

STATE OF NEW YORK

S. 8009

A. 9009

SENATE - ASSEMBLY

January 19, 2022

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to accelerating the middle-class tax cut (Part A); to amend the tax law, in relation to providing an enhanced investment tax credit to farmers (Subpart A); 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 the effectiveness of such credit (Subpart B); and to amend the tax law, in relation to establishing a farm employer overtime credit (Subpart C) (Part B); to amend the tax law and the administrative code of the city of New York, in relation to expanding the small business subtraction modification (Part C); to amend the tax law, in relation to excluding certain loan forgiveness awards from state income tax (Part D); to amend the economic development law and the tax law, in relation to creating the COVID-19 capital costs tax credit program (Part E); to amend the tax law and the state finance law, in relation to extending and expanding the New York city musical and theatrical production tax credit and the purposes of the New York state council on the arts cultural programs fund; and to amend subpart B of part PP of chapter 59 of the laws of 2021 amending the tax law and the state finance law relating to establishing the New York city musical and theatrical production tax credit and establishing the New York state council on the arts cultural program fund, in relation to the effectiveness thereof (Part F); to amend the tax law, in relation to establishing a permanent rate for the metropolitan transportation business tax surcharge (Part G); to amend the tax law, in relation to extending and modifying the hire a vet credit (Part H); to amend the tax law, in relation to establishing a tax credit for the conversion from grade no. 6 heating oil usage to biodiesel heating oil and geothermal systems (Part I); 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 J); to amend the tax law, in

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

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relation to extending the clean heating fuel credit for three years (Part K); to amend chapter 604 of the laws of 2011 amending the tax law relating to the credit for companies who provide transportation to people with disabilities, in relation to the effectiveness thereof; and to amend the tax law, in relation to the application of a credit for companies who provide transportation to individuals with disabilities (Part L); to amend the tax law, in relation to the empire state film production credit and the empire state film post production credit (Part M); to amend the labor law, in relation to extending the New York youth jobs program tax credit (Part N); to amend the labor law, in relation to extending the empire state apprenticeship tax credit program (Part O); to amend the tax law, in relation to extending the alternative fuels and electric vehicle recharging property credit (Part P); to amend the labor law, in relation to the program period for the workers with disabilities tax credit program; and to amend part MM of chapter 59 of the laws of 2014 amending the labor law and the tax law relating to the creation of the workers with disabilities tax credit program, in relation to the effectiveness thereof (Part Q); to amend the tax law, in relation to making changes conforming to the federal taxation of S corporations; and to repeal certain provisions of such law relating thereto (Part R); to amend the tax law, in relation to the investment tax credit (Part S); to amend the tax law, in relation to exempting certain fuels used by tugboats and towboats from the petroleum business tax (Part T); to amend the tax law, in relation to the authority of counties to impose sales and compensating use taxes; and to repeal certain provisions of such law relating thereto (Part U); to amend the tax law, in relation to requiring vacation rental marketplace providers collect sales tax (Part V); to amend the tax law in relation to requiring publication of changes in withholding tables and interest rates (Part W); to amend the tax law, in relation to expanding the definition of financial institution under the financial institution data match program (Part X); to amend the real property tax law and chapter 475 of the laws of 2013, relating to assessment ceilings for local public utility mass real property, in relation to extending the assessment ceiling for local public utility mass real property to January 1, 2027 (Part Y); to amend the real property tax law, in relation to good cause refunds for the STAR program (Subpart A); to amend the real property tax law, in relation to moving up the deadline for taxpayers to switch from the STAR exemption to the STAR credit (Subpart B); to amend the tax law, in relation to clarifying the applicable income tax year for the basic STAR credit (Subpart C); to amend the tax law, in relation to allowing names of STAR credit recipients to be shared with assessors outside of New York state (Subpart D); and to amend the tax law and the real property tax law, in relation to allowing decedent reports to be given to assessors and improving the tax enforcement process as it relates to decedents (Subpart E) (Part Z); to amend the real property tax law, in relation to the grievance process with respect to the valuation of solar and wind energy systems (Part AA); to amend the tax law, in relation to establishing a homeowner tax rebate credit (Part BB); to amend the racing, pari-mutuel wagering and breeding law, in relation to gaming facility determinations and licensing (Part CC); to amend the racing, pari-mutuel wagering and breeding law, in relation to the utilization of funds in the Catskill and Capital regions off-track betting corporation's capital acquisition funds; and to amend chapter 59 of the laws of 2021 amending the racing, pari-mutuel wager-

ing and breeding law, relating to the utilization of funds in the Catskill and Capital regions off-track betting corporation's capital acquisition funds, in relation to the effectiveness thereof (Part DD); and 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; 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 EE)

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 2022-2023
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through EE. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part,
7 including the effective date of the Part, which makes a reference to a
8 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.

12 PART A

13 Section 1. Clauses (vi), (vii), (viii) and (ix) of subparagraph (B) of
14 paragraph 1 of subsection (a) of section 601 of the tax law, clauses
15 (vi), (vii) and (viii) as amended and clause (ix) as added by section 1
16 of part A of chapter 59 of the laws of 2021, are amended to read as
17 follows:

18 (vi) For taxable years beginning in two thousand twenty-three and
19 before two thousand twenty-eight the following rates shall apply:

| | |
|----|--|
| 20 | [If the New York taxable income is: The tax is: |
| 21 | Not over \$17,150 4% of the New York taxable income |
| 22 | Over \$17,150 but not over \$23,600 \$686 plus 4.5% of excess over |
| 23 | \$17,150 |
| 24 | Over \$23,600 but not over \$27,900 \$976 plus 5.25% of excess over |
| 25 | \$23,600 |
| 26 | Over \$27,900 but not over \$161,550 \$1,202 plus 5.73% of excess over |
| 27 | \$27,900 |
| 28 | Over \$161,550 but not over \$323,200 \$8,860 plus 6.17% of excess over |
| 29 | \$161,550 |
| 30 | Over \$323,200 but not over \$2,155,350 \$18,834 plus 6.85% of |
| 31 | \$2,155,350 excess over \$323,200 |
| 32 | Over \$2,155,350 but not over \$5,000,000 \$144,336 plus 9.65% of excess over |
| 33 | \$5,000,000 \$2,155,350 |
| 34 | Over \$5,000,000 but not over \$418,845 plus 10.30% of excess over |

| | | |
|----|--|---|
| 1 | \$25,000,000 | \$5,000,000 |
| 2 | Over \$25,000,000 | \$2,478,845 plus 10.90% of excess over |
| 3 | | \$25,000,000 |
| 4 | (vii) For taxable years beginning in two thousand twenty-four the | |
| 5 | following rates shall apply: | |
| 6 | If the New York taxable income is: | The tax is: |
| 7 | Not over \$17,150 | 4% of the New York taxable income |
| 8 | Over \$17,150 but not over \$23,600 | \$686 plus 4.5% of excess over |
| 9 | | \$17,150 |
| 10 | Over \$23,600 but not over \$27,900 | \$976 plus 5.25% of excess over |
| 11 | | \$23,600 |
| 12 | Over \$27,900 but not over \$161,550 | \$1,202 plus 5.61% of excess over |
| 13 | | \$27,900 |
| 14 | Over \$161,550 but not over \$323,200 | \$8,700 plus 6.09% of excess over |
| 15 | | \$161,550 |
| 16 | Over \$323,200 but not over | \$18,544 plus 6.85% of excess over |
| 17 | \$2,155,350 | \$323,200 |
| 18 | Over \$2,155,350 but not over | \$144,047 plus 9.65% of excess over |
| 19 | \$5,000,000 | \$2,155,350 |
| 20 | Over \$5,000,000 but not over | \$418,555 plus 10.30% of excess over |
| 21 | \$25,000,000 | \$5,000,000 |
| 22 | Over \$25,000,000 | \$2,478,555 plus 10.90% of excess over |
| 23 | | \$25,000,000 |
| 24 | (viii) For taxable years beginning after two thousand twenty-four and | |
| 25 | before two thousand twenty-eight the following rates shall apply:] | |
| 26 | If the New York taxable income is: | The tax is: |
| 27 | Not over \$17,150 | 4% of the New York taxable income |
| 28 | Over \$17,150 but not over \$23,600 | \$686 plus 4.5% of excess over |
| 29 | | \$17,150 |
| 30 | Over \$23,600 but not over \$27,900 | \$976 plus 5.25% of excess over |
| 31 | | \$23,600 |
| 32 | Over \$27,900 but not over \$161,550 | \$1,202 plus 5.5% of excess over |
| 33 | | \$27,900 |
| 34 | Over \$161,550 but not over \$323,200 | \$8,553 plus 6.00% of excess over |
| 35 | | \$161,550 |
| 36 | Over \$323,200 but not over | \$18,252 plus 6.85% of excess over |
| 37 | \$2,155,350 | \$323,200 |
| 38 | Over \$2,155,350 but not over | \$143,754 plus 9.65% of excess over |
| 39 | \$5,000,000 | \$2,155,350 |
| 40 | Over \$5,000,000 but not over | \$418,263 plus 10.30% of excess over |
| 41 | \$25,000,000 | \$5,000,000 |
| 42 | Over \$25,000,000 | \$2,478,263 plus 10.90% of excess over |
| 43 | | \$25,000,000 |

