commission shall pay into the commercial gaming fund five percent of the
11 state tax imposed by this section to be distributed for problem gambling
12 education and treatment purposes pursuant to paragraph a of subdivision
13 four of section ninety-seven-nnnn of the state finance law. The commis-
14 sion shall pay five percent of the state tax imposed by this section to
15 the urban development corporation to establish and administer a youth
16 sports activities and education grant program for the purpose of provid-
17 ing sports programs to underserved youth. Applications for such funding
18 shall be made by eligible not-for-profit sports-based youth development
19 organizations in accordance with requirements established by the corpo-
20 ration. The commission shall pay into the commercial gaming fund five
21 percent of the state tax imposed by this section to be distributed in
22 the same formula as market origin credits pursuant to section one
23 hundred fifteen-b of this chapter. The commission shall require at least
24 monthly deposits by the casino of any payments pursuant to subdivision
25 eight of this section, at such times, under such conditions, and in such
26 depositories as shall be prescribed by the state comptroller. The depos-
27 its shall be deposited to the credit of the state commercial gaming
28 revenue fund. The commission shall require a monthly report and recon-
29 ciliation statement to be filed with it on or before the tenth day of
30 each month, with respect to gross revenues and deposits received and
31 made, respectively, during the preceding month.

32 10. The commission may perform audits of the books and records of a
33 casino, at such times and intervals as it deems appropriate, for the
34 purpose of determining the sufficiency of tax payments. If a return
35 required with regard to obligations imposed is not filed, or if a return
36 when filed or is determined by the commission to be incorrect or insuf-
37 ficient with or without an audit, the amount of tax due shall be deter-
38 mined by the commission. Notice of such determination shall be given to
39 the casino liable for the payment of the tax. Such determination shall
40 finally and irrevocably fix the tax unless the casino against whom it is
41 assessed, within thirty days after receiving notice of such determi-
42 nation, shall apply to the commission for a hearing in accordance with
43 the regulations of the commission.

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

50 12. A casino that is also licensed under article three of this chap-
51 ter, and must maintain racing pursuant to paragraph (b) of subdivision
52 one of section thirteen hundred fifty-five of this article, shall be
53 allowed to offer pari-mutuel wagering on horse racing events in accord-
54 ance with their license under article three of this chapter. Notwith-
55 standing subparagraph (ii) of paragraph c of subdivision two of section
56 one thousand eight of this chapter, a casino located in the city of

1 Schenectady shall be allowed to offer pari-mutuel wagering on horse
2 racing events, provided such wagering is conducted by the regional off-
3 track betting corporation in such region as the casino is located. Any
4 other casino shall be allowed to offer pari-mutuel wagering on horse
5 racing events, provided such wagering is conducted by the regional off-
6 track betting corporation in such region as the casino is located. Any
7 physical location where pari-mutuel wagering on horse racing events is
8 offered by a casino and conducted by a regional off-track betting corpo-
9 ration in accordance with this subdivision shall be deemed to be a
10 branch location of the regional off-track betting corporation in accord-
11 ance with section one thousand eight of this chapter. Mobile sports
12 betting kiosks located on the premises of affiliates in accordance with
13 paragraph (d) of subdivision five of section thirteen hundred sixty-sev-
14 en-a of this title shall not be allowed to offer pari-mutuel wagering on
15 horse racing events.

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

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

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

41 (c) The commission shall cooperate with a sports governing body and
42 casinos to ensure the timely, efficient, and accurate sharing of infor-
43 mation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (i) whose name appears on the exclusion list maintained by the commis-
16 sion and provided to the casino or operator;

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

19 (iii) who is the operator, director, officer, owner, or employee of
20 the operator or casino or any relative thereof living in the same house-
21 hold as such individual;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 § 1367-a. Mobile sports wagering. 1. (a) Except as provided in this
55 subdivision, the terms in this section shall have the same meanings as

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

3 (b) "Operator" for purposes of this section, means a casino which has
4 elected to offer a mobile sports wagering platform, an Indian Tribe (or
5 agent of such Indian Tribe) that has entered into a tribal-state gaming
6 compact in accordance with the Indian Gaming Regulatory Act, 25 U.S.C.
7 2710, that is in effect and has been ratified by the state and has
8 entered into a sports wagering agreement to operate with the commission
9 pursuant to this section, or the agent of such licensed gaming facility
10 or such Indian Tribe.

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

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

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

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

30 3-a. (a) As a condition of registration and operation of mobile sports
31 wagering, each casino shall agree, upon a current or any future request
32 of an Indian Tribe that has not entered into an agreement for mobile
33 sports wagering with another casino, to provide a site for a mobile
34 sports wagering server and related equipment for the Indian Tribe as
35 directed by the commission, at no cost to the Indian Tribe except the
36 direct and actual cost of hosting the server or other equipment used by
37 the Indian Tribe as determined by the commission.

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

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

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

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

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

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

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

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

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

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

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

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

40 3-b. (a) The commission shall promulgate regulations to implement the
41 provisions of this section, including:

42 (i) the development of the initial form of the application for regis-
43 tration;

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

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

48 (iv) requiring that operators adopt controls to maintain the efficien-
49 cy of self-exclusion limits; and

50 (v) requiring that operators utilize commercially reasonable techno-
51 logical means of verifying account holders' identities.

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

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

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

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

8 (iv) whether such corporation or entity files information and reports
9 with the United States Securities and Exchange Commission as required by
10 section thirteen of the Securities Exchange Act of 1934, 15 U.S.C. §§
11 78a-78kk; or whether the securities of the corporation or entity are
12 regularly traded on an established securities market in the United
13 States;

14 (v) the type and estimated number of contests to be conducted annual-
15 ly; and

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

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

21 (d) Upon receipt of an application for registration for each individ-
22 ual listed on such application as an officer or director, the commission
23 shall submit to the division of criminal justice services a set of fing-
24 erprints, and the division of criminal justice services processing fee
25 imposed pursuant to subdivision eight-a of section eight hundred thir-
26 ty-seven of the executive law and any fee imposed by the federal bureau
27 of investigation. Upon receipt of the fingerprints, the division of
28 criminal justice services shall promptly forward a set of the individ-
29 ual's fingerprints to the federal bureau of investigation for the
30 purpose of a nationwide criminal history record check to determine
31 whether such individual has been convicted of a criminal offense in any
32 state other than New York or in a federal jurisdiction. The division of
33 criminal justice services shall promptly provide the requested criminal
34 history information to the commission. For the purposes of this section,
35 the term "criminal history information" shall mean a record of all
36 convictions of crimes and any pending criminal charges maintained on an
37 individual by the division of criminal justice services and the federal
38 bureau of investigation. All such criminal history information sent to
39 the commission pursuant to this subdivision shall be confidential and
40 shall not be published or in any way disclosed to persons other than the
41 commission, unless otherwise authorized by law.

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

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

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

6 (iii) has legally defaulted in the payment of any substantial finan-
7 cial obligation or debt due to any state or political subdivision; or

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

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

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

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

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

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

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

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

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

42 (iv) when referencing the chances or likelihood of winning in adver-
43 tisements or upon placement of a sports wager, make clear and conspicu-
44 ous statements that are not inaccurate or misleading concerning the
45 chances of winning and the number of winners;

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

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

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

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

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

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

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

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

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

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

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

35 (xvi) submit annually a problem gaming plan to the commission that
36 includes: the objectives of and timetables for implementing the plan;
37 identification of the persons responsible for implementing and maintain-
38 ing the plan; procedures for identifying users with suspected or known
39 problem gaming behavior; procedures for providing information to users
40 concerning problem gaming identification and resources; procedures to
41 prevent gaming by minors and self-excluded persons; and such other prob-
42 lem gaming information as the commission may require by rule.

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

46 (c) Operators shall not offer any sports wagering based on any prohib-
47 ited sports event.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 6. The commission shall annually cause a report to be prepared and
 5 distributed to the governor and the legislature on the impact of mobile
 6 sports wagering on problem gamblers in New York. The report shall
 7 include an assessment of problem gaming among persons under the age of
 8 thirty. The report shall be prepared by a non-governmental organization
 9 or entity with expertise in serving the needs of persons with gambling
 10 addictions. The report shall be prepared and distributed under the
 11 supervision of and in coordination with the commission. The costs asso-
 12 ciated with the preparation and distribution of the report shall be
 13 borne by operators and the commission shall be authorized to assess a
 14 fee against operators for these purposes. The commission shall also
 15 report periodically to the governor and the legislature on the effec-
 16 tiveness of the statutory and regulatory controls in place to ensure the
 17 integrity of mobile sports wagering operations.

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

20 24. To regulate sports wagering in New York state.

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

27 § 5. This act shall take effect immediately.

28 PART Z

29 Intentionally Omitted

30 PART AA

31 Intentionally Omitted

32 PART BB

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

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

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

12 (6) The commission shall make a report on the revenues derived from
 13 the additional lottery drawings pursuant to paragraphs four and five of
 14 subdivision a of this section and shall submit such report to the gover-
 15 nor, the speaker of the assembly, and the temporary president of the
 16 senate by the first day of March two thousand twenty-two.

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

19

PART CC

20 Section 1. Sections 1368, 1369, 1370 and 1371 of the racing, pari-mu-
 21 tuel wagering and breeding law are renumbered sections 130, 131, 132 and
 22 133.

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

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

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

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

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

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

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

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

8 [~~4.]~~ 3. prepare and release to the public written reports of such
 9 investigations, as appropriate and to the extent permitted by law,
 10 subject to redaction to protect the confidentiality of witnesses. The
 11 release of all or portions of such reports may be deferred to protect
 12 the confidentiality of ongoing investigations;

13 [~~5.]~~ 4. review and examine periodically the policies and procedures of
 14 the commission with regard to the prevention and detection of
 15 corruption, fraud, criminal activity, conflicts of interest or abuse;

16 [~~6.]~~ 5. recommend remedial action to prevent or eliminate corruption,
 17 fraud, criminal activity, conflicts of interest or abuse in the commis-
 18 sion; [~~and~~

19 ~~7.]~~ 6. establish programs for training commission officers and employ-
 20 ees [~~regarding~~] in regard to the prevention and elimination of
 21 corruption, fraud, criminal activity, conflicts of interest or abuse in
 22 the commission; and

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

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

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

36 1. subpoena and enforce the attendance of witnesses;

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

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

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

43 5. require any commission officer or employee to answer questions
 44 concerning any matter related to the performance of his or her official
 45 duties. The refusal of any officer or employee to answer questions
 46 shall be cause for removal from office or employment or other appropri-
 47 ate penalty;

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

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

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

55 § 133. Responsibilities of the commission and its officers and employ-
 56 ees. 1. Every commission officer or employee shall report promptly to

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

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

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

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

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

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

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

42 PART DD

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

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

1 shall be issued by the commission authorizing the simulcast transmission
2 of thoroughbred races from a track located in Suffolk county. The fee
3 for such licenses shall be five hundred dollars per simulcast facility
4 and for account wagering licensees that do not operate either a simul-
5 cast facility that is open to the public within the state of New York or
6 a licensed racetrack within the state, twenty thousand dollars per year
7 payable by the licensee to the commission for deposit into the general
8 fund. Except as provided in this section, the commission shall not
9 approve any application to conduct simulcasting into individual or group
10 residences, homes or other areas for the purposes of or in connection
11 with pari-mutuel wagering. The commission may approve simulcasting into
12 residences, homes or other areas to be conducted jointly by one or more
13 regional off-track betting corporations and one or more of the follow-
14 ing: a franchised corporation, thoroughbred racing corporation or a
15 harness racing corporation or association; provided (i) the simulcasting
16 consists only of those races on which pari-mutuel betting is authorized
17 by this chapter at one or more simulcast facilities for each of the
18 contracting off-track betting corporations which shall include wagers
19 made in accordance with section one thousand fifteen, one thousand
20 sixteen and one thousand seventeen of this article; provided further
21 that the contract provisions or other simulcast arrangements for such
22 simulcast facility shall be no less favorable than those in effect on
23 January first, two thousand five; (ii) that each off-track betting
24 corporation having within its geographic boundaries such residences,
25 homes or other areas technically capable of receiving the simulcast
26 signal shall be a contracting party; (iii) the distribution of revenues
27 shall be subject to contractual agreement of the parties except that
28 statutory payments to non-contracting parties, if any, may not be
29 reduced; provided, however, that nothing herein to the contrary shall
30 prevent a track from televising its races on an irregular basis primari-
31 ly for promotional or marketing purposes as found by the commission. For
32 purposes of this paragraph, the provisions of section one thousand thir-
33 teen of this article shall not apply. Any agreement authorizing an
34 in-home simulcasting experiment commencing prior to May fifteenth, nine-
35 teen hundred ninety-five, may, and all its terms, be extended until June
36 thirtieth, two thousand [~~twenty-one~~] twenty-two; provided, however, that
37 any party to such agreement may elect to terminate such agreement upon
38 conveying written notice to all other parties of such agreement at least
39 forty-five days prior to the effective date of the termination, via
40 registered mail. Any party to an agreement receiving such notice of an
41 intent to terminate, may request the commission to mediate between the
42 parties new terms and conditions in a replacement agreement between the
43 parties as will permit continuation of an in-home experiment until June
44 thirtieth, two thousand [~~twenty-one~~] twenty-two; and (iv) no in-home
45 simulcasting in the thoroughbred special betting district shall occur
46 without the approval of the regional thoroughbred track.

47 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
48 1007 of the racing, pari-mutuel wagering and breeding law, as separately
49 amended by chapter 243 and section 2 of part Z of chapter 59 of the laws
50 of 2020, is amended to read as follows:

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

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

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

11 The provisions of this section shall govern the simulcasting of races
12 conducted at thoroughbred tracks located in another state or country on
13 any day during which a franchised corporation is conducting a race meet-
14 ing in Saratoga county at Saratoga thoroughbred racetrack until June
15 thirtieth, two thousand [~~twenty-one~~] twenty-two and on any day regard-
16 less of whether or not a franchised corporation is conducting a race
17 meeting in Saratoga county at Saratoga thoroughbred racetrack after June
18 thirtieth, two thousand [~~twenty-one~~] twenty-two. On any day on which a
19 franchised corporation has not scheduled a racing program but a
20 thoroughbred racing corporation located within the state is conducting
21 racing, each off-track betting corporation branch office and each simul-
22 casting facility licensed in accordance with section one thousand seven
23 (that has entered into a written agreement with such facility's repre-
24 sentative horsemen's organization, as approved by the commission), one
25 thousand eight, or one thousand nine of this article shall be authorized
26 to accept wagers and display the live simulcast signal from thoroughbred
27 tracks located in another state or foreign country subject to the
28 following provisions:

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

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

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

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

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

3 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel
4 wagering and breeding law, as amended by section 6 of part Z of chapter
5 59 of the laws of 2020, is amended to read as follows:

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

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

25 § 32. This act shall take effect immediately and the pari-mutuel tax
26 reductions in section six of this act shall expire and be deemed
27 repealed on July 1, [~~2021~~] 2022; provided, however, that nothing
28 contained herein shall be deemed to affect the application, qualifica-
29 tion, expiration, or repeal of any provision of law amended by any
30 section of this act, and such provisions shall be applied or qualified
31 or shall expire or be deemed repealed in the same manner, to the same
32 extent and on the same date as the case may be as otherwise provided by
33 law; provided further, however, that sections twenty-three and twenty-
34 five of this act shall remain in full force and effect only until May 1,
35 1997 and at such time shall be deemed to be repealed.

36 § 8. Section 54 of chapter 346 of the laws of 1990, amending the
37 racing, pari-mutuel wagering and breeding law and other laws relating to
38 simulcasting and the imposition of certain taxes, as amended by section
39 8 of part Z of chapter 59 of the laws of 2020, is amended to read as
40 follows:

41 § 54. This act shall take effect immediately; provided, however,
42 sections three through twelve of this act shall take effect on January
43 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
44 ing law, as added by section thirty-eight of this act, shall expire and
45 be deemed repealed on July 1, [~~2021~~] 2022; and section eighteen of this
46 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
47 two of this act shall take effect as of the same date as chapter 772 of
48 the laws of 1989 took effect.

49 § 9. Paragraph (a) of subdivision 1 of section 238 of the racing,
50 pari-mutuel wagering and breeding law, as separately amended by section
51 9 of part Z of chapter 59 and chapter 243 of the laws of 2020, is
52 amended to read as follows:

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

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

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

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

43 § 10. This act shall take effect immediately.

44

PART EE

45 Section 1. Section 19 of part W-1 of chapter 109 of the laws of 2006
46 amending the tax law and other laws relating to providing exemptions,
47 reimbursements and credits from various taxes for certain alternative
48 fuels, as amended by section 1 of part U of chapter 60 of the laws of
49 2016, is amended to read as follows:

50 § 19. This act shall take effect immediately; provided, however, that
51 sections one through thirteen of this act shall take effect September 1,
52 2006 and shall be deemed repealed on September 1, [~~2021~~] ~~2026~~ and such
53 repeal shall apply in accordance with the applicable transitional
54 provisions of sections 1106 and 1217 of the tax law, and shall apply to

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

12

PART FF

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

16 (e) For taxable years beginning on or after January first, two thou-
17 sand seventeen and before January first, two thousand eighteen, the
18 amount of the credit allowed under this section shall be equal to the
19 product of the total number of eligible farm employees and two hundred
20 fifty dollars. For taxable years beginning on or after January first,
21 two thousand eighteen and before January first, two thousand nineteen,
22 the amount of the credit allowed under this section shall be equal to
23 the product of the total number of eligible farm employees and three
24 hundred dollars. For taxable years beginning on or after January first,
25 two thousand nineteen and before January first, two thousand twenty,
26 the amount of the credit allowed under this section shall be equal to the
27 product of the total number of eligible farm employees and five hundred
28 dollars. For taxable years beginning on or after January first, two
29 thousand twenty and before January first, two thousand twenty-one, the
30 amount of the credit allowed under this section shall be equal to the
31 product of the total number of eligible farm employees and four hundred
32 dollars. For taxable years beginning on or after January first, two
33 thousand twenty-one and before January first, two thousand [~~twenty-two~~]
34 twenty-five, the amount of the credit allowed under this section shall
35 be equal to the product of the total number of eligible farm employees
36 and six hundred dollars.

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

40 § 5. This act shall take effect immediately and shall apply only to
41 taxable years beginning on or after January 1, 2017 and before January
42 1, [~~2022~~] 2025.

43 § 3. This act shall take effect immediately.

44

PART GG

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

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

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

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

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

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

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

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

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

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

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

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

44

PART HH

45 Section 1. Section 5 of part HH of chapter 59 of the laws of 2014,
46 amending the tax law relating to a musical and theatrical production
47 credit, as amended by section 1 of part III of chapter 59 of the laws of
48 2018, is amended to read as follows:

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

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

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

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

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

21

PART II

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

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

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

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

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

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

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

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

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

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

24 § 4. This act shall take effect immediately.