| | | |
|----|---|--|
| 44 | [(ix)](vii) For taxable years beginning after two thousand twenty-sev- | |
| 45 | en the following rates shall apply: | |
| 46 | If the New York taxable income is: | The tax is: |
| 47 | Not over \$17,150 | 4% of the New York taxable income |
| 48 | Over \$17,150 but not over \$23,600 | \$686 plus 4.5% of excess over |
| 49 | | \$17,150 |
| 50 | Over \$23,600 but not over \$27,900 | \$976 plus 5.25% of excess over |
| 51 | | \$23,600 |
| 52 | Over \$27,900 but not over \$161,550 | \$1,202 plus 5.5% of excess over |
| 53 | | \$27,900 |
| 54 | Over \$161,550 but not over \$323,200 | \$8,553 plus 6.00% of excess |

| | | |
|---|-----------------------------|--------------------------------|
| 1 | | over \$161,550 |
| 2 | Over \$323,200 but not over | \$18,252 plus 6.85% of excess |
| 3 | \$2,155,350 | over \$323,200 |
| 4 | Over \$2,155,350 | \$143,754 plus 8.82% of excess |
| 5 | | over \$2,155,350 |

6 § 2. Clauses (vi), (vii), (viii) and (ix) of subparagraph (B) of para-
7 graph 1 of subsection (b) of section 601 of the tax law, clauses (vi),
8 (vii) and (viii) as amended and clause (ix) as added by section 2 of
9 part A of chapter 59 of the laws of 2021, are amended to read as
10 follows:

11 (vi) For taxable years beginning in two thousand twenty-three and
12 before two thousand twenty-eight the following rates shall apply:

| | | |
|----|--|---|
| 13 | If the New York taxable income is: | The tax is: |
| 14 | Not over \$12,800 | 4% of the New York taxable income |
| 15 | Over \$12,800 but not over \$17,650 | \$512 plus 4.5% of excess over |
| 16 | | \$12,800 |
| 17 | Over \$17,650 but not over \$20,900 | \$730 plus 5.25% of excess over |
| 18 | | \$17,650 |
| 19 | Over \$20,900 but not over \$107,650 | \$901 plus 5.73% of excess over |
| 20 | | \$20,900 |
| 21 | Over \$107,650 but not over \$269,300 | \$5,872 plus 6.17% of excess over |
| 22 | | \$107,650 |
| 23 | Over \$269,300 but not over | \$15,845 plus 6.85% of excess |
| 24 | \$1,616,450 | over \$269,300 |
| 25 | Over \$1,616,450 but not over | \$108,125 plus 9.65% of excess over |
| 26 | \$5,000,000 | \$1,616,450 |
| 27 | Over \$5,000,000 but not over | \$434,638 plus 10.30% of excess over |
| 28 | \$25,000,000 | \$5,000,000 |
| 29 | Over \$25,000,000 | \$2,494,638 plus 10.90% of excess over |
| 30 | | \$25,000,000 |

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

| | | |
|----|--|---|
| 33 | If the New York taxable income is: | The tax is: |
| 34 | Not over \$12,800 | 4% of the New York taxable income |
| 35 | Over \$12,800 but not over \$17,650 | \$512 plus 4.5% of excess over |
| 36 | | \$12,800 |
| 37 | Over \$17,650 but not over \$20,900 | \$730 plus 5.25% of excess over |
| 38 | | \$17,650 |
| 39 | Over \$20,900 but not over \$107,650 | \$901 plus 5.61% of excess over |
| 40 | | \$20,900 |
| 41 | Over \$107,650 but not over \$269,300 | \$5,768 plus 6.09% of excess over |
| 42 | | \$107,650 |
| 43 | Over \$269,300 but not over | \$15,612 plus 6.85% of excess |
| 44 | \$1,616,450 | over \$269,300 |
| 45 | Over \$1,616,450 but not over | \$107,892 plus 9.65% of excess over |
| 46 | \$5,000,000 | \$1,616,450 |
| 47 | Over \$5,000,000 but not over | \$434,404 plus 10.30% of excess over |
| 48 | \$25,000,000 | \$5,000,000 |
| 49 | Over \$25,000,000 | \$2,494,404 plus 10.90% of excess over |
| 50 | | \$25,000,000 |

51 ~~(viii) For taxable years beginning after two thousand twenty four and~~
52 ~~before two thousand twenty eight the following rates shall apply:]~~

| | | |
|----|-------------------------------------|-----------------------------------|
| 53 | If the New York taxable income is: | The tax is: |
| 54 | Not over \$12,800 | 4% of the New York taxable income |
| 55 | Over \$12,800 but not over \$17,650 | \$512 plus 4.5% of excess over |

| | | |
|----|---------------------------------------|--|
| 1 | | \$12,800 |
| 2 | Over \$17,650 but not over \$20,900 | \$730 plus 5.25% of excess over |
| 3 | | \$17,650 |
| 4 | Over \$20,900 but not over \$107,650 | \$901 plus 5.5% of excess over |
| 5 | | \$20,900 |
| 6 | Over \$107,650 but not over \$269,300 | \$5,672 plus 6.00% of excess over |
| 7 | | \$107,650 |
| 8 | Over \$269,300 but not over | \$15,371 plus 6.85% of excess over |
| 9 | \$1,616,450 | \$269,300 |
| 10 | Over \$1,616,450 but not over | \$107,651 plus 9.65% of excess over |
| 11 | \$5,000,000 | \$1,616,450 |
| 12 | Over \$5,000,000 but not over | \$434,163 plus 10.30% of excess over |
| 13 | \$25,000,000 | \$5,000,000 |
| 14 | Over \$25,000,000 | \$2,494,163 plus 10.90% of excess over |
| 15 | | \$25,000,000 |

16 ~~[(ix)]~~(vii) For taxable years beginning after two thousand twenty-sev-
 17 en the following rates shall apply:

| | | |
|----|------------------------------------|-----------------------------------|
| 18 | If the New York taxable income is: | The tax is: |
| 19 | Not over \$12,800 | 4% of the New York taxable income |
| 20 | Over \$12,800 but not over | \$512 plus 4.5% of excess over |
| 21 | \$17,650 | \$12,800 |
| 22 | Over \$17,650 but not over | \$730 plus 5.25% of excess over |
| 23 | \$20,900 | \$17,650 |
| 24 | Over \$20,900 but not over | \$901 plus 5.5% of excess over |
| 25 | \$107,650 | \$20,900 |
| 26 | Over \$107,650 but not over | \$5,672 plus 6.00% of excess |
| 27 | \$269,300 | over \$107,650 |
| 28 | Over \$269,300 but not over | \$15,371 plus 6.85% of excess |
| 29 | \$1,616,450 | over \$269,300 |
| 30 | Over \$1,616,450 | \$107,651 plus 8.82% of excess |
| 31 | | over \$1,616,450 |

32 § 3. Clauses (vi), (vii), (viii) and (ix) of subparagraph (B) of para-
 33 graph 1 of subsection (c) of section 601 of the tax law, clauses (vi),
 34 (vii) and (viii) as amended, and clause (ix) as added by section 3 of
 35 part A of chapter 59 of the laws of 2021, are amended to read as
 36 follows:

37 (vi) For taxable years beginning in two thousand twenty-three and
 38 before two thousand twenty-eight the following rates shall apply:

| | | |
|----|---|---|
| 39 | [If the New York taxable income is: | The tax is: |
| 40 | Not over \$8,500 | 4% of the New York taxable income |
| 41 | Over \$8,500 but not over \$11,700 | \$340 plus 4.5% of excess over |
| 42 | | \$8,500 |
| 43 | Over \$11,700 but not over \$13,900 | \$484 plus 5.25% of excess over |
| 44 | | \$11,700 |
| 45 | Over \$13,900 but not over \$80,650 | \$600 plus 5.73% of excess over |
| 46 | | \$13,900 |
| 47 | Over \$80,650 but not over \$215,400 | \$4,424 plus 6.17% of excess over |
| 48 | | \$80,650 |
| 49 | Over \$215,400 but not over | \$12,738 plus 6.85% of excess |
| 50 | \$1,077,550 | over \$215,400 |
| 51 | Over \$1,077,550 but not over | \$71,796 plus 9.65% of excess over |
| 52 | \$5,000,000 | \$1,077,550 |
| 53 | Over \$5,000,000 but not over | \$450,312 plus 10.30% of excess over |

1 ~~\$25,000,000~~ ~~\$5,000,000~~
2 ~~Over \$25,000,000~~ ~~\$2,510,312 plus 10.90% of excess over~~
3 ~~\$25,000,000~~
4 ~~(vii) For taxable years beginning in two thousand twenty-four the~~
5 ~~following rates shall apply:~~
6 ~~If the New York taxable income is: The tax is:~~
7 ~~Not over \$8,500~~ ~~4% of the New York taxable income~~
8 ~~Over \$8,500 but not over \$11,700~~ ~~\$340 plus 4.5% of excess over~~
9 ~~\$8,500~~
10 ~~Over \$11,700 but not over \$13,900~~ ~~\$484 plus 5.25% of excess over~~
11 ~~\$11,700~~
12 ~~Over \$13,900 but not over \$80,650~~ ~~\$600 plus 5.61% of excess over~~
13 ~~\$13,900~~
14 ~~Over \$80,650 but not over \$215,400~~ ~~\$4,344 plus 6.09% of excess over~~
15 ~~\$80,650~~
16 ~~Over \$215,400 but not over~~ ~~\$12,550 plus 6.85% of excess~~
17 ~~\$1,077,550~~ ~~over \$215,400~~
18 ~~Over \$1,077,550 but not over~~ ~~\$71,608 plus 9.65% of excess over~~
19 ~~\$5,000,000~~ ~~\$1,077,550~~
20 ~~Over \$5,000,000 but not over~~ ~~\$450,124 plus 10.30% of excess over~~
21 ~~\$25,000,000~~ ~~\$5,000,000~~
22 ~~Over \$25,000,000~~ ~~\$2,510,124 plus 10.90% of excess over~~
23 ~~\$25,000,000~~
24 ~~(viii) For taxable years beginning after two thousand twenty-four and~~
25 ~~before two thousand twenty-eight the following rates shall apply:]~~
26 If the New York taxable income is: The tax is:
27 Not over \$8,500 4% of the New York taxable income
28 Over \$8,500 but not over \$11,700 \$340 plus 4.5% of excess over
29 \$8,500
30 Over \$11,700 but not over \$13,900 \$484 plus 5.25% of excess over
31 \$11,700
32 Over \$13,900 but not over \$80,650 \$600 plus 5.50% of excess over
33 \$13,900
34 Over \$80,650 but not over \$215,400 \$4,271 plus 6.00% of excess over
35 \$80,650
36 Over \$215,400 but not over \$1,077,550 \$12,356 plus 6.85% of excess over
37 \$215,400
38 Over \$1,077,550 but not over \$5,000,000 \$71,413 plus 9.65% of excess over
39 \$1,077,550
40 Over \$5,000,000 but not over \$25,000,000 \$449,929 plus 10.30% of excess over
41 \$25,000,000
42 Over \$25,000,000 \$2,509,929 plus 10.90% of excess over
43 \$25,000,000
44 [~~(ix)~~ **(vii)**] For taxable years beginning after two thousand twenty-sev-
45 en the following rates shall apply:
46 If the New York taxable income is: The tax is:
47 Not over \$8,500 4% of the New York taxable income
48 Over \$8,500 but not over \$11,700 \$340 plus 4.5% of excess over
49 \$8,500
50 Over \$11,700 but not over \$13,900 \$484 plus 5.25% of excess over
51 \$11,700
52 Over \$13,900 but not over \$80,650 \$600 plus 5.50% of excess over
53 \$13,900
54 Over \$80,650 but not over \$215,400 \$4,271 plus 6.00% of excess
55 over \$80,650
56 Over \$215,400 but not over \$12,356 plus 6.85% of excess

| | | |
|---|------------------|-------------------------------|
| 1 | \$1,077,550 | over \$215,400 |
| 2 | Over \$1,077,550 | \$71,413 plus 8.82% of excess |
| 3 | | over \$1,077,550 |

4 § 4. This act shall take effect immediately.

5 PART B

6 Section 1. This act enacts into law components of legislation relating
7 to certain tax credits. Each component is wholly contained within a
8 Subpart identified as Subparts A through C. The effective date for each
9 particular provision contained within such Subpart is set forth in the
10 last section of such Subpart. Any provision in any section contained
11 within a Subpart, including the effective date of the Subpart, which
12 makes reference to a section "of this act", when used in connection with
13 that particular component, shall be deemed to mean and refer to the
14 corresponding section of the Subpart in which it is found. Section three
15 of this act sets forth the general effective date of this act.

16 SUBPART A

17 Section 1. Subdivision 1 of section 210-B of the tax law is amended by
18 adding a new paragraph (a-1) to read as follows:

19 (a-1) For a taxpayer that is an eligible farmer, as defined in subdivi-
20 vision eleven of this section, the percentage to be used to compute the
21 credit allowed under this subdivision shall be twenty percent for prop-
22 erty described in subparagraph (i) of paragraph (b) of this subdivision
23 that is principally used by the taxpayer in the production of goods by
24 farming, agriculture, horticulture, floriculture or viticulture.

25 § 2. Subsection (a) of section 606 of the tax law is amended by adding
26 a new paragraph 1-a to read as follows:

27 (1-a) For a taxpayer that is an eligible farmer, as defined in
28 subsection (n) of this section, the percentage to be used to compute the
29 credit allowed under this subsection shall be twenty percent for proper-
30 ty described in subparagraph (A) of paragraph two of this subsection
31 that is principally used by the taxpayer in the production of goods by
32 farming, agriculture, horticulture, floriculture or viticulture.

33 § 3. This act shall take effect immediately and apply to property
34 placed in service on or after April 1, 2022.

35 SUBPART B

36 Section 1. Subsection (e) of section 42 of the tax law, as amended by
37 section 1 of part FF of chapter 59 of the laws of 2021, is amended to
38 read as follows:

39 (e) For taxable years beginning on or after January first, two thou-
40 sand seventeen and before January first, two thousand eighteen, the
41 amount of the credit allowed under this section shall be equal to the
42 product of the total number of eligible farm employees and two hundred
43 fifty dollars. For taxable years beginning on or after January first,
44 two thousand eighteen and before January first, two thousand nineteen,
45 the amount of the credit allowed under this section shall be equal to
46 the product of the total number of eligible farm employees and three
47 hundred dollars. For taxable years beginning on or after January first,
48 two thousand nineteen and before January first, two thousand twenty, the
49 amount of the credit allowed under this section shall be equal to the

1 product of the total number of eligible farm employees and five hundred
2 dollars. For taxable years beginning on or after January first, two
3 thousand twenty and before January first, two thousand twenty-one, the
4 amount of the credit allowed under this section shall be equal to the
5 product of the total number of eligible farm employees and four hundred
6 dollars. For taxable years beginning on or after January first, two
7 thousand twenty-one and before January first, two thousand [~~twenty-five~~
8 twenty-six], the amount of the credit allowed under this section shall be
9 equal to the product of the total number of eligible farm employees and
10 [~~six~~] twelve hundred dollars.

11 § 2. Section 5 of part RR of chapter 60 of the laws of 2016 amending
12 the tax law relating to creating a farm workforce retention credit, as
13 amended by section 2 of part FF of chapter 59 of the laws of 2021, is
14 amended to read as follows:

15 § 5. This act shall take effect immediately and shall apply only to
16 taxable years beginning on or after January 1, 2017 and before January
17 1, [~~2025~~] 2026.

18 § 3. This act shall take effect immediately.

19

SUBPART C

20 Section 1. Subdivision (f) of section 42 of the tax law, as added by
21 section 1 of part RR of chapter 60 of the laws of 2016, is amended to
22 read as follows:

23 (f) A taxpayer claiming the credit allowed under this section shall
24 not be allowed to claim any other tax credit allowed under this chapter,
25 except the credit allowed under section forty-two-a of this article,
26 with respect to any eligible farm employee included in the total number
27 of eligible farm employees used to determine the amount of the credit
28 allowed under this section.

29 § 2. The tax law is amended by adding a new section 42-a to read as
30 follows:

31 § 42-a. Farm employer overtime credit. (a) Notwithstanding subdivision
32 (f) of section forty-two of this article, a taxpayer that is a farm
33 employer or an owner of a farm employer shall be eligible for a credit
34 against the tax imposed under article nine-A or twenty-two of this chap-
35 ter, pursuant to the provisions referenced in subdivision (h) of this
36 section.

37 (b) A farm employer is a corporation (including a New York S corpo-
38 ration), a sole proprietorship, a limited liability company or a part-
39 nership that is an eligible farmer.

40 (c) For purposes of this section, the term "eligible farmer" means a
41 taxpayer whose federal gross income from farming as defined in
42 subsection (n) of section six hundred six of this chapter for the taxa-
43 ble year is at least two-thirds of excess federal gross income. Excess
44 federal gross income means the amount of federal gross income from all
45 sources for the taxable year in excess of thirty thousand dollars. For
46 purposes of this section, payments from the state's farmland protection
47 program, administered by the department of agriculture and markets,
48 shall be included as federal gross income from farming for otherwise
49 eligible farmers.

50 (d) An eligible farm employee is an individual who meets the defi-
51 inition of a "farm laborer" under section two of the labor law who is
52 employed by a farm employer in New York state, but excluding general
53 executive officers of the farm employer.