25 PART JJ

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

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

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

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

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

45 PART KK

46 Intentionally Omitted

47 PART LL

48 Intentionally Omitted

49 PART MM

1 Section 1. Paragraph 1 of subsection (d) of section 606 of the tax
2 law, as amended by section 1 of part Q of chapter 63 of the laws of
3 2000, is amended to read as follows:

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

9 The applicable percentage shall be (i) seven and one-half percent for
10 taxable years beginning in nineteen hundred ninety-four, (ii) ten
11 percent for taxable years beginning in nineteen hundred ninety-five,
12 (iii) twenty percent for taxable years beginning after nineteen hundred
13 ninety-five and before two thousand, (iv) twenty-two and one-half
14 percent for taxable years beginning in two thousand, (v) twenty-five
15 percent for taxable years beginning in two thousand one, (vi) twenty-
16 seven and one-half percent for taxable years beginning in two thousand
17 two, ~~[and (vii) thirty percent for taxable years beginning in two thou-~~
18 ~~sand three, and (viii) forty percent for taxable years beginning in two~~
19 ~~thousand twenty-one and thereafter. [Provided, however, that if the~~
20 ~~reversion event, as defined in this paragraph, occurs, the applicable~~
21 ~~percentage shall be twenty percent for taxable years ending on or after~~
22 ~~the date on which the reversion event occurred. The reversion event~~
23 ~~shall be deemed to have occurred on the date on which federal action,~~
24 ~~including but not limited to, administrative, statutory or regulatory~~
25 ~~changes, materially reduces or eliminates New York state's allocation of~~
26 ~~the federal temporary assistance for needy families block grant, or~~
27 ~~materially reduces the ability of the state to spend federal temporary~~
28 ~~assistance for needy families block grant funds for the earned income~~
29 ~~credit or to apply state general fund spending on the earned income~~
30 ~~credit toward the temporary assistance for needy families block grant~~
31 ~~maintenance of effort requirement, and the commissioner of the office of~~
32 ~~temporary and disability assistance shall certify the date of such event~~
33 ~~to the commissioner of taxation and finance, the director of the divi-~~
34 ~~sion of the budget, the speaker of the assembly and the temporary presi-~~
35 ~~dent of the senate.]~~

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

38 PART NN

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

41 § 601-b. Additional tax on capital gains. (a) There is hereby
42 imposed, in addition to the tax imposed under section six hundred one of
43 this article, an additional tax on capital gains.

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

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

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

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

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

3 PART OO

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

6 § 183-b. Business tax surcharge on transportation and transmission
7 corporations. 1. In addition to the tax imposed by sections one hundred
8 eighty-three and one hundred eighty-three-a of this article, every
9 corporation, joint-stock company or association that is subject to
10 section one hundred eighty-three of this article, shall pay for the
11 privilege of exercising its corporate franchise, or doing business, or
12 of employing capital, or of owning or leasing property in such corporate
13 or organized capacity, or of maintaining an office in such district, a
14 tax surcharge shall be computed at the rate of eighteen percent of the
15 tax imposed under section one hundred eighty-three of this article;
16 provided, however, that such surcharge shall be applied only if the
17 highest taxable base calculated under section one hundred eighty-three
18 of this article is more than seventy-five thousand dollars.

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

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

27 § 184-b. Business tax surcharge on transportation and transmission
28 corporations. 1. In addition to the tax imposed by sections one hundred
29 eighty-four and one hundred eighty-four-a of this article, every corpo-
30 ration, joint-stock company or association, shall pay for the privilege
31 of exercising its corporate franchise, or of doing business, or of
32 employing capital, or of owning or leasing property in the state in such
33 corporate or organized capacity, or of maintaining an office in such
34 district, a tax surcharge, which tax surcharge, shall be computed at the
35 rate of eighteen percent of the tax imposed under section one hundred
36 eighty-four of this article for taxable years; provided, however, that
37 such surcharge shall be applied only if the gross earnings calculated
38 under section one hundred eighty-four of this article is more than twen-
39 ty million dollars.

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

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

48 § 186-h. Business tax surcharge on utility and telecommunication
49 services. 1. (a) Every provider of telecommunication services doing
50 business in the state shall pay a tax surcharge, in addition to the tax
51 imposed by paragraph (a) of subdivision one of sections one hundred
52 eighty-six-a and one hundred eighty-six-c of this article, to be
53 computed at the rate of eighteen percent of the tax imposed under such
54 sections. Provided however, such tax surcharge shall only be applied if

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

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

13 (c) Notwithstanding any other provision of state or local law, the tax
14 surcharge imposed by this section shall not be allowed as a deduction
15 and shall, to the extent deductible in determining federal adjusted
16 gross income, be added to federal adjusted gross income, in the computa-
17 tion of any tax imposed under this chapter or any other chapter of state
18 or local law. Furthermore, the credits otherwise allowable under this
19 article shall not be allowed against the tax surcharge imposed by this
20 section.

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

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

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

45 3. Notwithstanding any other provision of state or local law, the tax
46 surcharge imposed by this section shall not be allowed as a deduction
47 and shall, to the extent deductible in determining federal adjusted
48 gross income, be added to federal adjusted gross income, in the computa-
49 tion of any tax imposed under this chapter or any other chapter of state
50 or local law. Furthermore, the credits otherwise allowable under this
51 article shall not be allowed against the tax surcharge imposed by this
52 section.

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

55 § 209-N. Business tax surcharge on franchise corporations. 1. (a) For
56 the privilege of exercising its corporate franchise, or of doing busi-

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

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

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

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

26 § 1506. Business tax surcharge on insurance corporations. (a) Every
27 domestic insurance corporation and every foreign or alien insurance
28 corporation, and every life insurance corporation described in subdivi-
29 sion (b) of section fifteen hundred one of this article, for the privi-
30 lege of exercising its corporate franchise, or of doing business, or of
31 employing capital, or of owning or leasing property within the state in
32 a corporate or organized capacity, or of maintaining an office in the
33 state, except corporations specified in subdivision (c) of section
34 fifteen hundred twelve of this article, shall pay, in addition to the
35 taxes otherwise imposed by this article, a tax surcharge on the taxes
36 imposed under this article after the deduction of any credits otherwise
37 allowable under this article as allocated to such district.

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

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

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

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

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

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

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

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

42 1. Every taxpayer subject to the taxes imposed under sections one
43 hundred eighty-two, one hundred eighty-two-a, former section one hundred
44 eighty-two-b, one hundred eighty-four, one hundred eighty-six-a or one
45 hundred eighty-six-e of this article shall make a declaration of its
46 estimated tax for the current taxable year, containing such information
47 as the commissioner may prescribe by regulations or instructions, if
48 such estimated tax can reasonably be expected to exceed one thousand
49 dollars. If a taxpayer is subject to the tax surcharge imposed under
50 section one hundred eighty-four-a or one hundred eighty-six-c of this
51 article ~~and~~, such taxpayer's estimated tax under section one hundred
52 eighty-four or one hundred eighty-six-a of this article and such taxpay-
53 er's estimated tax under section one hundred eighty-three-b, one hundred
54 eighty-four-b or one hundred eighty-six-h of this article, respectively,
55 can reasonably be expected to exceed one thousand dollars, such taxpayer

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

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

6 (a) For taxable years beginning on or after January first, nineteen
7 hundred seventy-seven, every taxpayer subject to tax under section one
8 hundred eighty-four, one hundred eighty-six-a or one hundred
9 eighty-six-e of this article, must pay in each year an amount equal to
10 (i) twenty-five percent of the tax imposed under each of such sections
11 for the second preceding taxable year if the second preceding year's tax
12 exceeded one thousand dollars but was equal to or less than one hundred
13 thousand dollars, or (ii) forty percent of the tax imposed under any of
14 these sections for the second preceding taxable year if the second
15 preceding year's tax exceeded one hundred thousand dollars. If the
16 second preceding year's tax under section one hundred eighty-four, one
17 hundred eighty-six-a or one hundred eighty-six-e of this article
18 exceeded one thousand dollars and the taxpayer is subject to the tax
19 surcharge imposed by section one hundred eighty-four-a [~~ex~~], one hundred
20 eighty-six-c, one hundred eighty-three-b, one hundred eight-four-b, or
21 one hundred eighty-six-h of this article, respectively, the taxpayer
22 must also pay in each such year an amount equal to (i) twenty-five
23 percent of the tax surcharge imposed under such section for the second
24 preceding taxable year if the second preceding year's tax exceeded one
25 thousand dollars but was equal to or less than one hundred thousand
26 dollars, or (ii) forty percent of the tax surcharge imposed under that
27 section for the second preceding taxable year if the second preceding
28 year's tax exceeded one hundred thousand dollars. The amount or amounts
29 must be paid with the return or report required to be filed with respect
30 to the tax or tax surcharge for the preceding taxable year or with an
31 application for extension of the time for filing the return or report,
32 for taxable years beginning before January first, two thousand sixteen.
33 The amount or amounts that must be paid with respect to the tax or tax
34 surcharge for the second preceding year must be paid on or before the
35 fifteenth day of the third month following the close of the taxable
36 year, for taxable years beginning on or after January first, two thou-
37 sand sixteen.

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

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

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

1 (a) First installments for certain taxpayers.--In privilege periods of
2 twelve months ending at any time during the calendar year nineteen
3 hundred seventy and thereafter, every taxpayer subject to the tax
4 imposed by section two hundred nine of this [~~chapter~~ article must pay
5 with the report required to be filed for the preceding privilege period,
6 or with an application for extension of the time for filing the report,
7 for taxable years beginning before January first, two thousand sixteen,
8 and must pay on or before the fifteenth day of the third month of such
9 privilege periods, for taxable years beginning on or after January
10 first, two thousand sixteen, an amount equal to (i) twenty-five percent
11 of the second preceding year's tax if the second preceding year's tax
12 exceeded one thousand dollars but was equal to or less than one hundred
13 thousand dollars, or (ii) forty percent of the second preceding year's
14 tax if the second preceding year's tax exceeded one hundred thousand
15 dollars. If the second preceding year's tax under section two hundred
16 nine of this [~~chapter~~ article exceeded one thousand dollars and the
17 taxpayer is subject to the tax surcharge imposed by section two hundred
18 nine-B or two hundred nine-N of this [~~chapter~~ article, the taxpayer
19 must also pay with the tax surcharge report required to be filed for the
20 second preceding privilege period, or with an application for extension
21 of the time for filing the report, for taxable years beginning before
22 January first, two thousand sixteen, and must pay on or before the
23 fifteenth day of the third month of such privilege periods, for taxable
24 years beginning on or after January first, two thousand sixteen, an
25 amount equal to (i) twenty-five percent of the tax surcharge imposed for
26 the second preceding year if the second preceding year's tax was equal
27 to or less than one hundred thousand dollars, or (ii) forty percent of
28 the tax surcharge imposed for the second preceding year if the second
29 preceding year's tax exceeded one hundred thousand dollars. Provided,
30 however, that every taxpayer that is a New York S corporation must pay
31 with the report required to be filed for the preceding privilege period,
32 or with an application for extension of the time for filing the report,
33 an amount equal to (i) twenty-five percent of the preceding year's tax
34 if the preceding year's tax exceeded one thousand dollars but was equal
35 to or less than one hundred thousand dollars, or (ii) forty percent of
36 the preceding year's tax if the preceding year's tax exceeded one
37 hundred thousand dollars.

38 § 10. Subdivisions (a) and (b) of section 1513 of the tax law, subdi-
39 vision (a) as amended by chapter 166 of the laws of 1991 and subdivision
40 (b) as amended by section 25 of part H3 of chapter 62 of the laws of
41 2003, are amended to read as follows:

42 (a) Requirements of declaration.--Every taxpayer subject to the taxes
43 imposed under this article shall make a declaration of its estimated tax
44 for the current taxable year, containing such information as the commis-
45 sioner of taxation and finance may prescribe by regulations or
46 instructions, if such estimated tax can reasonably be expected to exceed
47 one thousand dollars. If a taxpayer is subject to the tax surcharge
48 imposed by section fifteen hundred five-a of this article and such
49 taxpayer's estimated tax under this article can (without regard to
50 section fifteen hundred five-a or fifteen hundred six of this article)
51 and such taxpayer's estimated tax under this article can (without regard
52 to section fifteen hundred five-a thereof) reasonably be expected to
53 exceed one thousand dollars, such taxpayer shall also make a declaration
54 of its estimated tax surcharge for the current taxable year.

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

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

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

11 (1) Except as otherwise provided in paragraph two of this subdivision,
12 for taxable years beginning on or after January first, nineteen hundred
13 seventy-six, every taxpayer subject to tax under this article must pay
14 in each year an amount equal to (i) twenty-five percent of the tax
15 imposed under this article for the second preceding taxable year if the
16 second preceding year's tax exceeded one thousand dollars but was equal
17 to or less than one hundred thousand dollars, or (ii) forty percent of
18 the tax imposed under this article for the second preceding taxable year
19 if the second preceding year's tax exceeded one hundred thousand
20 dollars. If the second preceding year's tax exceeded one thousand
21 dollars and the taxpayer is subject to the tax surcharge imposed by
22 section fifteen hundred five-a or fifteen hundred six of this article,
23 the taxpayer must also pay an amount equal to (i) twenty-five percent of
24 the tax surcharge imposed under section fifteen hundred five-a or
25 fifteen hundred six of this article for the second preceding taxable
26 year if the second preceding year's tax was equal to or less than one
27 hundred thousand dollars, or (ii) forty percent of the tax surcharge
28 imposed for the second preceding taxable year if the second preceding
29 year's tax exceeded one hundred thousand dollars.

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

42 § 12. Notwithstanding any provision of law to the contrary, in deter-
43 mination of the amount of the estimated surcharge payment imposed by
44 this act shall be prescribed by regulations of the commissioner of taxa-
45 tion and finance. The commissioner of taxation and finance shall adjust
46 the methods of such estimated surcharge payment in regard to the first
47 taxable year beginning on or after January 1, 2021 in a manner as to
48 result in an amount substantially equal to the tax reasonably estimated
49 to be due for such taxable year. In addition, such commissioner shall
50 adjust the due date on the installment payment so that the taxpayers may
51 have reasonable time to report such payment to be made quarterly or as
52 soon as practicable for such taxable year. Any regulations to implement
53 the surcharge shall be adopted and become effective as soon as practica-
54 ble and the commissioner of taxation and finance may adopt such regu-
55 lations on an emergency basis notwithstanding anything to the contrary
56 in the state administrative procedure act. Further, no addition to tax

1 under subsection (c) of section 1085 of the tax law shall be imposed
2 with respect to required declarations or payments of estimated tax
3 surcharge under this act provided that the taxpayers file such declara-
4 tions otherwise required to be filed and payments otherwise made no
5 later than the date determined by the commissioner on which an install-
6 ment of estimated tax surcharge is required to be paid.

7 § 13. This act shall take effect immediately and shall apply to taxa-
8 ble years on or after January 1, 2021 and shall expire and be deemed
9 repealed December 31, 2025.

10

PART PP

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

14 (iv) for taxable years beginning before January first, two thousand
15 sixteen, if the business income base is not more than two hundred ninety
16 thousand dollars the amount shall be six and one-half percent of the
17 business income base; if the business income base is more than two
18 hundred ninety thousand dollars but not over three hundred ninety thou-
19 sand dollars the amount shall be the sum of (1) eighteen thousand eight
20 hundred fifty dollars, (2) seven and one-tenth percent of the excess of
21 the business income base over two hundred ninety thousand dollars but
22 not over three hundred ninety thousand dollars and (3) four and thirty-
23 five hundredths percent of the excess of the business income base over
24 three hundred fifty thousand dollars but not over three hundred ninety
25 thousand dollars. For taxable years beginning on or after January first,
26 two thousand twenty-one the amount shall be four percent of the taxpay-
27 er's business income base;

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

31 (d) Except as otherwise provided in this paragraph, the credit allowed
32 under this subdivision for any taxable year shall not reduce the tax due
33 for such year to less than the fixed dollar minimum amount prescribed in
34 paragraph (d) of subdivision one of section two hundred ten of this
35 article. However, if the amount of credit allowable under this subdivi-
36 sion for any taxable year reduces the tax to such amount or if the
37 taxpayer otherwise pays tax based on the fixed dollar minimum amount,
38 any amount of credit allowed for a taxable year commencing prior to
39 January first, nineteen hundred eighty-seven and not deductible in such
40 taxable year may be carried over to the following year or years and may
41 be deducted from the taxpayer's tax for such year or years but in no
42 event shall such credit be carried over to taxable years commencing on
43 or after January first, two thousand two, and any amount of credit
44 allowed for a taxable year commencing on or after January first, nine-
45 teen hundred eighty-seven and not deductible in such year may be carried
46 over to the fifteen taxable years next following such taxable year and
47 may be deducted from the taxpayer's tax for such year or years. In lieu
48 of such carryover, any such taxpayer which qualifies as a new business
49 under paragraph (f) of this subdivision or a taxpayer that qualifies as
50 an eligible farmer for purposes of paragraph (b) of subdivision eleven
51 of this section may elect to treat the amount of such carryover as an
52 overpayment of tax to be credited or refunded in accordance with the
53 provisions of section ten hundred eighty-six of this chapter, provided,
54 however, the provisions of subsection (c) of section ten hundred eight-

1 y-eight of this chapter notwithstanding, no interest shall be paid thereon.
2

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

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

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

28 (39) In the case of a taxpayer who is a small business who has business
29 income and/or farm income as defined in the laws of the United
30 States, an amount equal to three percent of the net items of income,
31 gain, loss and deduction attributable to such business or farm entering
32 into federal adjusted gross income, but not less than zero, for taxable
33 years beginning after two thousand thirteen, an amount equal to three
34 and three-quarters percent of the net items of income, gain, loss and
35 deduction attributable to such business or farm entering into federal
36 adjusted gross income, but not less than zero, for taxable years beginning
37 after two thousand fourteen, ~~and~~ an amount equal to five percent
38 of the net items of income, gain, loss and deduction attributable to
39 such business or farm entering into federal adjusted gross income, but
40 not less than zero, for taxable years beginning after two thousand
41 fifteen, and an amount equal to fifteen percent of the net items of
42 income, gain, loss and deduction attributable to such business or farm
43 entering into federal adjusted gross income, but not less than zero, for
44 taxable years beginning after two thousand twenty. For the purposes of
45 this paragraph, the term small business shall mean a sole proprietor or
46 a farm business who employs one or more persons during the taxable year
47 and who has net business income or net farm income of less than two
48 hundred fifty thousand dollars.

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

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

1 an underpayment of estimated tax. There shall be added to the tax for
2 the taxable year an amount at the underpayment rate set by the commis-
3 sioner pursuant to section one thousand ninety-six of this article, or
4 if no rate is set, at the rate of seven and one-half percent per annum
5 upon the amount of the underpayment for the period of the underpayment
6 but not beyond the fifteenth day of the fourth month following the close
7 of the taxable year. Provided, however, that, for taxable years begin-
8 ning on or after January first, two thousand seventeen and before Janu-
9 ary first, two thousand eighteen, no amount shall be added to the tax
10 with respect to the portion of such tax related to the amount of any
11 interest deductions directly or indirectly attributable to the amount
12 included in exempt CFC income pursuant to subparagraph (ii) of paragraph
13 (b) of subdivision six-a of section two hundred eight of this chapter or
14 the forty percent reduction of such exempt CFC income in lieu of inter-
15 est attribution if the election described in paragraph (b) of subdivi-
16 sion six-a of such section is made. The amount of the underpayment shall
17 be, with respect to any installment of estimated tax computed on the
18 basis of either the preceding year's tax or the second preceding year's
19 tax, the excess of the amount required to be paid over the amount, if
20 any, paid on or before the last day prescribed for such payment or, with
21 respect to any other installment of estimated tax, the excess of the
22 amount of the installment which would be required to be paid if the
23 estimated tax were equal to ninety-one percent of the tax shown on the
24 return for the taxable year (or if no return was filed, ninety-one
25 percent of the tax for such year) over the amount, if any, of the
26 installment paid on or before the last day prescribed for such payment.
27 In any case in which there would be no underpayment if "eighty percent"
28 were substituted for "ninety-one percent" each place it appears in this
29 subsection, the addition to the tax shall be equal to seventy-five
30 percent of the amount otherwise determined. No underpayment shall be
31 deemed to exist with respect to a declaration or installment otherwise
32 due on or after the termination of existence of the taxpayer.