(e) Eligible overtime is the aggregate number of hours of work performed during the taxable year by an eligible farm employee that in any calendar week exceeds the overtime work threshold set by the commissioner of labor pursuant to the recommendation of the farm laborers wage board, provided that work performed in such calendar week in excess of sixty hours shall not be included.

(f) Special rules. If more than fifty percent of such eligible farmer's federal gross income from farming is from the sale of wine from a licensed farm winery as provided for in article six of the alcoholic beverage control law, or from the sale of cider from a licensed farm cidery as provided for in section fifty-eight-c of the alcoholic beverage control law, then an eligible farm employee of such eligible farmer shall be included for purposes of calculating the amount of credit allowed under this section only if such eligible farm employee is employed by such eligible farmer on qualified agricultural property as defined in paragraph four of subsection (n) of section six hundred six of this chapter.

(g) The amount of the credit allowed under this section shall be equal to the aggregate amount of such credit allowed per eligible farm employee, as follows. The amount of the credit allowed per eligible farm employee shall be equal to the product of (i) the eligible overtime worked during the taxable year by the eligible farm employee and (ii) the overtime rate paid by the farm employer to the eligible farm employee less such employee's regular rate of pay.

(h) Cross references: For application of the credit provided in this section, see the following provisions of this chapter:

(1) Article 9-A: Section 210-B, subdivision 58.

(2) Article 22: Section 606, subsection (nnn).

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 58 to read as follows:

58. Farm employer overtime credit. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-two-a of this chapter, against the tax imposed by this article.

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

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

| | |
|--------------------------------------|-----------------------------------|
| <u>(xlix) Farm employer overtime</u> | <u>Amount of credit under</u> |
| <u>credit under subsection (nnn)</u> | <u>subdivision fifty-eight of</u> |
| | <u>section two hundred ten-B</u> |

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

(nnn) Farm employer overtime credit. (1) A taxpayer shall be allowed a credit, to be computed as provided in section forty-two-a of this chapter, against the tax imposed by this article.

1 (2) Application of credit. If the amount of credit allowed under this
2 subsection for any taxable year exceeds the taxpayer's tax for such
3 year, the excess shall be treated as an overpayment of tax to be credit-
4 ed or refunded in accordance with the provision of section six hundred
5 eighty-six of this article, provided, however, that no interest shall be
6 paid thereon.

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

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

12 PART C

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

16 (39) (A) In the case of a taxpayer who is a small business or a
17 taxpayer who is a member, partner, or shareholder of a limited liability
18 company, partnership, or New York S corporation, respectively, that is a
19 small business, who or which has business income and/or farm income as
20 defined in the laws of the United States, an amount equal to [~~three~~]
21 fifteen percent of the net items of income, gain, loss and deduction
22 attributable to such business or farm entering into federal adjusted
23 gross income, but not less than zero[~~, for taxable years beginning after~~
24 ~~two thousand thirteen, an amount equal to three and three quarters~~
25 ~~percent of the net items of income, gain, loss and deduction attribut-~~
26 ~~able to such business or farm entering into federal adjusted gross~~
27 ~~income, but not less than zero, for taxable years beginning after two~~
28 ~~thousand fourteen, and an amount equal to five percent of the net items~~
29 ~~of income, gain, loss and deduction attributable to such business or~~
30 ~~farm entering into federal adjusted gross income, but not less than~~
31 ~~zero, for taxable years beginning after two thousand fifteen].~~

32 (B) (i) For the purposes of this paragraph, the term small business
33 shall mean: (I) a sole proprietor [~~or a farm business~~] who employs one
34 or more persons during the taxable year and who has net business income
35 or net farm income of greater than zero but less than two hundred fifty
36 thousand dollars;

37 (II) a limited liability company, partnership, or New York S corpo-
38 ration that during the taxable year employs one or more persons and has
39 net farm income attributable to a farm business that is greater than
40 zero but less than two hundred fifty thousand dollars; or

41 (III) a limited liability company, partnership, or New York S corpo-
42 ration that during the taxable year employs one or more persons and has
43 New York gross business income attributable to a non-farm business that
44 is greater than zero but less than one million five hundred thousand
45 dollars.

46 (ii) For purposes of this paragraph, the term New York gross business
47 income shall mean: (I) in the case of a limited liability company or a
48 partnership, New York source gross income as defined in subparagraph (B)
49 of paragraph three of subsection (c) of section six hundred fifty-eight
50 of this article; and (II) in the case of a New York S corporation, New
51 York receipts included in the numerator of the apportionment factor
52 determined under section two hundred ten-A of this chapter for the taxa-
53 ble year.

1 (C) To qualify for this modification in relation to a non-farm small
2 business that is a limited liability company, partnership, or New York S
3 corporation, the taxpayer's income attributable to the net business
4 income from its ownership interests in non-farm limited liability compa-
5 nies, partnerships, or New York S corporations must be less than two
6 hundred fifty thousand dollars.

7 § 2. Paragraph 35 of subdivision (c) of section 11-1712 of the admin-
8 istrative code of the city of New York, as added by section 2 of part Y
9 of chapter 59 of the laws of 2013, is amended to read as follows:

10 (35) (A) In the case of a taxpayer who is a small business or a
11 taxpayer who is a member, partner, or shareholder of a limited liability
12 company, partnership, or New York S corporation, respectively, that is a
13 small business, who or which has business income and/or farm income as
14 defined in the laws of the United States, an amount equal to [three]
15 fifteen percent of the net items of income, gain, loss and deduction
16 attributable to such business or farm entering into federal adjusted
17 gross income, but not less than zero[~~, for taxable years beginning after~~
18 ~~two thousand thirteen, an amount equal to three and three-quarters~~
19 ~~percent of the net items of income, gain, loss and deduction attribut-~~
20 ~~able to such business or farm entering into federal adjusted gross~~
21 ~~income, but not less than zero, for taxable years beginning after two~~
22 ~~thousand fourteen, and an amount equal to five percent of the net items~~
23 ~~of income, gain, loss and deduction attributable to such business or~~
24 ~~farm entering into federal adjusted gross income, but not less than~~
25 ~~zero, for taxable years beginning after two thousand fifteen].~~

26 (B) (i) For the purposes of this paragraph, the term small business
27 shall mean: (I) a sole proprietor [~~or a farm business~~] who employs one
28 or more persons during the taxable year and who has net business income
29 or net farm income of greater than zero but less than two hundred fifty
30 thousand dollars;

31 (II) a limited liability company, partnership, or New York S corpo-
32 ration that during the taxable year employs one or more persons and has
33 net farm income that is greater than zero but less than two hundred
34 fifty thousand dollars; or

35 (III) a limited liability company, partnership, or New York S corpo-
36 ration that during the taxable year employs one or more persons and has
37 New York gross business income attributable to a non-farm business that
38 is greater than zero but less than one million five hundred thousand
39 dollars.

40 (ii) For purposes of this paragraph, the term New York gross business
41 income shall mean: (I) in the case of a limited liability company or a
42 partnership, New York source gross income as defined in subparagraph (b)
43 or paragraph three of subsection (c) of section six hundred fifty-eight
44 of the tax law, and, (II) in the case of a New York S corporation, New
45 York receipts included in the numerator of the apportionment factor
46 determined under section two hundred ten-A of the tax law for the tax-
47 able year.

48 (C) To qualify for this modification in relation to a non-farm small
49 business that is a limited liability company, partnership, or New York S
50 corporation, the taxpayer's income attributable to the net business
51 income from its ownership interests in non-farm limited liability compa-
52 nies, partnerships, or New York S corporations must be less than two
53 hundred fifty thousand dollars.

54 § 3. This act shall take effect immediately and shall apply to taxable
55 years beginning on or after January 1, 2022.

1

PART D

2 Section 1. Subsection (c) of section 612 of the tax law is amended
3 by adding a new paragraph 46 to read as follows:

4 (46) The amount of any student loan forgiveness award made pursuant to
5 a program established under article fourteen of the education law to the
6 extent included in federal adjusted gross income.

7 § 2. This act shall take effect immediately and shall apply to tax
8 years beginning on or after January 1, 2022.

9

PART E

10 Section 1. The economic development law is amended by adding a new
11 article 26 to read as follows:

ARTICLE 26COVID-19 CAPITAL COSTS TAX CREDIT PROGRAM

14 Section 480. Short title.

15 481. Statement of legislative findings and declaration.

16 482. Definitions.

17 483. Eligibility criteria.

18 484. Application and approval process.

19 485. COVID-19 capital costs tax credit.

20 486. Powers and duties of the commissioner.

21 487. Maintenance of records.

22 488. Cap on tax credit.

23 § 480. Short title. This article shall be known and may be cited as
24 the "COVID-19 capital costs tax credit program act".

25 § 481. Statement of legislative findings and declaration. It is hereby
26 found and declared that New York state needs, as a matter of public
27 policy, to provide critical assistance to small businesses to comply
28 with public health or other emergency orders or regulations, and to take
29 infectious disease mitigation measures related to the COVID-19 pandemic.
30 The COVID-19 capital costs tax credit program is created to provide
31 financial assistance to economically harmed businesses to offer relief
32 and reduce the duration and severity of the current economic difficul-
33 ties.

34 § 482. Definitions. For the purposes of this article:

35 1. "Certificate of tax credit" means the document issued to a business
36 entity by the department after the department has verified that the
37 business entity has met all applicable eligibility criteria in this
38 article. The certificate shall specify the exact amount of the tax cred-
39 it under this article that a business entity may claim, pursuant to
40 section four hundred eighty-five of this article.

41 2. "Commissioner" shall mean commissioner of the department of econom-
42 ic development.

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

44 4. "Qualified COVID-19 capital costs" shall mean costs incurred from
45 January first, two thousand twenty-one through December thirty-first,
46 two thousand twenty-two at a business location in New York state to
47 comply with public health or other emergency orders or regulations
48 related to the COVID-19 pandemic, or to generally increase safety
49 through infectious disease mitigation, including costs for: (i) supplies
50 to disinfect and/or protect against COVID-19 transmission; (ii) restock-
51 ing of perishable goods to replace those lost during the COVID-19
52 pandemic; (iii) physical barriers and sneeze guards; (iv) hand sanitizer
53 stations; (v) respiratory devices such as air purifier systems installed

1 at the business entity's location; (vi) signage related to the COVID-19
2 pandemic including, but not limited to, signage detailing vaccine and
3 masking requirements, and social distancing; (vii) materials required to
4 define and/or protect space such as barriers; (viii) materials needed to
5 block off certain seats to allow for social distancing; (ix) certain
6 point of sale payment equipment to allow for contactless payment; (x)
7 equipment and/or materials and supplies for new product lines in
8 response to the COVID-19 pandemic; (xi) software for online payment
9 platforms to enable delivery or contactless purchases; (xii) building
10 construction and retrofits to accommodate social distancing and instal-
11 lation of air purifying equipment but not for costs for non-COVID-19
12 pandemic related capital renovations or general "closed for renovations"
13 upgrades; (xiii) machinery and equipment to accommodate contactless
14 sales; (xiv) materials to accommodate increased outdoor activity such as
15 heat lamps, outdoor lighting, and materials related to outdoor space
16 expansions; and (xv) other costs as determined by the department to be
17 eligible under this section; provided, however, that "qualified COVID-19
18 capital costs" do not include any cost paid for with other COVID-19
19 grant funds as determined by the commissioner.

20 § 483. Eligibility criteria. 1. To be eligible for a tax credit under
21 the COVID-19 capital costs tax credit program, a business entity must:

22 (a) be a small business as defined in section one hundred thirty-one
23 of this chapter and have two million five hundred thousand dollars or
24 less of gross receipts in the taxable year that includes December thir-
25 ty-first, two thousand twenty-one; and

26 (b) operate a business location in New York state.

27 2. A business entity must be in substantial compliance with any public
28 health or other emergency orders or regulations related to the entity's
29 business sector or other laws and regulations as determined by the
30 commissioner. In addition, a business entity may not owe past due state
31 taxes or local property taxes unless the business entity is making
32 payments and complying with an approved binding payment agreement
33 entered into with the taxing authority.

34 § 484. Application and approval process. 1. A business entity must
35 submit a complete application as prescribed by the commissioner.

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

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

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

45 (c) allow the department and its agents access to any and all books
46 and records the department may require to monitor compliance;

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

50 (e) certify, under penalty of perjury, that it did not include any
51 cost paid for with other COVID-19 grant funds as determined by the
52 commissioner in its application for a tax credit under the COVID-19
53 capital costs tax credit program; and

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

1 3. After reviewing a business entity's completed final application and
2 determining that the business entity meets the eligibility criteria as
3 set forth in this article, the department may issue to that business
4 entity a certificate of tax credit.

5 4. The business entity must submit its application within forty-five
6 days after the earlier of: (a) the last day it incurred qualified
7 COVID-19 capital costs, or (b) December thirty-first, two thousand twen-
8 ty-two. The date specified in paragraph (a) or (b) of this subdivision
9 is the business entity's application deadline.

10 § 485. COVID-19 capital costs tax credit. 1. A business entity in the
11 COVID-19 capital costs tax credit program that meets the eligibility
12 requirements of section four hundred eighty-three of this article may be
13 eligible to claim a credit equal to fifty percent of its qualified
14 COVID-19 capital costs as defined in subdivision four of section four
15 hundred eighty-two of this article.

16 2. A business entity, including a partnership, limited liability
17 company and subchapter S corporation, may not receive in excess of twen-
18 ty-five thousand dollars under this program.

19 3. The credit shall be allowed as provided in section forty-seven,
20 subdivision fifty-eight of section two hundred ten-B and subsection
21 (nnn) of section six hundred six of the tax law.

22 4. A business entity may claim the tax credit in the taxable year that
23 includes the business entity's application deadline as defined by subdi-
24 vision four of section four hundred eighty-four of this chapter. Howev-
25 er, if such application deadline occurred on or before December thirty-
26 first, two thousand twenty-one, the business entity may claim the credit
27 on its tax return for the taxable year that includes December thirty-
28 first, two thousand twenty-two.

29 § 486. Powers and duties of the commissioner. 1. The commissioner may
30 promulgate regulations establishing an application process and eligibil-
31 ity criteria, that will be applied consistent with the purposes of this
32 article, so as not to exceed the annual cap on tax credits set forth in
33 section four hundred eighty-eight of this article which, notwithstanding
34 any provisions to the contrary in the state administrative procedure
35 act, may be adopted on an emergency basis.

36 2. The commissioner shall, in consultation with the department of
37 taxation and finance, develop a certificate of tax credit that shall be
38 issued by the commissioner to eligible businesses. Such certificate
39 shall contain such information as required by the department of taxation
40 and finance.

41 3. The commissioner shall solely determine the eligibility of any
42 applicant applying for entry into the program and shall remove any busi-
43 ness entity from the program for failing to meet any of the requirements
44 set forth in section four hundred eighty-three of this article, or for
45 failing to meet the requirements set forth in subdivision one of section
46 four hundred eighty-four of this article.

47 § 487. Maintenance of records. Each business entity participating in
48 the program shall keep all relevant records for their duration of
49 program participation for at least three years.

50 § 488. Cap on tax credit. The total amount of tax credits listed on
51 certificates of tax credit issued by the commissioner pursuant to this
52 article may not exceed two hundred fifty million dollars.

53 § 2. The tax law is amended by adding a new section 47 to read as
54 follows:

55 § 47. COVID-19 capital costs tax credit. (a) Allowance of credit. A
56 taxpayer subject to tax under article nine-A or twenty-two of this chap-

1 ter shall be allowed a credit against such tax, pursuant to the
2 provisions referenced in subdivision (f) of this section. The amount of
3 the credit is equal to the amount determined pursuant to section four
4 hundred eighty-five of the economic development law. No cost or expense
5 paid or incurred by the taxpayer which is included as part of the calcu-
6 lation of this credit shall be the basis of any other tax credit allowed
7 under this chapter.

8 (b) Eligibility. To be eligible for the COVID-19 capital costs tax
9 credit, the taxpayer shall have been issued a certificate of tax credit
10 by the department of economic development pursuant to subdivision three
11 of section four hundred eighty-four of the economic development law,
12 which certificate shall set forth the amount of the credit that may be
13 claimed for the taxable year. The taxpayer shall be allowed to claim
14 only the amount listed on the certificate of tax credit for that taxable
15 year. A taxpayer that is a partner in a partnership, member of a limited
16 liability company or shareholder in a subchapter S corporation that has
17 received a certificate of tax credit shall be allowed its pro rata share
18 of the credit earned by the partnership, limited liability company or
19 subchapter S corporation.

20 (c) Tax return requirement. The taxpayer shall be required to attach
21 to its tax return in the form prescribed by the commissioner, proof of
22 receipt of its certificate of tax credit issued by the commissioner of
23 the department of economic development.

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

27 (1) information derived from tax returns or reports that is relevant
28 to a taxpayer's eligibility to participate in the COVID-19 capital costs
29 tax credit program;

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

33 (3) information contained in or derived from credit claim forms
34 submitted to the department and applications for admission into the
35 COVID-19 capital costs tax credit program. Except as provided in para-
36 graph two of this subdivision, all information exchanged between the
37 department of economic development and the department shall not be
38 subject to disclosure or inspection under the state's freedom of infor-
39 mation law.

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

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

48 (1) article 9-A: section 210-B, subdivision 58;

49 (2) article 22: section 606, subsection (nnn).

50 § 3. Section 210-B of the tax law is amended by adding a new subdivi-
51 sion 58 to read as follows:

52 58. COVID-19 capital costs tax credit. (a) Allowance of credit. A
53 taxpayer shall be allowed a credit, to be computed as provided in
54 section forty-seven of this chapter, against the taxes imposed by this
55 article.

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

13 § 4. Section 606 of the tax law is amended by adding a new subsection
 14 (nnn) to read as follows:

15 (nnn) COVID-19 capital costs tax credit. (1) Allowance of credit. A
 16 taxpayer shall be allowed a credit, to be computed as provided in
 17 section forty-seven of this chapter, against the tax imposed by this
 18 article.