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

37

PART QQ

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

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

1 five, a taxpayer shall be allowed a credit as hereinafter provided,
2 against the tax imposed by this article, in an amount equal to thirty
3 percent of the amount of credit allowed the taxpayer with respect to a
4 certified historic structure under internal revenue code section
5 47(c)(3), determined without regard to ratably allocating the credit
6 over a five year period as required by subsection (a) of such section
7 47, with respect to a certified historic structure located within the
8 state; provided, however, the credit shall not exceed one hundred thou-
9 sand dollars.

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

13 § 2. Subparagraph (i) of paragraph (a) of subdivision 26 of section
14 210-B of the tax law, as amended by section 2 of part RR of chapter 59
15 of the laws of 2018, is amended and a new paragraph (f) is added to read
16 as follows:

17 (i) For taxable years beginning on or after January first, two thou-
18 sand ten, and before January first, two thousand twenty-five, a taxpayer
19 shall be allowed a credit as hereinafter provided, against the tax
20 imposed by this article, in an amount equal to one hundred percent of
21 the amount of credit allowed the taxpayer for the same taxable year with
22 respect to a certified historic structure, and one hundred fifty percent
23 of the amount of credit allowed the taxpayer with respect to a certified
24 historic structure that is a small project, under internal revenue code
25 section 47(c)(3), determined without regard to ratably allocating the
26 credit over a five year period as required by subsection (a) of such
27 section 47, with respect to a certified historic structure located with-
28 in the state. Provided, however, the credit shall not exceed five
29 million dollars.

30 (f) For purposes of this subdivision "small project" means qualified
31 rehabilitation expenditures totaling two million five hundred thousand
32 dollars or less.

33 § 3. Subparagraph (A) of paragraph 1 of subdivision (y) of section
34 1511 of the tax law, as amended by section 3 of part RR of chapter 59 of
35 the laws of 2018, is amended and a new paragraph 6 is added to read as
36 follows:

37 (A) For taxable years beginning on or after January first, two thou-
38 sand ten and before January first, two thousand twenty-five, a taxpayer
39 shall be allowed a credit as hereinafter provided, against the tax
40 imposed by this article, in an amount equal to one hundred percent of
41 the amount of credit allowed the taxpayer with respect to a certified
42 historic structure, and one hundred fifty percent of the amount of cred-
43 it allowed the taxpayer with respect to a certified historic structure
44 that is a small project, under internal revenue code section 47(c)(3),
45 determined without regard to ratably allocating the credit over a five
46 year period as required by subsection (a) of such section 47, with
47 respect to a certified historic structure located within the state.
48 Provided, however, the credit shall not exceed five million dollars. For
49 taxable years beginning on or after January first, two thousand twenty-
50 five, a taxpayer shall be allowed a credit as hereinafter provided,
51 against the tax imposed by this article, in an amount equal to thirty
52 percent of the amount of credit allowed the taxpayer with respect to a
53 certified historic structure under internal revenue code section
54 47(c)(3), determined without regard to ratably allocating the credit
55 over a five year period as required by subsection (a) of such section 47
56 with respect to a certified historic structure located within the state.

1 Provided, however, the credit shall not exceed one hundred thousand
2 dollars.

3 (6) For purposes of this subdivision "small project" means qualified
4 rehabilitation expenditures totaling two million five hundred thousand
5 dollars or less.

6 § 4. This act shall take effect immediately and shall apply to taxable
7 years beginning on and after January 1, 2022.

8

PART RR

9 Section 1. Subdivisions 17 and 20-a of section 352 of the economic
10 development law, subdivision 17 as amended by section 1 of part K and
11 subdivision 20-a as added by section 1 of part ZZ of chapter 59 of the
12 laws of 2017, are amended and a new subdivision 18-a is added to read as
13 follows:

14 17. "Qualified investment" means an investment in tangible property
15 (including a building or a structural component of a building) owned by
16 a business enterprise which:

17 (a) is depreciable pursuant to section one hundred sixty-seven of the
18 internal revenue code;

19 (b) has a useful life of four years or more;

20 (c) is acquired by purchase as defined in section one hundred seven-
21 ty-nine (d) of the internal revenue code;

22 (d) has a situs in this state; ~~and~~

23 (e) is placed in service in the state on or after the date the certif-
24 icate of eligibility is issued to the business enterprise; and

25 (f) demolition and remediation of costs incurred and paid in the
26 leased building by the business enterprise in a public housing develop-
27 ment in the state, as determined by the commissioner.

28 18-a. "Community significant project" means (a) a business creating or
29 retaining current jobs as determined by the commissioner, with partic-
30 ular emphasis on employment and/or training of current public housing
31 residents; (b) currently located or to be located in existing leased
32 space of a building in a public housing development in the state that is
33 owned and operated by a public housing authority created under article
34 thirteen of the public housing law; (c) which makes significant quali-
35 fied capital investments to start a business, or improve services and
36 working conditions for an existing business, when located in such public
37 housing space; and (d) creates at least five new net jobs or retaining
38 current jobs or makes qualified capital investments to such space of a
39 building. The commissioner shall promulgate regulations pursuant to
40 section three hundred fifty-six of this article to determine what addi-
41 tional criteria a business must meet to be eligible as a community
42 significant project, including, but not limited to, incentivizing child
43 care providers and other businesses that support the needs of the work-
44 force residing in such public housing and the social and health needs of
45 residents in such public housing, ensuring that residents are not
46 displaced and ensuring that services or programs being offered to public
47 housing residents by either a public housing authority or an entity
48 already onsite, are not displaced in order to locate or expand a busi-
49 ness in a public housing development.

50 20-a. "Significant capital investment" means a project which will be
51 either a newly constructed facility or a newly constructed addition to,
52 expansion of or improvement of a facility, consisting of tangible
53 personal property and other tangible property, including buildings and
54 structural components of buildings, that are depreciable pursuant to

1 section one hundred sixty-seven of the internal revenue code, have a
2 useful life of four years or more, are acquired by purchase as defined
3 in section one hundred seventy-nine (d) of the internal revenue code,
4 and that is equal to or exceeds (a) one million dollars for a manufac-
5 turer; (b) two hundred fifty thousand dollars for an agriculture busi-
6 ness; (c) three million dollars for a financial services firm or back
7 office operation; (d) fifteen million dollars for a distribution center;
8 (e) three million dollars for a scientific research and development
9 firm; ~~(f)~~ (f) three million dollars for other businesses; or (g) one
10 million dollars for a community significant project.

11 § 2. Subdivisions 1, 3 and 4 of section 353 of the economic develop-
12 ment law, subdivision 1 as amended by section 2 of part L of chapter 59
13 of the laws of 2020, subdivision 3 as separately amended by section 2 of
14 part K and section 2 of part ZZ and subdivision 4 as separately amended
15 by section 3 of part K and section 2 of part ZZ of chapter 59 of the
16 laws of 2017, are amended to read as follows:

17 1. To be a participant in the excelsior jobs program, a business enti-
18 ty shall operate in New York state predominantly:

19 (a) as a financial services data center or a financial services back
20 office operation;

21 (b) in manufacturing;

22 (c) in software development and new media;

23 (d) in scientific research and development;

24 (e) in agriculture;

25 (f) in the creation or expansion of back office operations in the
26 state;

27 (g) in a distribution center;

28 (h) in an industry with significant potential for private-sector
29 economic growth and development in this state as established by the
30 commissioner in regulations promulgated pursuant to this article. In
31 promulgating such regulations the commissioner shall include job and
32 investment criteria;

33 (i) as an entertainment company;

34 (j) in music production;

35 (k) as a life sciences company; ~~(l)~~

36 (l) as a company operating in one of the industries listed in para-
37 graphs (b) through (e) of this subdivision and engaging in a green
38 project as defined in section three hundred fifty-two of this article;
39 or

40 (m) as a community significant project.

41 3. For the purposes of this article, in order to participate in the
42 excelsior jobs program, a business entity operating predominantly in
43 manufacturing must create at least five net new jobs; a business entity
44 operating predominately in agriculture must create at least five net new
45 jobs; a business entity operating predominantly as a financial service
46 data center or financial services customer back office operation must
47 create at least twenty-five net new jobs; a business entity operating
48 predominantly in scientific research and development must create at
49 least five net new jobs; a business entity operating predominantly in
50 software development must create at least five net new jobs; a business
51 entity creating or expanding back office operations must create at least
52 twenty-five net new jobs; a business entity operating predominately in
53 music production must create at least five net new jobs; a business
54 entity operating predominantly as an entertainment company must create
55 or obtain at least one hundred net new jobs; ~~(n)~~ a business entity
56 operating predominantly as a distribution center in the state must

1 create at least fifty net new jobs, notwithstanding subdivision five of
 2 this section; ~~[ex]~~ a business entity operating predominately as a life
 3 sciences company must create at least five net new jobs; ~~[ex]~~ a business
 4 entity must be a regionally significant project as defined in this arti-
 5 cle; or a community significant project as defined in this article; or

6 4. A business entity operating predominantly in one of the industries
 7 referenced in paragraphs (a) through (h) or in paragraph (k) or (m) of
 8 subdivision one of this section but which does not meet the job require-
 9 ments of subdivision three of this section must have at least twenty-
 10 five full-time job equivalents unless such business is a business entity
 11 operating predominantly in manufacturing then it must have at least five
 12 full-time job equivalents and must demonstrate that its benefit-cost
 13 ratio is at least ten to one.

14 § 3. Paragraph (a) of subdivision 4 of section 355 of the economic
 15 development law, as amended by section 4 of part G of chapter 61 of the
 16 laws of 2011, is amended to read as follows:

17 (a) A participant in the excelsior jobs program who either qualified
 18 as a regionally significant project, a community significant project or
 19 is located in an investment zone shall be eligible to claim a credit for
 20 a period of ten years. For the purposes of this subdivision, the lease
 21 payment paid by the business enterprise pursuant to a public housing
 22 development in this state shall be eligible real property tax for
 23 purposes of this subdivision.

24 § 4. This act shall take effect immediately and shall apply to taxable
 25 years beginning on and after January 1, 2022.

26 PART SS

27 Section 1. Notwithstanding any inconsistent provision of law, for
 28 taxable years beginning in two thousand twenty and before two thousand
 29 twenty-two, the Commissioner of Taxation and Finance is authorized to
 30 waive employment location requirements for any business receiving a
 31 credit authorized under the tax law, if the recipient can demonstrate
 32 that the employment location requirement of such credit would have
 33 otherwise been met if not for the restrictions related to the state of
 34 emergency declared pursuant to executive order 202 of 2020 or any exten-
 35 sion or subsequent executive order issued in response to the novel coro-
 36 navirus (COVID-19) pandemic, and the related employee remained employed
 37 by such business and is or was authorized or required to perform
 38 assigned work duties and requirements from a remote location.

39 § 2. This act shall take effect immediately and shall be deemed to
 40 have been in full force and effect on and after March 7, 2020.

41 PART TT

42 Section 1. Clause (i) of subparagraph 1 of paragraph (b) of subdivi-
 43 sion 1 of section 210 of the tax law, as amended by section 18 of part T
 44 of chapter 59 of the laws of 2015, is amended to read as follows:

45 (i) The amount prescribed by this paragraph shall be computed at .15
 46 percent for each dollar of the taxpayer's total business capital, or the
 47 portion thereof apportioned within the state as hereinafter provided for
 48 taxable years beginning before January first, two thousand sixteen.
 49 However, in the case of a cooperative housing corporation as defined in
 50 the internal revenue code, the applicable rate shall be .04 percent
 51 until taxable years beginning on or after January first, two thousand
 52 twenty. The rate of tax for subsequent tax years shall be as follows:

1 .125 percent for taxable years beginning on or after January first, two
2 thousand sixteen and before January first, two thousand seventeen; .100
3 percent for taxable years beginning on or after January first, two thou-
4 sand seventeen and before January first, two thousand eighteen; .075
5 percent for taxable years beginning on or after January first, two thou-
6 sand eighteen and before January first, two thousand nineteen; .050
7 percent for taxable years beginning on or after January first, two thou-
8 sand nineteen and before January first, two thousand twenty; .025
9 percent for taxable years beginning on or after January first, two thou-
10 sand twenty and before January first, two thousand twenty-one; and zero
11 percent for years beginning on or after January first, two thousand
12 twenty-one. The rate of tax for a qualified New York manufacturer shall
13 be .132 percent for taxable years beginning on or after January first,
14 two thousand fifteen and before January first, two thousand sixteen,
15 .106 percent for taxable years beginning on or after January first, two
16 thousand sixteen and before January first, two thousand seventeen, .085
17 percent for taxable years beginning on or after January first, two thou-
18 sand seventeen and before January first, two thousand eighteen; .056
19 percent for taxable years beginning on or after January first, two thou-
20 sand eighteen and before January first, two thousand nineteen; .038
21 percent for taxable years beginning on or after January first, two thou-
22 sand nineteen and before January first, thousand twenty; .019 percent
23 for taxable years beginning on or after January first, two thousand
24 twenty and before January first, two thousand twenty-one; and [~~zero~~] **.15**
25 percent for years beginning on or after January first, two thousand
26 twenty-one.

27 § 2. This shall take effect immediately.

28

PART UU

29 Section 1. Paragraph 7 of subdivision (c) of section 1261 of the tax
30 law is REPEALED.

31 § 2. Subparagraph (ii) of paragraph 5 of subdivision (c) of section
32 1261 of the tax law, as amended by section 2 of part ZZ of chapter 56 of
33 the laws of 2020, is amended to read as follows:

34 (ii) After withholding the taxes, penalties and interest imposed by
35 the city of New York on and after August first, two thousand eight as
36 provided in subparagraph (i) of this paragraph, the comptroller shall
37 withhold a portion of such taxes, penalties and interest sufficient to
38 deposit annually into the central business district tolling capital
39 lockbox established pursuant to section five hundred fifty-three-j of
40 the public authorities law: (A) in state fiscal year two thousand nine-
41 teen - two thousand twenty, one hundred twenty-seven million five
42 hundred thousand dollars; (B) in state fiscal year two thousand twenty -
43 two thousand twenty-one, one hundred seventy million dollars; (C) in
44 state fiscal year two thousand twenty-one - two thousand twenty-two and
45 every succeeding state fiscal year, an amount equal to one hundred one
46 percent of the amount deposited in the immediately preceding state
47 fiscal year. The funds shall be deposited monthly in equal installments.
48 During the period that the comptroller is required to withhold amounts
49 and make payments described in this paragraph, the city of New York has
50 no right, title or interest in or to those taxes, penalties and interest
51 required to be paid into the above referenced central business district
52 tolling capital lockbox. [~~In addition, the comptroller shall withhold a~~
53 ~~portion of such taxes, penalties and interest in the amount of two~~
54 ~~hundred million dollars, to be withheld in four quarterly installments~~

~~1 on January fifteenth, April fifteenth, July fifteenth and October
2 fifteenth of each year, and shall deposit such amounts into the New York
3 State Agency Trust Fund, Distressed Provider Assistance Account.]~~

4 § 3. This act shall take effect April 1, 2021; provided however that
5 the amendments to subparagraph (ii) of paragraph 5 of subdivision (c) of
6 section 1261 of the tax law made by section two of this act shall not
7 affect the expiration of such subparagraph and shall be deemed to expire
8 therewith.

9 PART VV

10 Section 1. The real property law is amended by adding a new section
11 291-k to read as follows:

12 § 291-k. Recording of mezzanine debt and preferred equity investments.

13 1. Whenever a mortgage instrument is recorded in the office of the
14 recording officer of any county, any mezzanine debt or preferred equity
15 investment related to the real property upon which the mortgage instru-
16 ment is filed shall also be recorded with such mortgage instrument. For
17 the purposes of this section, "mezzanine debt" and "preferred equity
18 investments" shall mean debt carried by a borrower that may be subordi-
19 nate to the primary lien and is senior to the common shares of an entity
20 or the borrower's equity and reported as assets for the purposes of
21 financing such primary lien. This shall include non-traditional financ-
22 ing techniques such as a direct or indirect investment by a financing
23 source in an entity that owns the equity interests of the underlying
24 mortgage where the financing source has special rights or preferred
25 rights such as: (i) the right to receive a special or preferred rate of
26 return on its capital investment; and (ii) the right to an accelerated
27 repayment of the investors' capital contribution.

28 2. This section shall apply to both mezzanine debt and preferred equi-
29 ty investments if both used by the borrower or mortgagor, or either
30 mezzanine debt or preferred debt, if either is used by the borrower or
31 mortgagor.

32 3. For purposes of this section, "mezzanine debt" and "preferred equi-
33 ty investments" shall not include debt on cooperative or common shares
34 of a residential dwelling where the unit owner of a cooperative apart-
35 ment is a shareholder of the ownership entity, has exclusive occupancy
36 of such dwelling unit, and has established and delimited rights under a
37 proprietary lease.

38 4. No remedy otherwise available to a secured party under the uniform
39 commercial code shall be available to enforce a security agreement
40 pertaining to mezzanine debt financing and/or preferred equity invest-
41 ments in relation to real property upon which a mortgage instrument is
42 filed that is evidenced by a financing statement, unless that financing
43 statement is filed and the tax imposed pursuant to the authority of
44 subdivision four of section two hundred fifty-three of the tax law, has
45 been paid.

46 § 2. Section 9-601 of the uniform commercial code is amended by adding
47 a new subsection (h) to read as follows:

48 (h) Security interest perfected by financing statement. 1. Notwith-
49 standing any provision of law to the contrary, a security interest in
50 mezzanine debt and/or preferred equity investments related to the real
51 property upon which a mortgage instrument is filed, may only be
52 perfected by the filing of a financing statement under subpart 1 of part
53 5 of this article and only after the payment of any taxes due pursuant
54 to section two hundred fifty-three of the tax law.

1 2. For purposes of this section, the terms "mezzanine debt" and
2 "preferred equity investments" shall have the same meaning as provided
3 in section two hundred ninety-one-k of the real property law.

4 3. This section shall not be applicable to any debt on cooperative or
5 common shares of a residential dwelling where the unit owner of a coop-
6 erative apartment is a shareholder of the ownership entity, has exclu-
7 sive occupancy of such dwelling unit, and has established and delimited
8 rights under a proprietary lease.