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

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

| | |
|---|----------------------------------|
| 28 <u>(xlix) COVID-19 capital costs</u> | <u>Amount of credit under</u> |
| 29 <u>tax credit under subsection (nnn)</u> | <u>subdivision 58 of</u> |
| | <u>section two hundred ten-B</u> |

30 § 6. This act shall take effect immediately.

32 PART F

33 Section 1. Paragraph 2 of subdivision (a) of section 24-c of the tax
 34 law, as added by section 1 of subpart B of part PP of chapter 59 of the
 35 laws of 2021, is amended to read as follows:

36 (2) The amount of the credit shall be the product (or pro rata share
 37 of the product, in the case of a member of a partnership) of twenty-five
 38 percent and the sum of the qualified production expenditures paid for
 39 during the qualified New York city musical and theatrical production's
 40 credit period. Provided however that the amount of the credit cannot
 41 exceed three million dollars per qualified New York city musical and
 42 theatrical production for productions whose first performance is [~~during~~
 43 ~~the first year in which applications are accepted~~] prior to January
 44 first, two thousand twenty-three. For productions whose first perform-
 45 ance is [~~during the second year in which applications are accepted~~] on
 46 or after January first, two thousand twenty-three, such cap shall
 47 decrease to one million five hundred thousand dollars per qualified New
 48 York city musical and theatrical production unless the New York city
 49 tourism economy has not sufficiently recovered, as determined by the
 50 department of economic development in consultation with the division of
 51 the budget. In determining whether the New York city tourism economy has
 52 sufficiently recovered, the department of economic development will
 53 perform an analysis of key New York city economic indicators which shall
 54 include, but not be limited to, hotel occupancy rates and travel

1 metrics. The department of economic development's analysis shall also be
2 informed by the status of any remaining COVID-19 restrictions affecting
3 New York city musical and theatrical productions. In no event shall a
4 qualified New York city musical and theatrical production be eligible
5 for more than one credit under this program.

6 § 2. Subparagraph (i) of paragraph 5 of subdivision (b) of section
7 24-c of the tax law, as added by section 1 of subpart B of part PP of
8 chapter 59 of the laws of 2021, is amended to read as follows:

9 (i) "The credit period of a qualified New York city musical and theat-
10 rical production company" is the period starting on the production start
11 date and ending on the earlier of the date the qualified musical and
12 theatrical production has expended sufficient qualified production
13 expenditures to reach its credit cap, [~~March thirty-first~~] September
14 thirtieth, two thousand twenty-three or the date the qualified musical
15 and theatrical production closes.

16 § 3. Paragraph 1 of subdivision (f) of section 24-c of the tax law, as
17 added by section 1 of subpart B of part PP of chapter 59 of the laws of
18 2021, is amended to read as follows:

19 (1) The aggregate amount of tax credits allowed under this section,
20 subdivision fifty-seven of section two hundred ten-B and subsection
21 (mmm) of section six hundred six of this chapter shall be [~~one~~] two
22 hundred million dollars. Such aggregate amount of credits shall be allo-
23 cated by the department of economic development among taxpayers based on
24 the date of first performance of the qualified musical and theatrical
25 production.

26 § 4. Paragraph 2 of subdivision (f) of section 24-c of the tax law, as
27 added by section 1 of subpart B of part PP of chapter 59 of the laws of
28 2021, is amended to read as follows:

29 (2) The commissioner of economic development, after consulting with
30 the commissioner, shall promulgate regulations to establish procedures
31 for the allocation of tax credits as required by this section. Such
32 rules and regulations shall include provisions describing the applica-
33 tion process, the due dates for such applications, the standards that
34 will be used to evaluate the applications, the documentation that will
35 be provided by applicants to substantiate to the department the amount
36 of qualified production expenditures of such applicants, and such other
37 provisions as deemed necessary and appropriate. Notwithstanding any
38 other provisions to the contrary in the state administrative procedure
39 act, such rules and regulations may be adopted on an emergency basis. In
40 no event shall a qualified New York city musical and theatrical
41 production submit an application for this program after [~~December thir-~~
42 ~~ty first, two thousand twenty-two~~] June thirtieth, two thousand twenty-
43 three.

44 § 5. Subdivision (g) of section 24-c of the tax law, as added by
45 section 1 of subpart B of part PP of chapter 59 of the laws of 2021, is
46 amended to read as follows:

47 (g) Any qualified New York city musical and theatrical production
48 company that performs in a qualified New York city production facility
49 and applies to receive a credit under this section shall be required to:

50 (1) participate in a New York state diversity and arts job training
51 program; (2) create and implement a plan to ensure that their production
52 is available and accessible for low-or no-cost to low income New York-
53 ers; and (3) contribute to the New York state council on the arts,
54 cultural program fund an amount up to fifty percent of the total credits
55 received if its production earns ongoing revenue prospectively after the
56 end of the credit period that is at least equal to two hundred percent

1 of its ongoing production costs, with such amount payable from twenty-
2 five percent of net operating profits, such amounts payable on a monthly
3 basis, up until such fifty percent of the total credit amount is
4 reached. Any funds deposited pursuant to this subdivision may be used
5 for arts and cultural [~~educational and workforce development~~] grant
6 programs of the New York state council on the arts.

7 § 6. Subdivision 5 of section 99-11 of the state finance law, as added
8 by section 5 of subpart B of part PP of chapter 59 of the laws of 2021,
9 is amended to read as follows:

10 5. The moneys in such fund shall be expended for the purpose of
11 supplementing art and cultural grant programs [~~for secondary and elemen-~~
12 ~~tary children, including programs that increase access to art and~~
13 ~~cultural programs and events for children in underserved communities~~] of
14 the New York state council on the arts.

15 § 7. Section 6 of subpart B of part PP of chapter 59 of the laws of
16 2021 amending the tax law and the state finance law relating to estab-
17 lishing the New York city musical and theatrical production tax credit
18 and establishing the New York state council on the arts cultural program
19 fund, is amended to read as follows:

20 § 6. This act shall take effect immediately [~~and~~]; provided however,
21 that section one, two, three and four of this act shall apply to taxable
22 years beginning on or after January 1, 2021, and before January 1, 2024
23 and shall expire and be deemed repealed [~~on~~] January 1, 2024; provided
24 further, however that the obligations under paragraph 3 of subdivision
25 [~~s~~] (g) of section 24-c of the tax law, as added by section one of this
26 act, shall remain in effect until December 31, 2025.

27 § 8. This act shall take effect immediately; provided that the amend-
28 ments to section 24-c of the tax law made by sections one, two, three,
29 four and five of this act shall not affect the repeal of such section
30 and shall be deemed repealed therewith.

31 PART G

32 Section 1. Paragraphs (a) and (f) of subdivision 1 of section 209-b of
33 the tax law, paragraph (a) as amended and paragraph (f) as added by
34 section 7 of part A of chapter 59 of the laws of 2014, are amended to
35 read as follows:

36 (a) For the privilege of exercising its corporate franchise, or of
37 doing business, or of employing capital, or of owning or leasing proper-
38 ty in a corporate or organized capacity, or of maintaining an office, or
39 of deriving receipts from activity in the metropolitan commuter trans-
40 portation district, for all or any part of its taxable year, there is
41 hereby imposed on every corporation, other than a New York S corpo-
42 ration, subject to tax under section two hundred nine of this article,
43 or any receiver, referee, trustee, assignee or other fiduciary, or any
44 officer or agent appointed by any court, who conducts the business of
45 any such corporation, a tax surcharge, in addition to the tax imposed
46 under section two hundred nine of this article, to be computed at the
47 rate of seventeen percent of the tax imposed under such section for such
48 taxable years or any part of such taxable years ending on or after
49 December thirty-first, nineteen hundred eighty-three and before January
50 first, two thousand fifteen after the deduction of any credits otherwise
51 allowable under this article, at the rate of twenty-five and six-tenths
52 percent of the tax imposed under such section for taxable years begin-
53 ning on or after January first, two thousand fifteen and before January
54 first, two thousand sixteen before the deduction of any credits other-

1 wise allowable under this article, [~~and~~] at the rate determined by the
2 commissioner pursuant to paragraph (f) of this subdivision of the tax
3 imposed under such section, for taxable years beginning on or after
4 January first, two thousand sixteen and before January first, two thou-
5 sand twenty-three before the deduction of any credits otherwise allow-
6 able under this article, and at the rate of thirty percent of the tax
7 imposed under such section for taxable years beginning on or after Janu-
8 ary first, two thousand twenty-three before the deduction of any credits
9 otherwise allowable under this article. However, such rate of tax
10 surcharge shall be applied only to that portion of the tax imposed under
11 section two hundred nine of this article before the deduction of any
12 credits otherwise allowable under this article which is attributable to
13 the taxpayer's business activity carried on within the metropolitan
14 commuter transportation district; and provided, further, the surcharge
15 computed on a combined report shall include a surcharge on the fixed
16 dollar minimum tax for each member of the combined group subject to the
17 surcharge under this subdivision.

18 (f) The commissioner shall determine the rate of tax for taxable years
19 beginning on or after January first, two thousand sixteen and before
20 January first, two thousand twenty-three by adjusting the rate for taxa-
21 ble years beginning on or after January first, two thousand fifteen and
22 before January first, two thousand sixteen as necessary to ensure that
23 the receipts attributable to such surcharge, as impacted by the chapter
24 of the laws of two thousand fourteen which added this paragraph, will
25 meet and not exceed the financial projections for state fiscal year two
26 thousand sixteen-two thousand seventeen, as reflected in state fiscal
27 year two thousand fifteen-two thousand sixteen enacted budget. The
28 commissioner shall annually determine the rate thereafter using the
29 financial projections for the state fiscal year that commences in the
30 year for which the rate is to be set as reflected in the enacted budget
31 for the fiscal year commencing on the previous April first.

32 § 2. This act shall take effect immediately.

33 PART H

34 Section 1. Paragraphs (a), (b) and (d) of subdivision 29 of section
35 210-B of the tax law, paragraph (a) and subparagraph 2 of paragraph (b)
36 as amended by section 1 of part II of chapter 59 of the laws of 2021,
37 paragraph (b) as amended by section 1 of part Q of chapter 59 of the
38 laws of 2018, subparagraph 1 of paragraph (b) as amended by chapter 490
39 of the laws of 2019 and paragraph (d) as added by section 17 of part A
40 of chapter 59 of the laws of 2014, are amended to read as follows:

41 (a) Allowance of credit. For taxable years beginning on or after Janu-
42 ary first, two thousand fifteen and before January first, two thousand
43 [~~twenty-three~~] twenty-six, a taxpayer shall be allowed a credit, to be
44 computed as provided in this subdivision, against the tax imposed by
45 this article, for hiring and employing, for not less than [~~one year and~~
46 ~~for not less than thirty-five hours each week~~] twelve continuous and
47 uninterrupted months (hereinafter referred to as the twelve-month peri-
48 od) in a full-time or part-time position, a qualified veteran within the
49 state. The taxpayer may claim the credit in the year in which the qual-
50 ified veteran completes [~~one year~~] the twelve-month period of employment
51 by the taxpayer. If the taxpayer claims the credit allowed under this
52 subdivision, the taxpayer may not use the hiring of a qualified veteran
53 that is the basis for this credit in the basis of any other credit
54 allowed under this article.

1 (b) Qualified veteran. A qualified veteran is an individual:

2 (1) who served on active duty in the United States army, navy, air
3 force, space force, marine corps, coast guard or the reserves thereof,
4 or who served in active military service of the United States as a
5 member of the army national guard, air national guard, New York guard or
6 New York naval militia; who (i) was released from active duty by general
7 or honorable discharge [~~after September eleventh, two thousand one~~], or
8 (ii) has a qualifying condition, as defined in section three hundred
9 fifty of the executive law, and has received a discharge other than bad
10 conduct or dishonorable from such service [~~after September eleventh, two~~
11 ~~thousand one~~], or (iii) is a discharged LGBT veteran, as defined in
12 section three hundred fifty of the executive law, and has received a
13 discharge other than bad conduct or dishonorable from such service
14 [~~after September eleventh, two thousand one~~];

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

18 (3) who certifies by signed affidavit, under penalty of perjury, that
19 he or she has not been employed for thirty-five or more hours during any
20 week in the one hundred eighty day period immediately prior to his or
21 her employment by the taxpayer.

22 (d) Amount of credit. The amount of the credit shall be [~~ten~~] fifteen
23 percent of the total amount of wages paid to the qualified veteran
24 during the veteran's first [~~full year~~] twelve-month period of employ-
25 ment. Provided, however, that[, ~~if the qualified veteran is a disabled~~
26 ~~veteran, as defined in paragraph (b) of subdivision one of section~~
27 ~~eighty five of the civil service law, the amount of the credit shall be~~
28 ~~fifteen percent of the total amount of wages paid to the qualified~~
29 ~~veteran during the veteran's first full year of employment. The~~] the
30 credit allowed pursuant to this subdivision shall not exceed in any
31 taxable year, [~~five~~] fifteen thousand dollars for any qualified veteran
32 employed in a full-time position for one thousand eight hundred twenty
33 or more hours in one twelve-month period and [~~fifteen thousand dollars~~
34 ~~for any qualified veteran who is a disabled veteran~~] seven thousand five
35 hundred dollars for any qualified veteran employed in a part-time posi-
36 tion for at least one thousand forty hours but not more than one thou-
37 sand eight hundred nineteen hours in one twelve-month period.

38 § 2. Paragraphs 1, 2 and 4 of subsection (a-2) of section 606 of the
39 tax law, paragraph 1 and subparagraph (B) of paragraph 2 as amended by
40 section 2 of part II of chapter 59 of the laws of 2021, paragraph 2 as
41 amended by section 2 of part Q of chapter 59 of the laws of 2018,
42 subparagraph (A) of paragraph 2 as amended by chapter 490 of the laws of
43 2019 and paragraph 4 as added by section 3 of part AA of chapter 59 of
44 the laws of 2013, are amended to read as follows:

45 (1) Allowance of credit. For taxable years beginning on or after Janu-
46 ary first, two thousand fifteen and before January first, two thousand
47 [~~twenty-three~~] twenty-six, a taxpayer shall be allowed a credit, to be
48 computed as provided in this subsection, against the tax imposed by this
49 article, for hiring and employing, for not less than [~~one year and for~~
50 ~~not less than thirty-five hours each week~~] twelve continuous and unin-
51 terrupted months (hereinafter referred to as the twelve-month period) in
52 a full-time or part-time position, a qualified veteran within the state.
53 The taxpayer may claim the credit in the year in which the qualified
54 veteran completes [~~one year~~] the twelve-month period of employment by
55 the taxpayer. If the taxpayer claims the credit allowed under this
56 subsection, the taxpayer may not use the hiring of a qualified veteran

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

3 (2) Qualified veteran. A qualified veteran is an individual:

4 (A) who served on active duty in the United States army, navy, air
5 force, space force, marine corps, coast guard or the reserves thereof,
6 or who served in active military service of the United States as a
7 member of the army national guard, air national guard, New York guard or
8 New York naval militia; who (i) was released from active duty by general
9 or honorable discharge [~~after September eleventh, two thousand one~~], or
10 (ii) has a qualifying condition, as defined in section three hundred
11 fifty of the executive law, and has received a discharge other than bad
12 conduct or dishonorable from such service [~~after September eleventh, two~~
13 ~~thousand one~~], or (iii) is a discharged LGBT veteran, as defined in
14 section three hundred fifty of the executive law, and has received a
15 discharge other than bad conduct or dishonorable from such service
16 [~~after September eleventh, two thousand one~~];

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

20 (C) who certifies by signed affidavit, under penalty of perjury, that
21 he or she has not been employed for thirty-five or more hours during any
22 week in the one hundred eighty day period immediately prior to his or
23 her employment by the taxpayer.

24 (4) Amount of credit. The amount of the credit shall be [~~ten~~] fifteen
25 percent of the total amount of wages paid to [~~he~~] the qualified veteran
26 during the veteran's first [~~full year~~] twelve-month period of employ-
27 ment. Provided, however, that [~~, if the qualified veteran is a disabled~~
28 ~~veteran, as defined in paragraph (b) of subdivision one of section~~
29 ~~eighty-five of the civil service law, the amount of the credit shall be~~
30 ~~fifteen percent of the total amount of wages paid to the qualified~~
31 ~~veteran during the veteran's first full year of employment. The~~] the
32 credit allowed pursuant to this subsection shall not exceed in any taxa-
33 ble year, [~~five~~] fifteen thousand dollars for any qualified veteran
34 employed in a full-time position for one thousand eight hundred twenty
35 or more hours in one twelve-month period and [~~fifteen thousand dollars~~
36 ~~for any qualified veteran who is a disabled veteran~~] seven thousand five
37 hundred dollars for any qualified veteran employed in a part-time posi-
38 tion for at least one thousand forty hours but not more than one thou-
39 sand eight hundred nineteen hours in one twelve-month period.

40 § 3. Paragraphs 1, 2 and 4 of subdivision (g-1) of section 1511 of the
41 tax law, paragraph 1 and subparagraph (B) of paragraph 2 as amended by
42 section 3 of part II of chapter 59 of the laws of 2021, paragraph 2 as
43 amended by section 3 of part Q of chapter 59 of the laws of 2018,
44 subparagraph (A) of paragraph 2 as amended by chapter 490 of the laws of
45 2019 and paragraph 4 as added by section 5 of part AA of chapter 59 of
46 the laws of 2013, are amended to read as follows:

47 (1) Allowance of credit. For taxable years beginning on or after Janu-
48 ary first, two thousand fifteen and before January first, two thousand
49 [~~twenty-three~~] twenty-six, a taxpayer shall be allowed a credit, to be
50 computed as provided in this subdivision, against the tax imposed by
51 this article, for hiring and employing, for not less than [~~one year and~~
52 ~~for not less than thirty-five hours each week~~] twelve continuous and
53 uninterrupted months (hereinafter referred to as the twelve-month peri-
54 od) in a full-time or part-time position, a qualified veteran within the
55 state. The taxpayer may claim the credit in the year in which the qual-
56 ified veteran completes [~~one year~~] the twelve-month period of employment

1 by the taxpayer. If the taxpayer claims the credit allowed under this
 2 subdivision, the taxpayer may not use the hiring of a qualified veteran
 3 that is the basis for this credit in the basis of any other credit
 4 allowed under this article.