9 § 3. Paragraph (a) of subdivision 2 of section 250 of the tax law, as
10 amended by section 1 of part Q of chapter 60 of the laws of 2004, is
11 amended to read as follows:

12 (a) (1) The term "mortgage" as used in this article includes every
13 mortgage or deed of trust which imposes a lien on or affects the title
14 to real property, notwithstanding that such property may form a part of
15 the security for the debt or debts secured thereby. An assignment of
16 rents to accrue from tenancies, subtenancies, leases or subleases of
17 real property, within any city in the state having a population of one
18 million or more, given as security for an indebtedness, shall be deemed
19 a mortgage of real property for purposes of this article. Executory
20 contracts for the sale of real property under which the vendee has or is
21 entitled to possession shall be deemed to be mortgages for the purposes
22 of this article and shall be taxable at the amount unpaid on such
23 contracts. A contract or agreement by which the indebtedness secured by
24 any mortgage is increased or added to, shall be deemed a mortgage of
25 real property for the purpose of this article, and shall be taxable as
26 such upon the amount of such increase or addition.

27 (2) Notwithstanding anything in this section or section two hundred
28 fifty-five of this article to the contrary, a contract or agreement
29 whereby the proceeds of any indebtedness secured by a mortgage of real
30 property in any city in the state having a population of one million or
31 more are used to reduce all or any part of a mortgagee's equity interest
32 in a wraparound or similar mortgage of such real property shall be
33 deemed a mortgage of real property for the purposes of this article and
34 shall be taxable as such to the extent of the amount of such proceeds so
35 used, without regard to whether the aggregate amount of indebtedness
36 secured by mortgages of such real property is increased or added to.

37 (3) Notwithstanding any provision to the contrary in this section or
38 section two hundred fifty-five of this article, "mezzanine debt" and
39 "preferred equity investments" as such terms are defined in subdivision
40 four of this section, shall be taxable and shall apply to taxes in
41 subdivisions one, one-a and two of section two hundred fifty-three of
42 this article, but shall not apply to any other taxes in this article on
43 or after the effective date of this subparagraph.

44 § 4. Section 250 of the tax law is amended by adding a new subdivi-
45 sion 4 to read as follows:

46 4. The term "mezzanine debt" and "preferred equity investment" shall
47 have the same meaning as provided in section two hundred ninety-one-k of
48 the real property law.

49 § 5. Section 253 of the tax law as amended by adding a new subdivi-
50 sion 4 to read as follows:

51 4. (a) A tax, measured by the amount of principal debtor obligation
52 which is under any contingency may be secured at the date of the
53 execution thereof, or at any time thereafter, by a security agreement
54 pertaining to mezzanine debt financing and/or preferred equity invest-
55 ments in relation to real property upon which a mortgage instrument is

1 filed, as evidenced by a financing statement, is imposed on the filing
2 of the financing statement.

3 (b) The rate and incidence of the tax shall be determined pursuant to
4 subdivisions one, one-a, and two of this section.

5 (c) Except as otherwise provided in this subdivision, all the
6 provisions of this article relating to or applicable to the adminis-
7 tration, collection, determination and distribution of the tax imposed
8 by this section shall apply to the tax imposed under the authority of
9 this subdivision with such modification as may be necessary to adapt
10 such language to the tax so authorized. Any reference to a mortgage will
11 be deemed to be a reference to a financing statement that evidences a
12 security agreement. Such provisions shall apply with the same force and
13 effect as if those provisions had been set forth in this subdivision
14 except to the extent that any provision is either inconsistent with a
15 provision of this subdivision or not relevant to the tax authorized by
16 this subdivision.

17 (d) No remedy otherwise available to a secured party under the uniform
18 commercial code shall be available to enforce a security agreement
19 pertaining to mezzanine debt financing and/or preferred equity invest-
20 ments in relation to real property upon which a mortgage instrument is
21 filed that is evidenced by a financing statement, unless that financing
22 statement is filed and the tax imposed pursuant to the authority of this
23 subdivision has been paid.

24 (e) For the purposes of this subdivision:

25 (1) "mezzanine debt" and "preferred equity investments" shall have the
26 same meaning as provided in section two hundred ninety-one-k of the real
27 property law.

28 (2) "financing statement" means a record or records composed of an
29 initial financing statement and any filed record relating to the initial
30 financing statement.

31 (3) "security agreement" means an agreement that creates or provides
32 for a security interest.

33 (f) Counties or cities authorized under this article to impose a tax
34 are authorized and empowered to adopt and amend local laws to impose in
35 such county or city a tax on the filing of financing statements pertain-
36 ing to mezzanine debt financing and/or preferred equity investments in
37 relation to real property upon which a mortgage instrument is filed. Any
38 tax that has been imposed by a county or city under the authority of
39 this article shall be deemed to include the authority to impose and
40 collect the tax on the recording of a financing statement pertaining to
41 mezzanine debt financing and/or preferred equity investments in relation
42 to real property upon which a mortgage instrument is filed in the same
43 manner as the local mortgage recording tax.

44 § 6. Subdivision 1 and paragraph (a) of subdivision 2 of section 253-a
45 of the tax law, as amended by chapter 343 of the laws of 1990, are
46 amended to read as follows:

47 1. Any city in this state having a population of one million or more,
48 acting through its local legislative body, is hereby authorized and
49 empowered to adopt and amend local laws imposing in any such city (A)
50 prior to February first, nineteen hundred eighty-two a tax of fifty
51 cents, (B) on or after February first, nineteen hundred eighty-two and
52 before July first, nineteen hundred eighty-two with respect to (i) one,
53 two or three-family houses, individual cooperative apartments and indi-
54 vidual residential condominium units, and (ii) real property securing a
55 principal debt or obligation of less than five hundred thousand dollars,
56 a tax of fifty cents, and with respect to all other real property a tax

1 of one dollar and twelve and one-half cents, (C) on and after July
2 first, nineteen hundred eighty-two and before August first, nineteen
3 hundred ninety with respect to real property securing a principal debt
4 or obligation of less than five hundred thousand dollars, a tax of fifty
5 cents, with respect to one, two or three-family houses, individual coop-
6 erative apartments and individual residential condominium units securing
7 a principal debt or obligation of five hundred thousand dollars or more,
8 a tax of sixty-two and one-half cents, and with respect to all other
9 real property a tax of one dollar and twenty-five cents, and (D) on and
10 after August first, nineteen hundred ninety with respect to real proper-
11 ty securing a principal debt or obligation of less than five hundred
12 thousand dollars, a tax of one dollar, with respect to one, two or
13 three-family houses and individual residential condominium units secur-
14 ing a principal debt or obligation of five hundred thousand dollars or
15 more, a tax of one dollar and twelve and one-half cents, and with
16 respect to all other real property a tax of one dollar and seventy-five
17 cents, for each one hundred dollars and each remaining major fraction
18 thereof of principal debt or obligation which is or under any contingen-
19 cy may be secured at the date of execution thereof, or at any time ther-
20 eafter, by a mortgage on such real property situated within such city
21 and recorded on or after the date upon which such tax takes effect and a
22 tax of one dollar on such mortgage if the principal debt or obligation
23 which is or by any contingency may be secured by such mortgage is less
24 than one hundred dollars. In each instance where the tax imposed pursu-
25 ant to this subdivision is one dollar and twenty-five cents for each one
26 hundred dollars and each remaining major fraction thereof of such prin-
27 cipal debt or obligation, fifty percent of the total amount of such tax,
28 including fifty percent of any interest or penalties thereon, shall be
29 set aside in a special account by the commissioner of finance of such
30 city. In each instance where the tax imposed pursuant to this subdivi-
31 sion is one dollar and seventy-five cents for each one hundred dollars
32 and each remaining major fraction thereof of such principal debt or
33 obligation, thirty-five and seven-tenths percent of the total amount of
34 such tax, including thirty-five and seven-tenths percent of any interest
35 or penalties thereon, shall also be set aside in such special account.
36 Moneys in such account shall be used for payment by such commissioner to
37 the state comptroller for deposit in the urban mass transit operating
38 assistance account of the mass transportation operating assistance fund
39 of any amount of insufficiency certified by the state comptroller pursu-
40 ant to the provisions of subdivision six of section eighty-eight-a of
41 the state finance law, and, on the fifteenth day of each month, such
42 commissioner shall transmit all funds in such account on the last day of
43 the preceding month, except the amount required for the payment of any
44 amount of insufficiency certified by the state comptroller and such
45 amount as he deems necessary for refunds and such other amounts neces-
46 sary to finance the New York city transportation disabled committee and
47 the New York city paratransit system as established by section fifteen-b
48 of the transportation law, provided, however, that such amounts shall
49 not exceed six percent of the total funds in the account but in no event
50 be less than two hundred twenty-five thousand dollars beginning April
51 first, nineteen hundred eighty-six, and further that beginning November
52 fifteenth, nineteen hundred eighty-four and during the entire period
53 prior to operation of such system, the total of such amounts shall not
54 exceed three hundred seventy-five thousand dollars for the administra-
55 tive expenses of such committee and fifty thousand dollars for the
56 expenses of the agency designated pursuant to paragraph b of subdivision

1 five of such section, and other amounts necessary to finance the operat-
2 ing needs of the private bus companies franchised by the city of New
3 York and eligible to receive state operating assistance under section
4 eighteen-b of the transportation law, provided, however, that such
5 amounts shall not exceed four percent of the total funds in the account,
6 to the New York city transit authority for mass transit within the city.

7 The tax imposed under the authority of paragraph (D) of this subdivision
8 is deemed to include a tax imposed on the filing of financing statements
9 evidencing a security agreement pertaining to mezzanine debt financing
10 and/or preferred equity investments in relation to real property upon
11 which a mortgage instrument is filed.

12 (a) For the purpose of determining whether a mortgage is subject to
13 the tax authorized to be imposed by paragraph (B) or (C) of subdivision
14 one of this section at a rate in excess of fifty cents, or by paragraph
15 (D) of subdivision one of this section at a rate in excess of one
16 dollar, for each one hundred dollars and each remaining major fraction
17 thereof of principal debt or obligation, the principal debt or obli-
18 gation which is or under any contingency may be secured at the date of
19 execution thereof, or at any time thereafter, by such mortgage shall be
20 aggregated with the principal debt or obligation which is or under any
21 contingency may be secured at the date of execution thereof, or at any
22 time thereafter, by any other mortgage, where such mortgages form part
23 of the same or related transactions and have the same or related mortga-
24 gors or related debtors in the case of a financing statement evidencing
25 a security agreement pertaining to mezzanine debt financing and/or
26 preferred equity investments in relation to real property upon which a
27 mortgage instrument is filed. If the commissioner of taxation and
28 finance finds that a mortgage transaction or mortgage transactions have
29 been formulated for the purpose of avoiding or evading a rate of tax
30 authorized to be imposed under subdivision one of this section in excess
31 of the lowest such authorized rate, rather than solely for an independ-
32 ent business or financial purpose, such commissioner shall treat all of
33 the mortgages forming part of such transaction or transactions as a
34 single mortgage for the purpose of determining the applicable rate of
35 tax. For purposes of this subdivision, there shall be a presumption that
36 all mortgages offered for recording within a period of twelve consec-
37 utive months having the same or related mortgagors or related debtors
38 are part of a related transaction, and such presumption may be rebutted
39 only with clear and convincing evidence to the contrary. The commis-
40 sioner of taxation and finance may require such affidavits and forms, and
41 may prescribe such rules and regulations, as he determines to be neces-
42 sary to enforce the provisions of this subdivision. Any reference to a
43 mortgage in this subdivision includes a financing statement evidencing a
44 security agreement pertaining to mezzanine debt financing and/or
45 preferred equity investments in relation to real property upon which a
46 mortgage instrument is filed.

47 § 7. Paragraph (a) of subdivision 1 of section 255 of the tax law is
48 amended by adding a new subparagraph (iii) to read as follows:

49 (iii) Notwithstanding the provisions of subparagraph (i) of this para-
50 graph, the taxes imposed by the authority under subparagraph three of
51 paragraph (a) of subdivision two of section two hundred fifty of this
52 article shall apply to mezzanine debt and/or preferred equity invest-
53 ments as such terms are defined by subdivision four of such section.

54 § 8. Section 257 of the tax law is amended to read as follows:

55 § 257. Payment of taxes. The taxes imposed by this article shall be
56 payable on the recording of each mortgage of real property subject to

1 taxes [~~thereunder~~] under this article and to taxes imposed by subpara-
 2 graph three of paragraph (a) of subdivision two of section two hundred
 3 fifty of this article on and after the effective date of such subpara-
 4 graph. Such taxes shall be paid to the recording officer of any county
 5 in which the real property or any part thereof is situated. It shall be
 6 the duty of such recording officer to indorse upon each mortgage and any
 7 mezzanine debt and/or preferred equity investment included with such
 8 mortgage a receipt for the amount of the tax so paid. Any mortgage so
 9 indorsed may thereupon or thereafter be recorded by any recording offi-
 10 cer and the receipt for such tax indorsed upon each mortgage shall be
 11 recorded therewith. The record of such receipt shall be conclusive proof
 12 that the amount of tax stated therein has been paid upon such mortgage,
 13 including any mezzanine debt and/or preferred equity investment.

14 § 9. Subdivision 1 of section 258 of the tax law, as amended by chap-
 15 ter 241 of the laws of 1989, is amended to read as follows:

16 1. No mortgage of real property shall be recorded by any county clerk
 17 or register, unless there shall be paid the taxes imposed by and as in
 18 this article provided. No mortgage of real property which is subject to
 19 the taxes imposed by this article shall be released, discharged of
 20 record or received in evidence in any action or proceeding, nor shall
 21 any assignment of or agreement extending any such mortgage be recorded
 22 unless the taxes imposed thereon by this article shall have been paid as
 23 provided in this article. For purposes of the taxes imposed and author-
 24 ized by subparagraph three of paragraph (a) of subdivision two of
 25 section two hundred fifty of this article, unless such taxes shall have
 26 been paid, no mortgage of real property shall be recorded by any county
 27 clerk or register, nor shall such mortgage be released, discharged,
 28 recorded or received in evidence in any action or proceeding, nor shall
 29 any assignment of agreement extending such mortgage be recorded.

30 Provided, however, except as otherwise provided in subdivision two of
 31 this section, in order to obtain a release or discharge of record where
 32 the mortgagor is not liable for the special additional tax imposed under
 33 subdivision one-a of section two hundred fifty-three of this chapter,
 34 such mortgagor or any subsequent owner of the mortgaged property or a
 35 part thereof may pay the tax imposed under such subdivision one-a and
 36 penalty, and may either apply for the credit allowable under this chap-
 37 ter for payment of such additional tax or may maintain an action to
 38 recover the amounts so paid against any person liable for payment of the
 39 tax or any subsequent assignees or owners of such mortgage or consol-
 40 idated mortgage of which such mortgage is a part, as if such amounts of
 41 tax and penalty were a debt personally owed by such persons to the mort-
 42 gator or subsequent owner. No judgment or final order in any action or
 43 proceeding shall be made for the foreclosure or the enforcement of any
 44 mortgage which is subject to any tax imposed by this article or of any
 45 debt or obligation secured by any such mortgage, unless the taxes,
 46 including taxes authorized by subparagraph three of paragraph (a) of
 47 subdivision two of section two hundred fifty of this article imposed by
 48 this article shall have been paid as provided in this article; and,
 49 except as otherwise provided in subdivision two of this section, whenev-
 50 er it shall appear that any mortgage has been recorded without payment
 51 of a tax imposed by this article there shall be added to the tax a sum
 52 equal to one-half of one per centum thereof for each month or fraction
 53 of a month for the period that the tax remains unpaid except where it
 54 could not be determined from the face of the instrument that a tax was
 55 due, or where an advance has been made on a prior advance mortgage or a
 56 corporate trust mortgage without payment of the tax, in which case there

1 shall be added to the tax a sum equal to one per centum thereof for each
2 month or fraction of a month for the period that the tax remains unpaid.
3 In any case where a mortgage of real property subject to a tax imposed
4 by this article has heretofore been recorded or is hereafter recorded in
5 good faith, and the county clerk or register has held such mortgage
6 nontaxable or taxable at one amount, and it shall later appear that it
7 was taxable or taxable at a greater amount, the commissioner of taxation
8 and finance may remit the penalties in excess of one-half of one per
9 centum per month.

10 § 10. Section 261 of the tax law is amended by adding a new subdivi-
11 sion 4 to read as follows:

12 4. Notwithstanding any other provision of law to the contrary in this
13 section, commencing on or after April first, two thousand twenty-one,
14 the balance of all moneys paid to the recording officer of each county
15 during each month upon account of the taxes imposed pursuant to subdivi-
16 sion four of section two hundred fifty-three of this article, to the
17 extent such distributions are not accounted in subdivisions one, two and
18 three of this section, after deducting necessary expenses and apportion-
19 ment under section two hundred sixty of this article, shall be deposited
20 and disposed of pursuant to the provisions of section one hundred seven-
21 ty-one-a of this chapter.

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

25 1. All taxes, interest, penalties and fees collected or received by
26 the commissioner or the commissioner's duly authorized agent under arti-
27 cles nine (except section one hundred eighty-two-a thereof and except as
28 otherwise provided in section two hundred five thereof), nine-A, eleven
29 (except as otherwise provided in section two hundred fifty-three,
30 section two hundred sixty-one, or any other section thereof), twelve-A
31 (except as otherwise provided in section two hundred eighty-four-d ther-
32 eof), thirteen, thirteen-A (except as otherwise provided in section
33 three hundred twelve thereof), eighteen, nineteen, twenty (except as
34 otherwise provided in section four hundred eighty-two thereof), twen-
35 ty-B, twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twen-
36 ty-eight (except as otherwise provided in section eleven hundred two or
37 eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one
38 (except as otherwise provided in section fourteen hundred twenty-one
39 thereof), thirty-three and thirty-three-A of this chapter shall be
40 deposited daily in one account with such responsible banks, banking
41 houses or trust companies as may be designated by the comptroller, to
42 the credit of the comptroller. Such an account may be established in one
43 or more of such depositories. Such deposits shall be kept separate and
44 apart from all other money in the possession of the comptroller. The
45 comptroller shall require adequate security from all such depositories.
46 Of the total revenue collected or received under such articles of this
47 chapter, the comptroller shall retain in the comptroller's hands such
48 amount as the commissioner may determine to be necessary for refunds or
49 reimbursements under such articles of this chapter out of which amount
50 the comptroller shall pay any refunds or reimbursements to which taxpay-
51 ers shall be entitled under the provisions of such articles of this
52 chapter. The commissioner and the comptroller shall maintain a system of
53 accounts showing the amount of revenue collected or received from each
54 of the taxes imposed by such articles. The comptroller, after reserving
55 the amount to pay such refunds or reimbursements, shall, on or before
56 the tenth day of each month, pay into the state treasury to the credit

1 of the general fund all revenue deposited under this section during the
2 preceding calendar month and remaining to the comptroller's credit on
3 the last day of such preceding month, (i) except that the comptroller
4 shall pay to the state department of social services that amount of
5 overpayments of tax imposed by article twenty-two of this chapter and
6 the interest on such amount which is certified to the comptroller by the
7 commissioner as the amount to be credited against past-due support
8 pursuant to subdivision six of section one hundred seventy-one-c of this
9 article, (ii) and except that the comptroller shall pay to the New York
10 state higher education services corporation and the state university of
11 New York or the city university of New York respectively that amount of
12 overpayments of tax imposed by article twenty-two of this chapter and
13 the interest on such amount which is certified to the comptroller by the
14 commissioner as the amount to be credited against the amount of defaults
15 in repayment of guaranteed student loans and state university loans or
16 city university loans pursuant to subdivision five of section one
17 hundred seventy-one-d and subdivision six of section one hundred seven-
18 ty-one-e of this article, (iii) and except further that, notwithstanding
19 any law, the comptroller shall credit to the revenue arrearage account,
20 pursuant to section ninety-one-a of the state finance law, that amount
21 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-
22 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest
23 thereon, which is certified to the comptroller by the commissioner as
24 the amount to be credited against a past-due legally enforceable debt
25 owed to a state agency pursuant to paragraph (a) of subdivision six of
26 section one hundred seventy-one-f of this article, provided, however, he
27 shall credit to the special offset fiduciary account, pursuant to
28 section ninety-one-c of the state finance law, any such amount credita-
29 ble as a liability as set forth in paragraph (b) of subdivision six of
30 section one hundred seventy-one-f of this article, (iv) and except
31 further that the comptroller shall pay to the city of New York that
32 amount of overpayment of tax imposed by article nine, nine-A, twenty-
33 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any
34 interest thereon that is certified to the comptroller by the commission-
35 er as the amount to be credited against city of New York tax warrant
36 judgment debt pursuant to section one hundred seventy-one-l of this
37 article, (v) and except further that the comptroller shall pay to a
38 non-obligated spouse that amount of overpayment of tax imposed by arti-
39 cle twenty-two of this chapter and the interest on such amount which has
40 been credited pursuant to section one hundred seventy-one-c, one hundred
41 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or
42 one hundred seventy-one-l of this article and which is certified to the
43 comptroller by the commissioner as the amount due such non-obligated
44 spouse pursuant to paragraph six of subsection (b) of section six
45 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct
46 a like amount which the comptroller shall pay into the treasury to the
47 credit of the general fund from amounts subsequently payable to the
48 department of social services, the state university of New York, the
49 city university of New York, or the higher education services corpo-
50 ration, or the revenue arrearage account or special offset fiduciary
51 account pursuant to section ninety-one-a or ninety-one-c of the state
52 finance law, as the case may be, whichever had been credited the amount
53 originally withheld from such overpayment, and (vii) with respect to
54 amounts originally withheld from such overpayment pursuant to section
55 one hundred seventy-one-l of this article and paid to the city of New

1 York, the comptroller shall collect a like amount from the city of New
2 York.

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

6 1. All taxes, interest, penalties and fees collected or received by
7 the commissioner or the commissioner's duly authorized agent under arti-
8 cles nine (except section one hundred eighty-two-a thereof and except as
9 otherwise provided in section two hundred five thereof), nine-A, eleven
10 (except as otherwise provided in section two hundred fifty-three,
11 section two hundred sixty-one, or any other section thereof), twelve-A

12 (except as otherwise provided in section two hundred eighty-four-d ther-
13 eof), thirteen, thirteen-A (except as otherwise provided in section
14 three hundred twelve thereof), eighteen, nineteen, twenty (except as
15 otherwise provided in section four hundred eighty-two thereof), twen-
16 ty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight
17 (except as otherwise provided in section eleven hundred two or eleven
18 hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one
19 (except as otherwise provided in section fourteen hundred twenty-one
20 thereof), thirty-three and thirty-three-A of this chapter shall be
21 deposited daily in one account with such responsible banks, banking
22 houses or trust companies as may be designated by the comptroller, to
23 the credit of the comptroller. Such an account may be established in one
24 or more of such depositories. Such deposits shall be kept separate and
25 apart from all other money in the possession of the comptroller. The
26 comptroller shall require adequate security from all such depositories.
27 Of the total revenue collected or received under such articles of this
28 chapter, the comptroller shall retain in the comptroller's hands such
29 amount as the commissioner may determine to be necessary for refunds or
30 reimbursements under such articles of this chapter out of which amount
31 the comptroller shall pay any refunds or reimbursements to which taxpay-
32 ers shall be entitled under the provisions of such articles of this
33 chapter. The commissioner and the comptroller shall maintain a system of
34 accounts showing the amount of revenue collected or received from each
35 of the taxes imposed by such articles. The comptroller, after reserving
36 the amount to pay such refunds or reimbursements, shall, on or before
37 the tenth day of each month, pay into the state treasury to the credit
38 of the general fund all revenue deposited under this section during the
39 preceding calendar month and remaining to the comptroller's credit on
40 the last day of such preceding month, (i) except that the comptroller
41 shall pay to the state department of social services that amount of
42 overpayments of tax imposed by article twenty-two of this chapter and
43 the interest on such amount which is certified to the comptroller by the
44 commissioner as the amount to be credited against past-due support
45 pursuant to subdivision six of section one hundred seventy-one-c of this
46 article, (ii) and except that the comptroller shall pay to the New York
47 state higher education services corporation and the state university of
48 New York or the city university of New York respectively that amount of
49 overpayments of tax imposed by article twenty-two of this chapter and
50 the interest on such amount which is certified to the comptroller by the
51 commissioner as the amount to be credited against the amount of defaults
52 in repayment of guaranteed student loans and state university loans or
53 city university loans pursuant to subdivision five of section one
54 hundred seventy-one-d and subdivision six of section one hundred seven-
55 ty-one-e of this article, (iii) and except further that, notwithstanding
56 any law, the comptroller shall credit to the revenue arrearage account,

1 pursuant to section ninety-one-a of the state finance law, that amount
 2 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-
 3 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest
 4 thereon, which is certified to the comptroller by the commissioner as
 5 the amount to be credited against a past-due legally enforceable debt
 6 owed to a state agency pursuant to paragraph (a) of subdivision six of
 7 section one hundred seventy-one-f of this article, provided, however, he
 8 shall credit to the special offset fiduciary account, pursuant to
 9 section ninety-one-c of the state finance law, any such amount credita-
 10 ble as a liability as set forth in paragraph (b) of subdivision six of
 11 section one hundred seventy-one-f of this article, (iv) and except
 12 further that the comptroller shall pay to the city of New York that
 13 amount of overpayment of tax imposed by article nine, nine-A, twenty-
 14 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any
 15 interest thereon that is certified to the comptroller by the commission-
 16 er as the amount to be credited against city of New York tax warrant
 17 judgment debt pursuant to section one hundred seventy-one-l of this
 18 article, (v) and except further that the comptroller shall pay to a
 19 non-obligated spouse that amount of overpayment of tax imposed by arti-
 20 cle twenty-two of this chapter and the interest on such amount which has
 21 been credited pursuant to section one hundred seventy-one-c, one hundred
 22 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or
 23 one hundred seventy-one-l of this article and which is certified to the
 24 comptroller by the commissioner as the amount due such non-obligated
 25 spouse pursuant to paragraph six of subsection (b) of section six
 26 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct
 27 a like amount which the comptroller shall pay into the treasury to the
 28 credit of the general fund from amounts subsequently payable to the
 29 department of social services, the state university of New York, the
 30 city university of New York, or the higher education services corpo-
 31 ration, or the revenue arrearage account or special offset fiduciary
 32 account pursuant to section ninety-one-a or ninety-one-c of the state
 33 finance law, as the case may be, whichever had been credited the amount
 34 originally withheld from such overpayment, and (vii) with respect to
 35 amounts originally withheld from such overpayment pursuant to section
 36 one hundred seventy-one-l of this article and paid to the city of New
 37 York, the comptroller shall collect a like amount from the city of New
 38 York.

39 § 13. This act shall take effect immediately and shall apply to all
 40 moneys collected on or after April 1, 2021, provided, however, that
 41 section ten of this act shall take effect on the tenth day of the month
 42 following the date on which this act shall have become a law. Provided,
 43 further, that the amendments to subdivision 1 of section 171-a of the
 44 tax law made by section eleven of this act shall be subject to the expi-
 45 ration and reversion of such subdivision pursuant to section 12 of chap-
 46 ter 90 of the laws of 2014, as amended, when upon such date the
 47 provisions of section twelve of this act shall take effect.

48 PART WW

49 Section 1. The tax law is amended by adding a new article 30-C to read
 50 as follows:

51 ARTICLE 30-C
 52 SUPPLEMENTAL SURCHARGE ON OWNERS OF CERTAIN NON-PRIMARY
 53 RESIDENTIAL PROPERTIES

1 Section 1355. Supplemental surcharge on owners of certain non-primary
2 residence properties in a city with a population of one
3 million or more.

4 1356. Definitions.

5 1357. Imposition of supplemental surcharge.

6 1358. Owners subject to supplemental surcharge.

7 1359. Primary residence and/or relationship to owner or owners.

8 1360. Collection, levy and liens.

9 1361. Rules.

10 1362. Taxpayer's right.

11 1363. Deposit and disposition of revenue.

12 § 1355. Supplemental surcharge on owners of certain non-primary resi-
13 dence properties in a city with a population of one million or more.
14 Generally. Notwithstanding any provision of any general, specific or
15 local law to the contrary, the commissioner is hereby authorized and
16 empowered to adopt any rules and regulations promulgated in accordance
17 with this article imposing a supplemental surcharge on owners of certain
18 residential properties and dwelling units.

19 § 1356. Definitions. As used in this article: 1. "Commissioner" means
20 the commissioner of taxation and finance, or his or her designee.

21 2. "Department" means the department of taxation and finance.

22 3. "Five-year average market value" shall mean the average monetary
23 value of the real property for the previous five years, using a compara-
24 ble sale-based valuation method, as determined by the commissioner.

25 4. "Assessed value" shall mean the determination made of the value of
26 the real property, using an income and expense approach, as determined
27 by the commissioner.

28 5. "Assessed value attributable to a tenant-stockholder" shall mean
29 the proportion of the assessed value of real property owned by a cooper-
30 ative apartment corporation, represented by a tenant-stockholder's share
31 or shares of stock in such corporation as determined by its or their
32 proportional relationship to the total outstanding stock of the corpo-
33 ration, including that owned by the corporation.

34 § 1357. Imposition of supplemental surcharge. Rules and regulations
35 promulgated, as determined by the commissioner pursuant to this section
36 may provide for a supplemental surcharge in a city with a population of
37 one million or more, for fiscal years beginning on or after July first,
38 two thousand twenty-one, in accordance with the following provisions:

39 1. For one, two or three family residences with a five-year average
40 market value of five million dollars or higher, a supplemental surcharge
41 of at least one-half percent and no more than four percent on the excess
42 market value above five million dollars.

43 2. Provided, however, for residential real property held in the condo-
44 minium form of ownership with an assessed value of three hundred thou-
45 sand dollars or higher, a supplemental surcharge of at least ten percent
46 and no more than thirteen and one-half percent of the excess assessed
47 value above three hundred thousand dollars, as determined by the commis-
48 sioner.

49 3. Provided, further, for dwelling units in real property held in the
50 cooperative form of ownership with an assessed value attributable to a
51 tenant-stockholder of three hundred thousand dollars or higher, a
52 supplemental surcharge of at least ten percent and no more than thirteen
53 and one-half percent of the excess assessed value above three hundred
54 thousand dollars, as determined by the commissioner. The additional
55 supplemental surcharges attributable to each tenant-stockholder shall be
56 added by the cooperative apartment corporation to the amount of such

1 charges or taxes otherwise payable by or chargeable to such tenant-
2 stockholder.

3 § 1358. Owners subject to supplemental surcharge. Such supplemental
4 surcharge shall be imposed on owners of class one property, as that term
5 is defined in section eighteen hundred two of the real property tax law,
6 excluding vacant land, that has a five-year average market value of over
7 five million dollars and is not the primary residence of the owner or
8 owners of such property, or the primary residence of the parent or child
9 of such owner or owners, and all other residential real property held in
10 condominium or cooperative form of ownership in a city with a population
11 of one million or more, that has an assessed value of over three hundred
12 thousand dollars and is not the primary residence of the owner or owners
13 of such property, or the primary residence of the parent or child of
14 such owner or owners.

15 § 1359. Primary residence and/or relationship to owner or owners. 1.
16 Proof of primary residence and the resident's or residents' relationship
17 to the owner or owners shall be in the form of a certification as
18 required by the rules and regulations of the commissioner. Notwith-
19 standing the former, property owners who receive the STAR exemption or
20 credit, or other exemption from real property tax administered by the
21 department on the subject property for which primary residency is a
22 requirement, shall not be required to file an additional certification
23 of proof of primary residence.

24 2. The commissioner is hereby authorized to make a request and receive
25 from a city with a population of one million or more records, not other-
26 wise confidential, relevant to the commissioner's determination of
27 primary residence status pursuant to this section, or any other informa-
28 tion necessary to effectuate the purpose of this section.

29 § 1360. Collection, levy and liens. 1. Collection procedures. The
30 surcharges imposed by this article shall be collected by the commission-
31 er, and the commissioner may establish the mode or time for the
32 collection of any amount due under this article pursuant to section six
33 hundred ninety-two of this chapter, if not otherwise specified. The
34 commissioner shall, upon request, give a receipt for any sum collected
35 under this article. The commissioner may authorize banks or trust compa-
36 nies which are depositories or financial agents of the state to receive
37 and give a receipt for any surcharge imposed under this article in such
38 manner, at such times, and under such conditions as the commissioner may
39 prescribe; and shall prescribe the manner, times and conditions under
40 which the receipt of such surcharge by such banks and trust companies is
41 to be treated as payment of such surcharge to the commissioner.

42 2. Notice and demand for surcharge. The commissioner shall as soon as
43 practicable give notice to each person liable for any amount of
44 surcharge which has been assessed but remains unpaid, stating the amount
45 and demanding payment thereof. Such notice shall be left at the usual
46 place of business of such person or shall be sent by mail to such
47 person's last known address. Four such notices shall be required before
48 any warrant described in subdivision three of this section may be
49 issued. All four notices shall be sent by mail at least thirty days
50 apart from the previous notice. Except where the commissioner deter-
51 mines that collection would be jeopardized by delay, if any surcharge is
52 assessed prior to the last date (including any date fixed by extension)
53 prescribed for payment of such surcharge, payment of such surcharge
54 shall not be demanded until after such date.

55 3. Issuance of warrant after notice and demand. If any person liable
56 under this article for the payment of any surcharge neglects or refuses

1 to pay the same within the thirty days after the fourth and final notice
2 and demand therefor is given to such person under subdivision two of
3 this section, the commissioner may within six years after the date of
4 such assessment issue a warrant directed to the sheriff of any county of
5 the state, or to any officer or employee of the department, commanding
6 such person to levy upon and sell such person's real and personal prop-
7 erty for the payment of the amount assessed, with the cost of executing
8 the warrant, and to return such warrant to the commissioner and pay to
9 the commissioner the money collected by virtue thereof within sixty days
10 after the receipt of the warrant. If the commissioner finds that the
11 collection of the surcharge or other amount is in jeopardy, notice and
12 demand for immediate payment of such surcharge may be made by the
13 commissioner and upon failure or refusal to pay such surcharge or other
14 amount the commissioner may issue a warrant without regard to the thir-
15 ty-day period provided in this subdivision.

16 4. Copy of warrant to be filed and lien to be created. Any sheriff or
17 officer or employee who receives a warrant under subdivision three of
18 this section shall within five days thereafter file a copy with the
19 clerk of the appropriate county. The clerk shall thereupon enter in the
20 judgment docket, in the column for judgment debtors, the name of the
21 taxpayer mentioned in the warrant, and in appropriate columns the
22 surcharge or other amounts for which the warrant is issued and the date
23 when such copy is filed; and such amount shall thereupon be a binding
24 lien upon the real, personal and other property of the taxpayer.

25 5. Judgment. When a warrant has been filed with the county clerk the
26 commissioner shall, on behalf of the state, be deemed to have obtained
27 judgment against the taxpayer for the surcharge or other amounts.

28 6. Execution. The sheriff or officer or employee shall thereupon
29 proceed upon the judgment in all respects, with like effect, and in the
30 same manner prescribed by law in respect to executions issued against
31 property upon judgments of a court of record, and a sheriff shall be
32 entitled to the same fees for the sheriff's services in executing the
33 warrant, to be collected in the same manner. An officer or employee of
34 the department may proceed in any county or counties of this state and
35 shall have all the powers of execution conferred by law upon sheriffs
36 but shall be entitled to no fee or compensation in excess of actual
37 expenses paid in connection with the execution of the warrant.

38 7. Taxpayer not a resident of this state. Where a notice and demand
39 under subdivision two of this section shall have been given to a taxpay-
40 er who is not then a resident of this state, and it appears to the
41 commissioner that it is not practicable to find in this state property
42 of the taxpayer sufficient to pay the entire balance of the surcharge or
43 other amount owing by such taxpayer who is not then a resident of this
44 state, the commissioner may, in accordance with subdivision three of
45 this section, issue a warrant directed to an officer or employee of the
46 department, a copy of which warrant shall be mailed by certified or
47 registered mail to the taxpayer at the taxpayer's last known address,
48 either within or out of the state. Such warrant shall command the offi-
49 cer or employee to proceed in Albany county, and such officer or employ-
50 ee shall, within five days after receipt of the warrant, file the
51 warrant and obtain a judgment in accordance with this section. Thereup-
52 on, the commissioner may authorize the institution of any action or
53 proceeding to collect or enforce the judgment in any place and by any
54 procedure that a civil judgment of the supreme court of the state of New
55 York could be collected or enforced. The commissioner may also, in the
56 commissioner's discretion, designate agents or retain counsel for the

1 purpose of collecting, outside the state of New York, any unpaid
2 surcharges which have been assessed under this article against taxpayers
3 who are not residents of this state, may fix the compensation of such
4 agents and counsel to be paid out of money appropriated or otherwise
5 lawfully available for payment thereof, and may require of them bonds or
6 other security for the faithful performance of their duties, in such
7 form and in such amount as the commissioner shall deem proper and suffi-
8 cient.

9 8. Action by state for recovery of taxes. Action may be brought by the
10 attorney general of the state at the instance of the commissioner as
11 agent and trustee for the state to recover the amount of any unpaid
12 surcharges which have been assessed under this article within six years
13 prior to the date the action is commenced.

14 9. Release of lien. The commissioner, if he or she finds that the
15 interests of the state will not thereby be jeopardized, and upon such
16 conditions as the commissioner may require, may release any property
17 from the lien of any warrant for unpaid surcharges filed pursuant to
18 subdivision four or seven of this section, and such release may be
19 recorded in the office of any recording officer in which such warrant
20 has been filed.

21 § 1361. Rules. The commissioner shall have, in addition to any other
22 functions, powers and duties which have been or may be conferred on it
23 by law, the power to make and promulgate rules to carry out the purposes
24 of this section including, but not limited to, rules relating to the
25 timing, form and manner of any certification required to be submitted
26 under this section. The commissioner also may require by rule, the form,
27 timing and manner of all filing and payment requirements including
28 requiring any such filing requirements and payment of such surcharge
29 amount due in electronic form.

30 § 1362. Taxpayer's right. The taxpayer shall have the same right to
31 commence a court action or proceeding or any other legal recourse
32 against the commissioner that is granted to the taxpayer pursuant to
33 article twenty-two of this chapter, except to the extent such provision
34 is inconsistent with any provisions of this article.

35 § 1363. Deposit and disposition of revenue. Any surcharge imposed by
36 this article and collected and received by the commissioner shall be
37 deposited and disposed of pursuant to the provisions of section one
38 hundred seventy-one-a of this chapter.

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

42 1. All taxes, interest, penalties and fees collected or received by
43 the commissioner or the commissioner's duly authorized agent under arti-
44 cles nine (except section one hundred eighty-two-a thereof and except as
45 otherwise provided in section two hundred five thereof), nine-A,
46 twelve-A (except as otherwise provided in section two hundred eighty-
47 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
48 section three hundred twelve thereof), eighteen, nineteen, twenty
49 (except as otherwise provided in section four hundred eighty-two there-
50 of), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, twenty-
51 six, twenty-eight (except as otherwise provided in section eleven
52 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
53 nine-B, thirty-C, thirty-one (except as otherwise provided in section
54 fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of
55 this chapter shall be deposited daily in one account with such responsi-
56 ble banks, banking houses or trust companies as may be designated by the

1 comptroller, to the credit of the comptroller. Such an account may be
2 established in one or more of such depositories. Such deposits shall be
3 kept separate and apart from all other money in the possession of the
4 comptroller. The comptroller shall require adequate security from all
5 such depositories. Of the total revenue collected or received under such
6 articles of this chapter, the comptroller shall retain in the comp-
7 troller's hands such amount as the commissioner may determine to be
8 necessary for refunds or reimbursements under such articles of this
9 chapter out of which amount the comptroller shall pay any refunds or
10 reimbursements to which taxpayers shall be entitled under the provisions
11 of such articles of this chapter. The commissioner and the comptroller
12 shall maintain a system of accounts showing the amount of revenue
13 collected or received from each of the taxes imposed by such articles.
14 The comptroller, after reserving the amount to pay such refunds or
15 reimbursements, shall, on or before the tenth day of each month, pay
16 into the state treasury to the credit of the general fund all revenue
17 deposited under this section during the preceding calendar month and
18 remaining to the comptroller's credit on the last day of such preceding
19 month, (i) except that the comptroller shall pay to the state department
20 of social services that amount of overpayments of tax imposed by article
21 twenty-two of this chapter and the interest on such amount which is
22 certified to the comptroller by the commissioner as the amount to be
23 credited against past-due support pursuant to subdivision six of section
24 one hundred seventy-one-c of this article, (ii) and except that the
25 comptroller shall pay to the New York state higher education services
26 corporation and the state university of New York or the city university
27 of New York respectively that amount of overpayments of tax imposed by
28 article twenty-two of this chapter and the interest on such amount which
29 is certified to the comptroller by the commissioner as the amount to be
30 credited against the amount of defaults in repayment of guaranteed
31 student loans and state university loans or city university loans pursu-
32 ant to subdivision five of section one hundred seventy-one-d and subdivi-
33 sion six of section one hundred seventy-one-e of this article, (iii)
34 and except further that, notwithstanding any law, the comptroller shall
35 credit to the revenue arrearage account, pursuant to section
36 ninety-one-a of the state finance law, that amount of overpayment of tax
37 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
38 or thirty-three of this chapter, and any interest thereon, which is
39 certified to the comptroller by the commissioner as the amount to be
40 credited against a past-due legally enforceable debt owed to a state
41 agency pursuant to paragraph (a) of subdivision six of section one
42 hundred seventy-one-f of this article, provided, however, he shall cred-
43 it to the special offset fiduciary account, pursuant to section ninety-
44 one-c of the state finance law, any such amount creditable as a liabil-
45 ity as set forth in paragraph (b) of subdivision six of section one
46 hundred seventy-one-f of this article, (iv) and except further that the
47 comptroller shall pay to the city of New York that amount of overpayment
48 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
49 thirty-B or thirty-three of this chapter and any interest thereon that
50 is certified to the comptroller by the commissioner as the amount to be
51 credited against city of New York tax warrant judgment debt pursuant to
52 section one hundred seventy-one-l of this article, (v) and except
53 further that the comptroller shall pay to a non-obligated spouse that
54 amount of overpayment of tax imposed by article twenty-two of this chap-
55 ter and the interest on such amount which has been credited pursuant to
56 section one hundred seventy-one-c, one hundred seventy-one-d, one

1 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
2 ty-one-l of this article and which is certified to the comptroller by
3 the commissioner as the amount due such non-obligated spouse pursuant to
4 paragraph six of subsection (b) of section six hundred fifty-one of this
5 chapter; and (vi) the comptroller shall deduct a like amount which the
6 comptroller shall pay into the treasury to the credit of the general
7 fund from amounts subsequently payable to the department of social
8 services, the state university of New York, the city university of New
9 York, or the higher education services corporation, or the revenue
10 arrearage account or special offset fiduciary account pursuant to
11 section ninety-one-a or ninety-one-c of the state finance law, as the
12 case may be, whichever had been credited the amount originally withheld
13 from such overpayment, and (vii) with respect to amounts originally
14 withheld from such overpayment pursuant to section one hundred seventy-
15 one-l of this article and paid to the city of New York, the comptroller
16 shall collect a like amount from the city of New York.

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

20 1. All taxes, interest, penalties and fees collected or received by
21 the commissioner or the commissioner's duly authorized agent under arti-
22 cles nine (except section one hundred eighty-two-a thereof and except as
23 otherwise provided in section two hundred five thereof), nine-A,
24 twelve-A (except as otherwise provided in section two hundred eighty-
25 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
26 section three hundred twelve thereof), eighteen, nineteen, twenty
27 (except as otherwise provided in section four hundred eighty-two there-
28 of), twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-
29 eight (except as otherwise provided in section eleven hundred two or
30 eleven hundred three thereof), twenty-eight-A, twenty-nine-B, ~~thirty-C,~~
31 thirty-one (except as otherwise provided in section fourteen hundred
32 twenty-one thereof), thirty-three and thirty-three-A of this chapter
33 shall be deposited daily in one account with such responsible banks,
34 banking houses or trust companies as may be designated by the comp-
35 troller, to the credit of the comptroller. Such an account may be estab-
36 lished in one or more of such depositories. Such deposits shall be kept
37 separate and apart from all other money in the possession of the comp-
38 troller. The comptroller shall require adequate security from all such
39 depositories. Of the total revenue collected or received under such
40 articles of this chapter, the comptroller shall retain in the comp-
41 troller's hands such amount as the commissioner may determine to be
42 necessary for refunds or reimbursements under such articles of this
43 chapter out of which amount the comptroller shall pay any refunds or
44 reimbursements to which taxpayers shall be entitled under the provisions
45 of such articles of this chapter. The commissioner and the comptroller
46 shall maintain a system of accounts showing the amount of revenue
47 collected or received from each of the taxes imposed by such articles.
48 The comptroller, after reserving the amount to pay such refunds or
49 reimbursements, shall, on or before the tenth day of each month, pay
50 into the state treasury to the credit of the general fund all revenue
51 deposited under this section during the preceding calendar month and
52 remaining to the comptroller's credit on the last day of such preceding
53 month, (i) except that the comptroller shall pay to the state department
54 of social services that amount of overpayments of tax imposed by article
55 twenty-two of this chapter and the interest on such amount which is
56 certified to the comptroller by the commissioner as the amount to be

1 credited against past-due support pursuant to subdivision six of section
2 one hundred seventy-one-c of this article, (ii) and except that the
3 comptroller shall pay to the New York state higher education services
4 corporation and the state university of New York or the city university
5 of New York respectively that amount of overpayments of tax imposed by
6 article twenty-two of this chapter and the interest on such amount which
7 is certified to the comptroller by the commissioner as the amount to be
8 credited against the amount of defaults in repayment of guaranteed
9 student loans and state university loans or city university loans pursu-
10 ant to subdivision five of section one hundred seventy-one-d and subdivi-
11 sion six of section one hundred seventy-one-e of this article, (iii)
12 and except further that, notwithstanding any law, the comptroller shall
13 credit to the revenue arrearage account, pursuant to section
14 ninety-one-a of the state finance law, that amount of overpayment of tax
15 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
16 or thirty-three of this chapter, and any interest thereon, which is
17 certified to the comptroller by the commissioner as the amount to be
18 credited against a past-due legally enforceable debt owed to a state
19 agency pursuant to paragraph (a) of subdivision six of section one
20 hundred seventy-one-f of this article, provided, however, he shall cred-
21 it to the special offset fiduciary account, pursuant to section ninety-
22 one-c of the state finance law, any such amount creditable as a liabil-
23 ity as set forth in paragraph (b) of subdivision six of section one
24 hundred seventy-one-f of this article, (iv) and except further that the
25 comptroller shall pay to the city of New York that amount of overpayment
26 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
27 thirty-B or thirty-three of this chapter and any interest thereon that
28 is certified to the comptroller by the commissioner as the amount to be
29 credited against city of New York tax warrant judgment debt pursuant to
30 section one hundred seventy-one-l of this article, (v) and except
31 further that the comptroller shall pay to a non-obligated spouse that
32 amount of overpayment of tax imposed by article twenty-two of this chap-
33 ter and the interest on such amount which has been credited pursuant to
34 section one hundred seventy-one-c, one hundred seventy-one-d, one
35 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
36 ty-one-l of this article and which is certified to the comptroller by
37 the commissioner as the amount due such non-obligated spouse pursuant to
38 paragraph six of subsection (b) of section six hundred fifty-one of this
39 chapter; and (vi) the comptroller shall deduct a like amount which the
40 comptroller shall pay into the treasury to the credit of the general
41 fund from amounts subsequently payable to the department of social
42 services, the state university of New York, the city university of New
43 York, or the higher education services corporation, or the revenue
44 arrearage account or special offset fiduciary account pursuant to
45 section ninety-one-a or ninety-one-c of the state finance law, as the
46 case may be, whichever had been credited the amount originally withheld
47 from such overpayment, and (vii) with respect to amounts originally
48 withheld from such overpayment pursuant to section one hundred seventy-
49 one-l of this article and paid to the city of New York, the comptroller
50 shall collect a like amount from the city of New York.

51 § 4. This act shall take effect immediately; provided, however, that
52 the amendments to subdivision 1 of section 171-a of the tax law made by
53 section two of this act shall be subject to the expiration and reversion
54 of such subdivision pursuant to section 12 of chapter 90 of the laws of
55 2014, as amended, when upon such date the provisions of section three of
56 this act shall take effect.

1

PART XX

2 Section 1. Section 952 of the tax law, as amended by section 2 of part
3 X of chapter 59 of the laws of 2014 and subsection (b) as amended by
4 section 1 of part BB of chapter 59 of the laws of 2015, is amended to
5 read as follows:

6 § 952. Tax imposed. (a) A tax is hereby imposed on the transfer of the
7 New York estate by every deceased individual who at his or her death was
8 a resident of New York state.

9 (b) Computation of tax. The tax imposed by this section shall be
10 computed on the deceased resident's New York taxable estate as follows:

11 If the New York taxable estate is:	The tax is:
12 Not over \$500,000	3.06% of taxable estate
13 Over \$500,000 but not over \$1,000,000	\$15,300 plus 5.0% of excess over 14 \$500,000
15 Over \$1,000,000 but not over \$1,500,000	\$40,300 plus 5.5% of excess over 16 \$1,000,000
17 Over \$1,500,000 but not over \$2,100,000	\$67,800 plus 6.5% of excess over 18 \$1,500,000
19 Over \$2,100,000 but not over \$2,600,000	\$106,800 plus 8.0% of excess 20 over \$2,100,000
21 Over \$2,600,000 but not over \$3,100,000	\$146,800 plus 8.8% of excess over 22 \$2,600,000
23 Over \$3,100,000 but not over \$3,600,000	\$190,800 plus 9.6% of excess over 24 \$3,100,000
25 Over \$3,600,000 but not over \$4,100,000	\$238,800 plus 10.4% of excess 26 over \$3,600,000
27 Over \$4,100,000 but not over \$5,100,000	\$290,800 plus 11.2% of excess 28 over \$4,100,000
29 Over \$5,100,000 but not over \$6,100,000	\$402,800 plus 12.0% of excess 30 over \$5,100,000
31 Over \$6,100,000 but not over \$7,100,000	\$522,800 plus 12.8% of excess 32 over \$6,100,000
33 Over \$7,100,000 but not over \$8,100,000	\$650,800 plus 13.6% of excess 34 over \$7,100,000
35 Over \$8,100,000 but not over \$9,100,000	\$786,800 plus 14.4% of excess 36 over \$8,100,000
37 Over \$9,100,000 but not over 38 \$10,100,000	\$930,800 plus 15.2% of excess over \$9,100,000
39 Over \$10,100,000	\$1,082,800 plus [16.0%] <u>20.0%</u> of excess 40 over \$10,100,000

41 (c) Applicable credit amount. (1) A credit of the applicable credit
42 amount shall be allowed against the tax imposed by this section as
43 provided in this subsection. In the case of a decedent whose New York
44 taxable estate is less than or equal to the basic exclusion amount, the
45 applicable credit amount shall be the amount of tax that would be due
46 under subsection (b) of this section on such decedent's New York taxable
47 estate. In the case of a decedent whose New York taxable estate exceeds
48 the basic exclusion amount by an amount that is less than or equal to
49 five percent of such amount, the applicable credit amount shall be the
50 amount of tax that would be due under subsection (b) of this section if
51 the amount on which the tax is to be computed were equal to the basic
52 exclusion amount multiplied by one minus a fraction, the numerator of
53 which is the decedent's New York taxable estate minus the basic exclu-
54 sion amount, and the denominator of which is five percent of the basic
55 exclusion amount. Provided, however, that the credit allowed by this

1 subsection shall not exceed the tax imposed by this section, and no
 2 credit shall be allowed to the estate of any decedent whose New York
 3 taxable estate exceeds one hundred five percent of the basic exclusion
 4 amount.

5 (2) (A) For purposes of this section, the basic exclusion amount shall
 6 be as follows:

7 In the case of decedents dying on or after: The basic exclusion amount
 8 is: April 1, 2014 and before April 1, 2015 \$ 2,062,500 April 1, 2015 and
 9 before April 1, 2016 3,125,000 April 1, 2016 and before April 1, 2017
 10 4,187,500 April 1, 2017 and before January 1, 2019 5,250,000

11 (B) In the case of any decedent dying in a calendar year beginning on
 12 or after January first, two thousand nineteen, the basic exclusion
 13 amount shall be equal to:

14 (i) five million dollars, multiplied by

15 (ii) one plus the cost-of-living adjustment, which shall be the
 16 percentage by which the consumer price index for the preceding calendar
 17 year exceeds the consumer price index for calendar year two thousand
 18 ten.

19 (C) (i) For purposes of this paragraph, "consumer price index" means
 20 the most recent consumer price index for all-urban consumers published
 21 by the United States department of labor.

22 (ii) For purposes of clause (ii) of subparagraph (B) of this para-
 23 graph, the consumer price index for any calendar year shall be the aver-
 24 age of the consumer price index as of the close of the twelve-month
 25 period ending on August thirty-first of such calendar year.

26 (iii) If any amount adjusted under this paragraph is not a multiple of
 27 ten thousand dollars, such amount shall be rounded to the nearest multi-
 28 ple of ten thousand dollars.

29 § 2. This act shall take effect immediately.

30 PART YY

31 Section 1. Section 11-503 of the administrative code of the city of
 32 New York is amended by adding a new subdivision (q) to read as follows:

33 (q) Small business recovery tax credit. (1) Definitions. For purposes
 34 of this subdivision, the following terms have the following meanings:

35 (A) "Accommodation sector" means the portion of the economy consisting
 36 of establishments that provide lodging or short-term accommodations for
 37 travelers, vacationers, and others.

38 (B) "Arts, entertainment, and recreation sector" means the portion of
 39 the economy consisting of establishments that operate facilities or
 40 provide services to meet cultural, entertainment, and recreational
 41 interests of their patrons. This sector consists of: (i) establishments
 42 that are involved in producing, promoting, or participating in live
 43 performances, events, or exhibits intended for public viewing; (ii)
 44 establishments that preserve and exhibit objects and sites of histor-
 45 ical, cultural, or educational interest; and (iii) establishments that
 46 operate facilities or provide services that enable patrons to partic-
 47 ipate in recreational activities or pursue amusement, hobby, and
 48 leisure-time interests.

49 (C) "Average starting full-time employment" means the average number
 50 of full-time equivalent positions employed by a qualifying small busi-
 51 ness between January first, two thousand twenty-one, and March thirty-
 52 first, two thousand twenty-one.

53 (D) "Average ending full-time employment" means the average number of
 54 full-time equivalent positions employed by a qualifying small business

1 between April first, two thousand twenty-one, and December thirty-first,
2 two thousand twenty-one.

3 (E) "Certificate of tax credit" means the document issued to a quali-
4 ifying small business by the department of finance specifying the amount
5 of the small business recovery tax credit that such qualifying small
6 business may claim pursuant to this subdivision.

7 (F) "Chain" means a set of establishments that share a common brand or
8 that are characterized by standardized options for decor, marketing,
9 packaging, products and services.

10 (G) "Food services sector" means the portion of the economy consisting
11 of establishments that are primarily organized and operated to prepare
12 and provide food or beverages to customers for consumption.

13 (H) "Landlord" means a person who grants the right to use or occupy
14 premises to any lessee, sublessee, licensee or concessionaire, whether
15 or not such person is the owner of the premises.

16 (I) "Rent expense" means the consideration paid by a qualifying small
17 business for the use or occupancy of business premises located within
18 the city, valued in money, whether received in money or otherwise,
19 including all credits and property or services of any kind and including
20 any payment required to be made by the qualifying small business on
21 behalf of the owner or landlord of the business premises for real estate
22 taxes, water rents or charges, sewer rents or any other expenses,
23 including insurance, normally payable by an owner or landlord, other
24 than expenses for the improvement, repair or maintenance of the business
25 premises, less the amounts received by such qualifying small business
26 for the same period from any person for the use or occupancy of any part
27 of such business premises.

28 (J) "Qualifying small business" means a natural person, or a business
29 entity that is independently owned and operated and not part of a chain,
30 that:

31 (i) operates predominantly in the accommodation sector, arts, enter-
32 tainment, and recreation sector, or food services sector, provided that
33 any such natural person or business entity operating in the food
34 services sector both: (1) offered, prior to March two thousand twenty,
35 the opportunity for consumption of food or beverages on the business
36 premises operated by such person or entity; and (2) was required to
37 close indoor dining in March two thousand twenty as a result of a ban on
38 indoor dining arising from the COVID-19 pandemic;

39 (ii) pays rent as a lessee, sublessee, licensee or concessionaire to
40 use or occupy business premises located within the city; and

41 (iii) has a total income of less than one million two hundred thousand
42 dollars.

43 (K) "Small business recovery tax credit" means the small business
44 recovery tax credit authorized by this subdivision.

45 (L) "Total income" means gross receipts minus the costs of goods sold
46 as reported for federal income tax purposes on the federal income tax
47 return of the taxpayer for the tax year immediately preceding the period
48 for which the taxpayer is applying for the small business recovery tax
49 credit.

50 (2) Eligibility criteria. To be eligible for the small business recov-
51 ery tax credit, a taxpayer must:

52 (A) be a qualifying small business;

53 (B) file a return pursuant to subdivision (a) of section 11-514 of
54 this chapter, even if, pursuant to paragraph four of such subdivision
55 (a), such taxpayer is not required to file such a return because the

1 unincorporated business gross income of such taxpayer is less than nine-
2 ty-five thousand dollars;

3 (C) operate a business premises at a location within the city that
4 charges for admission or accepts payment for goods or services from
5 retail customers who pay for such goods or receive such services on such
6 premises; and

7 (D) demonstrate that its average ending full-time employment was not
8 less than its average starting full-time employment.

9 (3) Application and approval process. (A) To apply for the small
10 business recovery tax credit, a taxpayer must submit an application in
11 the form and manner as prescribed by the commissioner of finance.

12 (B) The commissioner of finance shall establish procedures, including
13 any application deadlines, for the submission of applications by taxpay-
14 ers. As part of the application, each taxpayer must:

15 (i) demonstrate in a form and manner prescribed by the commissioner of
16 finance that such taxpayer is eligible for the small business recovery
17 tax credit pursuant to paragraph two of this subdivision;

18 (ii) notwithstanding section 11-538 of this chapter, agree to allow
19 the department of finance to share information related to such taxpayer
20 with any other state or city agency as necessary for the implementation
21 and administration of the small business recovery tax credit, provided,
22 however, that any information shared pursuant to this clause shall not
23 be available for disclosure or inspection pursuant to article six of the
24 public officers law; and

25 (iii) agree to provide any additional information deemed necessary by
26 the department of finance for the implementation and administration of
27 the small business recovery tax credit.

28 (C) After reviewing a completed application of a taxpayer and deter-
29 mining that such taxpayer meets the eligibility criteria for the small
30 business recovery tax credit as set forth in this subdivision, the
31 department of finance shall issue to such taxpayer a certificate of tax
32 credit. A taxpayer may claim the amount identified on the certificate
33 of tax credit only on its tax return for the taxable year that includes
34 December thirty-first, two thousand twenty-one. Issuance or denial of a
35 certificate of tax credit shall constitute a final determination of the
36 department of finance unless, within thirty days, the taxpayer seeks
37 administrative review by the commissioner of finance of such determi-
38 nation.

39 (4) Amount of the small business recovery tax credit. (A) Except as
40 otherwise provided in subparagraphs (B), (C), and (D) of this paragraph,
41 a taxpayer that meets the eligibility requirements set forth in para-
42 graph two of this subdivision shall be allowed a credit against the tax
43 imposed by this chapter in an amount equal to six percent of the rent
44 expense of such taxpayer for calendar year two thousand twenty-one,
45 provided that such amount shall not exceed ten thousand dollars.

46 (B) Notwithstanding subparagraph (A) of this paragraph, a taxpayer
47 that meets the eligibility requirements set forth in paragraph two of
48 this subdivision and has a total income that is greater than one million
49 dollars but less than one million two hundred thousand dollars shall be
50 allowed a credit in an amount that is the product of: (i) the amount
51 that would otherwise be allowed under subparagraph (A) of this para-
52 graph; and (ii) a fraction, the numerator of which is one million two
53 hundred thousand dollars less the total income of the taxpayer, and the
54 denominator of which is two hundred thousand dollars.

55 (C) To the extent the amount of the credit allowed by this subdivision
56 exceeds the amount of tax due pursuant to this chapter, as calculated

1 without such credit, such excess amount shall be treated as an overpay-
2 ment of tax to be credited or refunded in accordance with the provisions
3 of section 11-526 of this chapter, provided, however, that notwithstand-
4 ing the requirements of section 11-528 of this chapter to the contrary,
5 no interest shall be paid thereon.

6 (D) Notwithstanding subparagraph (A) of this paragraph, the aggregate
7 amount of credits allowed pursuant to this subdivision, subdivision
8 twenty-three of section 11-604 , and subdivision twenty-three of section
9 11-654 of this title, shall not exceed fifty million dollars. If, after
10 aggregating the amount of the credits allowed pursuant to each of such
11 subdivisions, the department of finance determines that the value of
12 such credits is greater than fifty million dollars, the department of
13 finance shall allocate the amount of such credits among eligible taxpay-
14 ers on a pro rata basis. The amount of the credit allocated to each
15 taxpayer shall be the product of: (i) the amount of the credit
16 prescribed by subparagraph (A) of this paragraph; and (ii) a fraction,
17 the numerator of which is fifty million dollars, and the denominator of
18 which is the aggregate amount of the credits allowed by the department
19 of finance pursuant to this subdivision, subdivision twenty-three of
20 section 11-604, and subdivision twenty-three of section 11-654 of this
21 title.

22 (E) The commissioner of finance shall revoke a certificate of tax
23 credit issued by the department of finance pursuant to this subdivision
24 if it appears that the taxpayer is not a qualified small business or
25 does not satisfy one or more of the other eligibility criteria set forth
26 in paragraph two of this subdivision, or that any other requirement of
27 the small business recovery tax credit has not been satisfied. Upon
28 determining that a certificate of tax credit issued by the department of
29 finance pursuant to this subdivision should be revoked, the amount of
30 the credit claimed by such taxpayer prior to such revocation shall be
31 added to the tax due pursuant to this chapter for the taxable year in
32 which any such revocation becomes final. The commissioner of finance
33 shall modify a certificate of tax credit issued by the department of
34 finance pursuant to this subdivision if it appears that the rent expense
35 provided by such taxpayer is not accurate and shall adjust the tax due
36 pursuant to this subchapter for the taxable year in which any such
37 modification becomes final in an amount consistent with such modifica-
38 tion.

39 (5) Powers and duties of the commissioner. (A) The commissioner of
40 finance may promulgate rules necessary to implement the provisions of
41 this subdivision. Such rules shall establish an application process and
42 eligibility criteria for the small business recovery tax credit,
43 consistent with this subdivision, so as not to exceed the annual limita-
44 tion on the aggregate amount of the tax credit authorized by this subdivi-
45 vision, the small business recovery tax credit authorized by subdivision
46 twenty-three of section 11-604, and the small business recovery tax
47 credit authorized by subdivision twenty-three of section 11-654 of this
48 title set forth in subparagraph (D) of paragraph four of this subdivi-
49 sion.

50 (B) The commissioner of finance shall develop a certificate of tax
51 credit that shall be issued to taxpayers that apply and are determined
52 to be eligible for the small business recovery tax credit pursuant to
53 this subdivision. Such certificate shall contain such information as
54 required by the department of finance.

55 § 2. Section 11-604 of the administrative code of the city of New York
56 is amended by adding a new subdivision 23 to read as follows:

1 23. Small business recovery tax credit. (a) Definitions. For purposes
2 of this subdivision, the following terms have the following meanings:

3 (1) "Accommodation sector" means the portion of the economy consisting
4 of establishments that provide lodging or short-term accommodations for
5 travelers, vacationers, and others.

6 (2) "Arts, entertainment, and recreation sector" means the portion of
7 the economy consisting of establishments that operate facilities or
8 provide services to meet cultural, entertainment, and recreational
9 interests of their patrons. This sector consists of: (i) establishments
10 that are involved in producing, promoting, or participating in live
11 performances, events, or exhibits intended for public viewing; (ii)
12 establishments that preserve and exhibit objects and sites of histor-
13 ical, cultural, or educational interest; and (iii) establishments that
14 operate facilities or provide services that enable patrons to partic-
15 ipate in recreational activities or pursue amusement, hobby, and
16 leisure-time interests.

17 (3) "Average starting full-time employment" means the average number
18 of full-time equivalent positions employed by a qualifying small busi-
19 ness between January first, two thousand twenty-one, and March thirty-
20 first, two thousand twenty-one.

21 (4) "Average ending full-time employment" mean the average number of
22 full-time equivalent positions employed by a qualifying small business
23 between April first, two thousand twenty-one, and December thirty-first,
24 two thousand twenty-one.

25 (5) "Certificate of tax credit" means the document issued to a quali-
26 fying small business by the department of finance specifying the amount
27 of the small business recovery tax credit that such qualifying small
28 business may claim pursuant to this subdivision.

29 (6) "Chain" means a set of establishments that share a common brand or
30 that are characterized by standardized options for decor, marketing,
31 packaging, products and services.

32 (7) "Food services sector" means the portion of the economy consisting
33 of establishments that are primarily organized and operated to prepare
34 and provide food or beverages to customers for consumption.

35 (8) "Landlord" means a person who grants the right to use or occupy
36 premises to any lessee, sublessee, licensee or concessionaire, whether
37 or not such person is the owner of the premises.

38 (9) "Qualifying small business" means a natural person, or a business
39 entity that is independently owned and operated and not part of a chain,
40 that:

41 (i) operates predominantly in the accommodation sector, arts, enter-
42 tainment, and recreation sector, or food services sector, provided that
43 any such natural person or business entity operating in the food
44 services sector both: (A) offered, prior to March two thousand twenty,
45 the opportunity for consumption of food or beverages on the business
46 premises operated by such person or entity; and

47 (B) was required to close indoor dining in March two thousand twenty
48 as a result of a ban on indoor dining arising from the COVID-19 pandem-
49 ic;

50 (ii) pays rent as a lessee, sublessee, licensee or concessionaire to
51 use or occupy business premises located within the city; and

52 (iii) has a total income of less than one million two hundred thousand
53 dollars.

54 (10) "Rent expense" means the consideration paid by a qualifying small
55 business for the use or occupancy of business premises located within
56 the city, valued in money, whether received in money or otherwise,

1 including all credits and property or services of any kind and including
2 any payment required to be made by a qualifying small business on behalf
3 of the owner or landlord of the business premises for real estate taxes,
4 water rents or charges, sewer rents or any other expenses, including
5 insurance, normally payable by an owner or landlord, other than expenses
6 for the improvement, repair or maintenance of the business premises,
7 less the amounts received by such qualifying small business for the same
8 period from any person for the use or occupancy of any part of such
9 business premises.

10 (11) "Small business recovery tax credit" means the small business
11 recovery tax credit authorized by this subdivision.

12 (12) "Total income" means gross receipts minus the cost of goods sold,
13 as would have been reported by the taxpayer for federal income tax
14 purposes on the federal income tax return of the taxpayer for the tax
15 year immediately preceding the period for which the taxpayer is applying
16 for the small business recovery tax credit if such taxpayer had not made
17 an election under subchapter s of chapter one of the internal revenue
18 code.

19 (b) Eligibility criteria. To be eligible for the small business recov-
20 ery tax credit, a taxpayer must:

21 (1) be a qualifying small business;

22 (2) file a report pursuant to section 11-605 of this chapter, provided
23 that such taxpayer may not file a combined report pursuant to subdivi-
24 sion four of such section;

25 (3) operate a business premises at a location within the city that
26 charges for admission or accepts payment for goods or services from
27 retail customers who pay for such goods or receive such services on such
28 premises; and

29 (4) demonstrate that its average ending full-time employment was not
30 less than its average starting full-time employment.

31 (c) Application and approval process. (1) To apply for the small
32 business recovery tax credit, a taxpayer must submit an application in
33 the form and manner as prescribed by the commissioner of finance.

34 (2) The commissioner of finance shall establish procedures, including
35 any application deadlines, for the submission of applications by taxpay-
36 ers. As part of the application each taxpayer must:

37 (i) demonstrate in a form and manner prescribed by the commissioner of
38 finance that such taxpayer is eligible for the small business recovery
39 tax credit pursuant to paragraph (b) of this subdivision;

40 (ii) notwithstanding section 11-688 of this chapter, agree to allow
41 the department of finance to share information related to such taxpayer
42 with any other state or local agency as necessary for the implementation
43 and administration of the small business recovery tax credit, provided,
44 however, that any information shared pursuant to this clause shall not
45 be available for disclosure or inspection pursuant to article six of the
46 public officers law; and

47 (iii) agree to provide any additional information deemed necessary by
48 the department of finance for the implementation and administration of
49 the small business recovery tax credit.

50 (3) After reviewing a completed application of a taxpayer and deter-
51 mining that such taxpayer meets the eligibility criteria for the small
52 business recovery tax credit as set forth in this subdivision, the
53 department of finance shall issue to such taxpayer a certificate of tax
54 credit. A taxpayer may claim the amount identified on the certificate of
55 tax credit only on its tax return for the taxable year that includes
56 December thirty-first, two thousand twenty-one. Issuance or denial of a

1 certificate of tax credit shall constitute a final determination of the
2 department of finance unless, within thirty days, the taxpayer seeks
3 administrative review by the commissioner of finance of such determi-
4 nation.

5 (d) Amount of the small business recovery tax credit.

6 (1) Except as otherwise provided in subparagraphs two, three and four
7 of this paragraph, a taxpayer that meets the eligibility requirements
8 set forth in paragraph (b) of this subdivision shall be allowed a credit
9 against the tax imposed by this subchapter in an amount equal to six
10 percent of the rent expense of such taxpayer for calendar year two thou-
11 sand twenty-one, provided that such amount shall not exceed ten thousand
12 dollars.

13 (2) Notwithstanding subparagraph one of this paragraph, a taxpayer
14 that meets the eligibility requirements set forth in paragraph (b) of
15 this subdivision and has a total income that is greater than one million
16 dollars but less than one million two hundred thousand dollars shall be
17 allowed a credit in an amount that is the product of: (i) the amount
18 that would otherwise be allowed under subparagraph one of this para-
19 graph; and (ii) a fraction, the numerator of which is one million two
20 hundred thousand dollars less the total income of the taxpayer, and the
21 denominator of which is two hundred thousand dollars.

22 (3) To the extent the amount of the credit allowed by this subdivision
23 exceeds the amount of tax due pursuant to this subchapter, as calculated
24 without such credit, such excess amount shall be treated as an overpay-
25 ment of tax to be credited or refunded in accordance with the provisions
26 of section 11-677 of this chapter, provided, however, that notwithstand-
27 ing the requirements of section 11-679 of this chapter to the contrary,
28 no interest shall be paid thereon.

29 (4) Notwithstanding subparagraph one of this paragraph, the aggregate
30 amount of credits allowed pursuant to this subdivision, subdivision (q)
31 of section 11-503 of this title and subdivision twenty-three of section
32 11-654 of this chapter shall not exceed fifty million dollars. If, after
33 aggregating the amount of the credits allowed pursuant to each of such
34 subdivisions, the department of finance determines that the value of
35 such credits is greater than fifty million dollars, the department of
36 finance shall allocate the amount of such credits among eligible taxpay-
37 ers on a pro rata basis. The amount of the credit allocated to each
38 taxpayer shall be the product of: (i) the amount of the credit
39 prescribed by subparagraph one of this paragraph; and (ii) a fraction,
40 the numerator of which is fifty million dollars, and the denominator of
41 which is the aggregate amount of the credits allowed by the department
42 of finance pursuant to this subdivision, subdivision (q) of section
43 11-503 of this title and subdivision twenty-three of section 11-654 of
44 this chapter.

45 (5) The commissioner of finance shall revoke a certificate of tax
46 credit issued by the department of finance pursuant to this subdivision
47 if it appears that the taxpayer is not a qualified small business or
48 does not satisfy one or more of the other eligibility criteria set forth
49 in paragraph (b) of this subdivision, or that any other requirement of
50 the small business recovery tax credit has not been satisfied. Upon
51 determining that a certificate of tax credit issued by the department of
52 finance pursuant to this subdivision should be revoked, the amount of
53 credit claimed by the taxpayer prior to such revocation shall be added
54 to the tax due pursuant to this subchapter for the taxable year in which
55 any such revocation becomes final. The commissioner of finance shall
56 modify a certificate of tax credit issued by the department of finance

1 pursuant to this subdivision if it appears that the rent expense
2 provided by such taxpayer is not accurate and shall adjust the tax due
3 pursuant to this subchapter for the taxable year in which any such
4 modification becomes final in an amount consistent with such modifica-
5 tion.

6 (e) Powers and duties of the commissioner. (1) The commissioner of
7 finance may promulgate rules necessary to implement the provisions of
8 this subdivision. Such rules shall establish an application process and
9 eligibility criteria for the small business recovery tax credit,
10 consistent with this subdivision, so as not to exceed the annual limita-
11 tion on the aggregate amount of the small business recovery tax credit
12 authorized by this subdivision, the small business recovery tax credit
13 authorized by subdivision (g) of section 11-503 of this title, and the
14 small business recovery tax credit authorized by subdivision twenty-
15 three of section 11-654 of this chapter set forth in subparagraph four
16 of paragraph (d) of this subdivision.

17 (2) The commissioner of finance shall develop a certificate of tax
18 credit that shall be issued to taxpayers that apply and are determined
19 to be eligible for the small business recovery tax credit pursuant to
20 this subdivision. Such certificate shall contain such information as
21 required by the department of finance.

22 § 3. Section 11-654 of the administrative code of the city of New York
23 is amended by adding a new subdivision 23 to read as follows:

24 23. Small business recovery tax credit. (a) Definitions. For purposes
25 of this subdivision, the following terms have the following meanings:

26 (1) "Accommodation sector" means the portion of the economy consisting
27 of establishments that provide lodging or short-term accommodations for
28 travelers, vacationers, and others.

29 (2) "Arts, entertainment, and recreation sector" means the portion of
30 the economy consisting of establishments that operate facilities or
31 provide services to meet cultural, entertainment, and recreational
32 interests of their patrons. This sector consists of: (i) establishments
33 that are involved in producing, promoting, or participating in live
34 performances, events, or exhibits intended for public viewing; (ii)
35 establishments that preserve and exhibit objects and sites of histor-
36 ical, cultural, or educational interest; and (iii) establishments that
37 operate facilities or provide services that enable patrons to partic-
38 ipate in recreational activities or pursue amusement, hobby, and
39 leisure-time interests.

40 (3) "Average starting full-time employment" means the average number
41 of full-time equivalent positions employed by a qualifying small busi-
42 ness between January first, two thousand twenty-one, and March thirty-
43 first, two thousand twenty-one.

44 (4) "Average ending full-time employment" means the average number of
45 full-time equivalent positions employed by a qualifying small business
46 between April first, two thousand twenty-one, and December thirty-first,
47 two thousand twenty-one.

48 (5) "Certificate of tax credit" means the document issued to a quali-
49 fying small business by the department of finance specifying the amount
50 of the small business recovery tax credit that such qualifying small
51 business may claim pursuant to this subdivision.

52 (6) "Chain" means a set of establishments that share a common brand or
53 that are characterized by standardized options for decor, marketing,
54 packaging, products and services.

1 (7) "Food services sector" means the portion of the economy consisting
2 of establishments that are primarily organized and operated to prepare
3 and provide food or beverages to customers for consumption.

4 (8) "Landlord" means a person who grants the right to use or occupy
5 premises to any lessee, sublessee, licensee or concessionaire, whether
6 or not such person is the owner of the premises.

7 (9) "Qualifying small business" means a natural person, or a business
8 entity that is independently owned and operated and not part of a chain,
9 that:

10 (i) operates predominantly in the accommodation sector, arts, enter-
11 tainment, and recreation sector, or food services sector, provided that
12 any such natural person or business entity operating in the food
13 services sector both: (A) offered, prior to March two thousand twenty,
14 the opportunity for consumption of food or beverages on the business
15 premises operated by such person or entity; and

16 (B) was required to close indoor dining in March two thousand twenty
17 as a result of a ban on indoor dining arising from the COVID-19 pandem-
18 ic;

19 (ii) pays rent as a lessee, sublessee, licensee or concessionaire to
20 use or occupy business premises located within the city; and

21 (iii) has a total income of less than one million two hundred thousand
22 dollars.

23 (10) "Rent expense" means the consideration paid by a qualifying small
24 business for the use or occupancy of business premises located within
25 the city, valued in money, whether received in money or otherwise,
26 including all credits and property or services of any kind and including
27 any payment required to be made by the qualifying small business on
28 behalf of the owner or landlord of the business premises for real estate
29 taxes, water rents or charges, sewer rents or any other expenses,
30 including insurance, normally payable by an owner or landlord, other
31 than expenses for the improvement, repair or maintenance of the business
32 premises, less the amounts received by such qualifying small business
33 for the same period from any person for the use or occupancy of any part
34 of such business premises.

35 (11) "Small business recovery tax credit" means the small business
36 recovery tax credit authorized by this subdivision.

37 (12) "Total income" means gross receipts minus the cost of goods sold
38 as reported for federal income tax purposes on the federal income tax
39 return of the taxpayer for the tax year immediately preceding the period
40 for which the taxpayer is applying for the small business recovery tax
41 credit.

42 (b) Eligibility criteria. To be eligible for the small business recov-
43 ery tax credit, a taxpayer must:

44 (1) be a qualifying small business;

45 (2) file a report pursuant to section 11-655 of this subchapter, and
46 not file a combined report pursuant to section 11-654.3 of this subchap-
47 ter;

48 (3) operate a business premises at a location within the city that
49 charges for admission or accepts payment for goods or services from
50 retail customers who pay for such goods or receive such service on such
51 premises; and

52 (4) demonstrate that its average ending full-time employment was not
53 less than its average starting full-time employment.

54 (c) Application and approval process.

1 (1) To apply for the small business recovery tax credit, a taxpayer
2 must submit an application in the form and manner as prescribed by the
3 commissioner of finance.

4 (2) The commissioner of finance shall establish procedures, including
5 any application deadlines, for the submission of applications by taxpay-
6 ers. As part of the application, each taxpayer must:

7 (i) demonstrate in a form and manner prescribed by the commissioner of
8 finance that such taxpayer is eligible for the small business recovery
9 tax credit pursuant to paragraph (b) of this subdivision;

10 (ii) notwithstanding section 11-688 of this chapter, agree to allow
11 the department of finance to share information related to such taxpayer
12 with any other state or local agency as necessary for the implementation
13 and administration of the small business recovery tax credit, provided,
14 however, that any information shared pursuant to this clause shall not
15 be available for disclosure or inspection pursuant to article six of the
16 public officers law; and

17 (iii) agree to provide any additional information deemed necessary by
18 the department of finance for the implementation and administration of
19 the small business recovery tax credit.

20 (3) After reviewing a completed application of a taxpayer and deter-
21 mining that such taxpayer meets the eligibility criteria for the small
22 business recovery tax credit as set forth in this subdivision, the
23 department of finance shall issue to such taxpayer a certificate of tax
24 credit. A taxpayer may claim the amount identified on the certificate of
25 tax credit only on its tax return for the taxable year that includes
26 December thirty-first, two thousand twenty-one. Issuance or denial of a
27 certificate of tax credit shall constitute a final determination of the
28 department of finance unless, within thirty days, the taxpayer seeks
29 administrative review by the commissioner of finance of such determi-
30 nation.

31 (d) Amount of the small business recovery tax credit. (1) Except as
32 otherwise provided in subparagraphs two, three and four of this para-
33 graph, a taxpayer that meets the eligibility requirements set forth in
34 paragraph (b) of this subdivision shall be allowed a credit against the
35 tax imposed by this subchapter in an amount equal to six percent of the
36 rent expense of such taxpayer for calendar year two thousand twenty-one,
37 provided that such amount shall not exceed ten thousand dollars.

38 (2) Notwithstanding subparagraph one of this paragraph, a taxpayer
39 that meets the eligibility requirements set forth in paragraph (b) of
40 this subdivision and has a total income that is greater than one million
41 dollars but less than one million two hundred thousand dollars shall be
42 allowed a credit in an amount that is the product of: (i) the amount
43 that would otherwise be allowed under subparagraph one of this para-
44 graph; and (ii) a fraction, the numerator of which is one million two
45 hundred thousand dollars less the total income of the taxpayer, and the
46 denominator of which is two hundred thousand dollars.

47 (3) To the extent the amount of the credit allowed by this subdivision
48 exceeds the amount of tax due pursuant to this subchapter, as calculated
49 without such credit, such excess amount shall be treated as an overpay-
50 ment of tax to be credited or refunded in accordance with the provisions
51 of section 11-677 of this chapter, provided, however, that notwithstand-
52 ing the requirements of section 11-679 of this chapter to the contrary,
53 no interest shall be paid thereon.

54 (4) Notwithstanding subparagraph one of this paragraph, the aggregate
55 amount of credits allowed pursuant to this subdivision, subdivision (g)
56 of section 11-503 of this title, and subdivision twenty-three of section

1 11-604 of this chapter shall not exceed fifty million dollars. If, after
2 aggregating the amount of the credits allowed pursuant to each of such
3 subdivisions, the department of finance determines that the value of
4 such credits is greater than fifty million dollars, the department of
5 finance shall allocate the amount of such credits among eligible taxpay-
6 ers on a pro rata basis. The amount of the credit allocated to each
7 taxpayer shall be the product of: (i) the amount of the credit
8 prescribed by subparagraph one of this paragraph; and (ii) a fraction,
9 the numerator of which is fifty million dollars, and the denominator of
10 which is the aggregate amount of the credits allowed by the department
11 of finance pursuant to this subdivision, subdivision (q) of section
12 11-503 of this title and subdivision twenty-three of section 11-604 of
13 this chapter.

14 (5) The commissioner of finance shall revoke a certificate of tax
15 credit issued by the department of finance pursuant to this subdivision
16 if it appears that the taxpayer is not a qualified small business or
17 does not satisfy one or more of the other eligibility criteria set forth
18 in paragraph (b) of this subdivision, or that any other requirement of
19 the small business recovery tax credit has not been satisfied. Upon
20 determining that a certificate of tax credit issued by the department of
21 finance pursuant to this subdivision should be revoked, the amount of
22 the credit claimed by such taxpayer prior to such revocation shall be
23 added to the tax due pursuant to this subchapter for the taxable year in
24 which any such revocation becomes final. The commissioner shall modify a
25 certificate of tax credit issued by the department of finance pursuant
26 to this subdivision if it appears that the rent expense provided by such
27 taxpayer is not accurate and shall adjust the tax due pursuant to this
28 subchapter for the taxable year in which any such modification becomes
29 final in an amount consistent with such modification.

30 (e) Powers and duties of the commissioner. (1) The commissioner of
31 finance may promulgate rules necessary to implement the provisions of
32 this subdivision. Such rules shall establish an application process and
33 eligibility criteria for the small business recovery tax credit consist-
34 ent with this subdivision, so as not to exceed the annual limitation on
35 the aggregate amount of the tax credit authorized by this subdivision,
36 the small business recovery tax credit authorized by subdivision (q) of
37 section 11-503 of this title, and the small business recovery tax credit
38 authorized by subdivision twenty-three of section 11-604 of this chap-
39 ter, set forth in subparagraph four of paragraph (d) of this subdivi-
40 sion.

41 (2) The commissioner of finance shall develop a certificate of tax
42 credit that shall be issued to taxpayers that apply and are determined
43 to be eligible for the small business recovery tax credit pursuant to
44 this subdivision. Such certificate shall contain such information as
45 required by the department of finance.

46 § 4. This act shall take effect immediately.

47 PART ZZ

48 Section 1. Subdivision (a) of section 1115 of the tax law is amended
49 by adding a new paragraph 46 to read as follows:

50 (46) Breast pump replacement parts and breast pump collection and
51 storage supplies to an individual purchaser for home use. For purposes
52 of this subdivision:

53 (A) "Breast pump replacement parts" shall mean items used in conjunc-
54 tion with a breast pump to collect milk expressed from a human breast

1 and shall include, but not be limited to: breast shields and breast
2 shield connectors; breast pump tubes and tubing adapters; breast pump
3 valves and membranes; backflow protectors and backflow protector adapt-
4 ers; and bottles and bottle caps specific to the operation of the breast
5 pump.

6 (B) "Breast pump collection and storage supplies" shall mean breast
7 milk storage bags used to collect breast milk and to store collected
8 breast milk until it is ready for consumption.

9 § 2. This act shall take effect on the first day of a sales tax quar-
10 terly period, as described in subdivision (b) of section 1136 of the tax
11 law, beginning at least ninety days after the date this act shall have
12 become a law and shall apply to sales made on or after such date.

13 PART AAA

14 Section 1. The section heading of section 421-f of the real property
15 tax law, as amended by chapter 590 of the laws of 1994, is amended to
16 read as follows:

17 Exemption of capital improvements to residential buildings and certain
18 new construction.

19 § 2. Section 421-f of the real property tax law is amended by adding a
20 new subdivision 1-a to read as follows:

21 1-a. Buildings classified as class one property in section eighteen
22 hundred two of this chapter reconstructed, altered, improved, or newly
23 constructed in a special assessing unit that is not a city shall be
24 exempt from taxation and special ad valorem levies to the extent
25 provided hereinafter in the same manner and to the same extent to coun-
26 ty, town, special district and school district taxes levied on the
27 assessment roll prepared by such special assessing unit. Additional
28 buildings and yard improvements shall be excluded from receiving this
29 exemption. An application shall not be required to receive the
30 exemption.

31 § 3. Subdivisions 2 and 3 of section 421-f of the real property tax
32 law, as amended by chapter 590 of the laws of 1994, subparagraph (ii) of
33 paragraph (a) of subdivision 2 and subdivision 3 as further amended by
34 subdivision (b) of section 1 of part W of chapter 56 of the laws of
35 2010, are amended to read as follows:

36 2. (a) Such buildings shall be exempt for a period of one year to the
37 extent of one hundred per centum of the increase in assessed value ther-
38 eof attributable to such reconstruction, alteration or improvement, and
39 new construction pursuant to subdivision one-a of this section, and for
40 an additional period of seven years subject to the following:

41 (i) The extent of such exemption shall be decreased by twelve and
42 one-half per centum of the "exemption base" each year during such addi-
43 tional period. The "exemption base" shall be the increase in assessed
44 value as determined in the initial year of the term of the exemption,
45 except as provided in subparagraph (ii) of this paragraph.

46 (ii) In any year in which a change in level of assessment of fifteen
47 percent or more is certified for a final assessment roll pursuant to the
48 rules of the commissioner, the exemption base shall be multiplied by a
49 fraction, the numerator of which shall be the total assessed value of
50 the parcel on such final assessment roll (after accounting for any phys-
51 ical or quantity changes to the parcel since the immediately preceding
52 assessment roll), and the denominator of which shall be the total
53 assessed value of the parcel on the immediately preceding final assess-
54 ment roll. The result shall be the new exemption base. The exemption

1 shall thereupon be recomputed to take into account the new exemption
2 base, notwithstanding the fact that the assessor receives certification
3 of the change in level of assessment after the completion, verification
4 and filing of the final assessment roll. In the event the assessor does
5 not have custody of the roll when such certification is received, the
6 assessor shall certify the recomputed exemption to the local officers
7 having custody and control of the roll, and such local officers are
8 hereby directed and authorized to enter the recomputed exemption certi-
9 fied by the assessor on the roll. The assessor shall give written notice
10 of such recomputed exemption to the property owner, who may, if he or
11 she believes that the exemption was recomputed incorrectly, apply for a
12 correction in the manner provided by title three of article five of this
13 chapter for the correction of clerical errors.

14 (iii) [~~Such~~] Except in a special assessing unit that is not a city,
15 such exemption shall be limited to eighty thousand dollars in increased
16 market value, or such other sum less than eighty thousand dollars, but
17 not less than five thousand dollars as may be provided by the local law
18 or resolution, of the property attributable to such reconstruction,
19 alteration or improvement and any increase in market value greater than
20 such amount shall not be eligible for the exemption pursuant to this
21 section. In a special assessing unit that is not a city, the exemption
22 shall be limited to seven hundred fifty thousand dollars in increased
23 market value. For the purposes of this section, the market value of the
24 reconstruction, alteration or improvement, or new construction as
25 authorized by subdivision one-a of this section, shall be equal to the
26 increased assessed value attributable to such reconstruction, alteration
27 [~~or~~], improvement or new construction divided by the class [~~±~~] one ratio
28 in a special assessing unit or the most recently established state
29 equalization rate or special equalization rate in the remainder of the
30 state, except where the state equalization rate or special equalization
31 rate equals or exceeds ninety-five percent, in which case the increase
32 in assessed value attributable to such reconstruction, alteration [~~or~~],
33 improvement or new construction shall be deemed to equal the market
34 value of such reconstruction, alteration or improvement.

35 (b) [~~No~~] Except in a special assessing unit that is not a city, no
36 such exemption shall be granted for reconstruction, alterations or
37 improvements unless:

38 (i) such reconstruction, alteration or improvement was commenced
39 subsequent to the effective date of the local law or resolution adopted
40 pursuant to subdivision one of this section; and

41 (ii) the value of such reconstruction, alteration or improvement
42 exceeds three thousand dollars; and

43 (iii) the greater portion, as so determined by square footage, of the
44 building reconstructed, altered or improved is at least five years old.

45 (c) For purposes of this section the terms reconstruction, alteration
46 and improvement shall not include ordinary maintenance and repairs.

47 3. [~~Such~~] Except in a special assessing unit that is not a city, such
48 exemption shall be granted only upon application by the owner of such
49 building on a form prescribed by the commissioner. The application shall
50 be filed with the assessor of the city, town, village or county having
51 the power to assess property for taxation on or before the appropriate
52 taxable status date of such city, town, village or county. In a special
53 assessing unit that is not a city, the exemption shall be applied based
54 upon that completion of reconstruction, alteration, improvement or new
55 construction on or before the applicable taxable status date of the
56 special assessing unit; provided, however that the exemption for such

1 reconstruction, alteration, improvement or new construction that
 2 occurred after the taxable status date of such special assessing unit
 3 for the two thousand nineteen -- two thousand twenty assessment roll
 4 and on or before the taxable status date of such special assessing unit
 5 for the two thousand twenty -- two thousand twenty-one assessment roll
 6 shall be applied beginning with the two thousand twenty-one -- two thou-
 7 sand twenty-two assessment roll.

8 § 4. Subdivisions 5, 6 and 7 of section 421-f of the real property tax
 9 law, as amended by chapter 590 of the laws of 1994, are amended to read
 10 as follows:

11 5. For the purposes of this section, except in a special assessing
 12 unit that is not a city, a residential building shall mean any building
 13 or structure designed and occupied exclusively for residential purposes
 14 by not more than two families.

15 6. In the event that a building granted an exemption pursuant to this
 16 section ceases to be used primarily for residential purposes [~~or~~], is no
 17 longer classified as class one property in a special assessing unit that
 18 is not a city, or title thereto is transferred to other than the heirs
 19 or distributees of the owner in other than a special assessing unit that
 20 is not a city, the exemption granted pursuant to this section shall
 21 cease.

22 7. (a) [~~A~~] Except for a special assessing unit that is not a city, a
 23 county, city, town or village may, by its local law, or school district,
 24 by its resolution:

25 (i) reduce the per centum of exemption otherwise allowed pursuant to
 26 this section;

27 (ii) limit eligibility for the exemption to those forms of recon-
 28 struction, alterations or improvements as are prescribed in such local
 29 law or resolution;

30 (iii) provide that the exemption shall be applicable only to those
 31 improvements which would otherwise result in an increase in the assessed
 32 valuation of the real property but which consist of an addition, remodel-
 33 ing or modernization to an existing residential structure to prevent
 34 physical deterioration of the structure or to comply with applicable
 35 building, sanitary, health and/or fire codes.

36 (b) No such local law or resolution shall reduce or repeal an
 37 exemption granted pursuant to this section until the expiration of the
 38 period for which such exemption was granted.

39 § 5. Applicability. This act shall be applicable beginning with the
 40 two thousand twenty -- two thousand twenty-one assessment roll through
 41 and including the two thousand twenty-two -- two thousand twenty-three
 42 assessment roll.

43 § 6. Severability. If any clause, sentence, paragraph, section or part
 44 of this act shall be adjudged by any court of competent jurisdiction to
 45 be invalid and after exhaustion of all further judicial review, the
 46 judgment shall not affect, impair or invalidate the remainder thereof,
 47 but shall be confined in its operation to the clause, sentence, para-
 48 graph, section or part of this act directly involved in the controversy
 49 in which the judgment shall have been rendered.

50 § 7. This act shall take effect immediately.

51 PART BBB

52 Section 1. The agriculture and markets law is amended by adding a new
 53 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

1 produce a report to provide advice, guidance, and recommendations on how
2 best to achieve the goals of the program. The commissioners shall
3 provide such written report of the findings identifying any proposed
4 recommendations to the governor, the speaker of the assembly, and the
5 temporary president of the senate on or before February first, two
6 thousand twenty-two, and shall publish such report on the department's
7 website.

8 2. The commissioner shall provide technical assistance and information
9 about the program to food relief organizations, producers of surplus
10 agricultural products and the public, including, but not limited to,
11 information posted on the department's website.

12 3. The commissioner shall provide means, which may include posting on
13 the department's website, for producers to make available surplus agri-
14 cultural products and for food relief organizations to access surplus
15 agricultural products.

16 4. The commissioner of health, in consultation with the commissioner,
17 shall review the current funding structure, funding adequacy and current
18 service levels of the hunger prevention nutrition assistance program in
19 all regions of the state. Review of current service levels shall take
20 into account the size of the service area, the population in need of
21 such hunger prevention nutrition assistance program and the need for
22 additional facilities within a region in order to address increasing
23 food insecurity and hunger. Following such review, the commissioner of
24 health shall make and report any recommendations, including but not
25 limited to, increasing the maximum amount of money each food pantry may
26 be allocated by such program, whether such program funding should be
27 indexed for inflation annually, and any structural and funding adequacy
28 changes deemed necessary. Such report shall be completed and submitted
29 to the governor and the legislature no later than February first, two
30 thousand twenty-two.

31 5. The commissioner of health, in consultation with the commissioner,
32 shall review and report on the need to establish a grant program to fund
33 the purchase of cold storage equipment and vehicles for regional food
34 banks, food pantries and other emergency food organizations. Such grant
35 program shall prioritize regions of the state that have the highest
36 demand for emergency food and regions of the state where regional food
37 banks and pantries have determined the need for more capacity to safely
38 store and transport perishable food before such food is distributed.
39 Such report shall be completed and submitted to the governor and the
40 legislature no later than February first, two thousand twenty-two.

41 § 2. This act shall take effect immediately.

42 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
43 sion, section or part of this act shall be adjudged by any court of
44 competent jurisdiction to be invalid, such judgment shall not affect,
45 impair, or invalidate the remainder thereof, but shall be confined in
46 its operation to the clause, sentence, paragraph, subdivision, section
47 or part thereof directly involved in the controversy in which such judg-
48 ment shall have been rendered. It is hereby declared to be the intent of
49 the legislature that this act would have been enacted even if such
50 invalid provisions had not been included herein.

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