5 (2) Qualified veteran. A qualified veteran is an individual:

6 (A) who served on active duty in the United States army, navy, air
 7 force, space force, marine corps, coast guard or the reserves thereof,
 8 or who served in active military service of the United States as a
 9 member of the army national guard, air national guard, New York guard or
 10 New York naval militia; who (i) was released from active duty by general
 11 or honorable discharge [~~after September eleventh, two thousand one~~], or
 12 (ii) has a qualifying condition, as defined in section three hundred
 13 fifty of the executive law, and has received a discharge other than bad
 14 conduct or dishonorable from such service [~~after September eleventh, two~~
 15 ~~thousand one~~], or (iii) is a discharged LGBT veteran, as defined in
 16 section three hundred fifty of the executive law, and has received a
 17 discharge other than bad conduct or dishonorable from such service
 18 [~~after September eleventh, two thousand one~~];

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

22 (C) who certifies by signed affidavit, under penalty of perjury, that
 23 he or she has not been employed for thirty-five or more hours during any
 24 week in the one hundred eighty day period immediately prior to his or
 25 her employment by the taxpayer.

26 (4) Amount of credit. The amount of the credit shall be [~~ten~~] fifteen
 27 percent of the total amount of wages paid to the qualified veteran
 28 during the veteran's first [~~full year~~] twelve-month period of employ-
 29 ment. Provided, however, that [~~, if the qualified veteran is a disabled~~
 30 ~~veteran, as defined in paragraph (b) of subdivision one of section~~
 31 ~~eighty-five of the civil service law, the amount of the credit shall be~~
 32 ~~fifteen percent of the total amount of wages paid to the qualified~~
 33 ~~veteran during the veteran's first full year of employment. The~~] the
 34 credit allowed pursuant to this subdivision shall not exceed in any
 35 taxable year, [~~five~~] fifteen thousand dollars for any qualified veteran
 36 employed in a full-time position for one thousand eight hundred twenty
 37 or more hours in one twelve-month period and [~~fifteen thousand dollars~~
 38 ~~for any qualified veteran who is a disabled veteran~~] seven thousand five
 39 hundred dollars for any qualified veteran employed in a part-time posi-
 40 tion for at least one thousand forty hours but not more than one thou-
 41 sand eight hundred nineteen hours in one twelve-month period.

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

44 PART I

45 Section 1. The tax law is amended by adding a new section 47 to read
 46 as follows:

47 § 47. Grade no. 6 heating oil conversion tax credit. (a) (1) Allowance
 48 of credit. A taxpayer that meets the eligibility requirements of subdi-
 49 vision (b) of this section and is subject to tax under article nine-A or
 50 twenty-two of this chapter may be eligible to claim a grade no. 6 heat-
 51 ing oil conversion tax credit in the taxable year the conversion is
 52 complete. The credit shall be equal to fifty percent of the conversion
 53 costs for all of the taxpayer's buildings located in a municipality paid
 54 by such taxpayer on or after January first, two thousand twenty-two and

1 before July first, two thousand twenty-three. The credit cannot exceed
2 five hundred thousand dollars per municipality.

3 (2) A taxpayer that is a partner in a partnership, member of a limited
4 liability company or shareholder in a subchapter S corporation shall be
5 allowed its pro rata share of the credit earned by the partnership,
6 limited liability company or subchapter S corporation that meets the
7 eligibility criteria described in subdivision (b) of this section to
8 claim a grade no. 6 heating oil conversion tax credit. In no event may
9 the total amount of the credit earned by the partnership, limited
10 liability company or subchapter S corporation exceed five hundred thou-
11 sand dollars for all buildings located in a municipality.

12 (3) No cost or expense paid or incurred by the taxpayer that is
13 included as part of the calculation of this credit shall be the basis of
14 any other tax credit allowed under this chapter.

15 (b) Eligibility criteria. (1) To be eligible to claim a grade no. 6
16 heating oil conversion tax credit, a business entity must:

17 (i) incur expenses for the conversion from grade no. 6 heating oil
18 fuel, as described as "conversion costs" in paragraph (1) of subdivision
19 (c) of this section, to biodiesel heating oil or a geothermal system at
20 any building located in New York state outside the city of New York;

21 (ii) submit an application to and obtain approval of such application
22 by the New York state energy research and development authority describ-
23 ing the conversion and approved costs to complete such conversion;

24 (iii) not be principally engaged in the generation or distribution of
25 electricity, power or energy;

26 (iv) be in compliance with all environmental conservation laws and
27 regulations; and

28 (v) not owe past due state taxes unless the business entity is making
29 payments and complying with an approved binding payment agreement
30 entered into with the taxing authority.

31 (c) Definitions. As used in this section the following terms shall
32 have the following meanings:

33 (1) Conversion costs means the equipment and labor costs associated
34 with the design, installation and use of space heating and other energy
35 conversion systems that are designed to or accommodate the use of biod-
36 iesel fuel or a geothermal system and, at the option of the taxpayer,
37 the costs of completing an ASRAE level 2 energy audit including assess-
38 ment of electrification options.

39 (2) Biodiesel means a minimum blend of eighty-five (85) percent biod-
40 iesel, defined as fuel manufactured from vegetable oils, animal fats, or
41 other agricultural or other products or by-products, with petrodiesel
42 fuel commonly used for heating systems.

43 (3) Geothermal means a system that uses the ground or ground water as
44 a thermal energy source/sink to heat or cool a building or provide hot
45 water within the building.

46 (d) The commissioner, in consultation with the New York state energy
47 research and development authority, will develop an application process
48 to certify the expenses necessary for the conversion and a taxpayer will
49 not be eligible to claim the credit unless it has completed that appli-
50 cation process and the application has been approved by the New York
51 state energy research and development authority.

52 (e) Information sharing. The department, the department of environ-
53 mental conservation and the New York state energy research and develop-
54 ment authority shall be allowed and are directed to share and exchange
55 information regarding the information contained on the credit applica-
56 tion for claiming the grade no. 6 heating oil conversion tax credit and

1 such information exchanged between the department, the department of
2 environmental conservation and the New York state energy research and
3 development authority shall not be subject to disclosure or inspection
4 under the state's freedom of information law.

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

7 (1) article 9-A: section 210-B, subdivision 58;

8 (2) article 22: section 606, subsection (nnn).

9 § 2. Section 210-B of the tax law is amended by adding a new subdivi-
10 sion 58 to read as follows:

11 58. Grade no. 6 heating oil conversion tax credit. (a) Allowance of
12 credit. A taxpayer will be allowed a credit, to be computed as provided
13 in section forty-seven of this chapter, against the taxes imposed by
14 this article.

15 (b) Application of credit. The credit allowed under this subdivision
16 for the taxable year will not reduce the tax due for such year to less
17 than the amount prescribed in paragraph (d) of subdivision one of
18 section two hundred ten of this article. However, if the amount of cred-
19 it allowed under this subdivision for the taxable year reduces the tax
20 to such amount or if the taxpayer otherwise pays tax based on the fixed
21 dollar minimum amount, any amount of credit not deductible in such taxa-
22 ble year will be treated as an overpayment of tax to be credited or
23 refunded in accordance with the provisions of section one thousand
24 eighty-six of this chapter. Provided, however, the provisions of
25 subsection (c) of section one thousand eighty-eight of this chapter
26 notwithstanding, no interest will be paid thereon.

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

| | |
|--|---|
| 30 <u>(xlix) Grade no. 6 heating oil</u> | <u>Amount of credit under subdivision</u> |
| 31 <u>conversion tax credit under</u> | <u>fifty-eight of section two hundred</u> |
| 32 <u>subsection (nnn)</u> | <u>ten-B</u> |

33 § 4. Section 606 of the tax law is amended by adding a new subsection
34 (nnn) to read as follows:

35 (nnn) Grade no. 6 heating oil conversion tax credit. (1) Allowance of
36 credit. A taxpayer shall be allowed a credit, to be computed as provided
37 in section forty-seven of this chapter, against the tax imposed by this
38 article.

39 (2) Application of credit. If the amount of the credit allowed under
40 this subsection for the taxable year exceeds the taxpayer's tax for such
41 year, the excess will be treated as an overpayment of tax to be credited
42 or refunded in accordance with the provisions of section six hundred
43 eighty-six of this article, provided, however, that no interest will be
44 paid thereon.

45 § 5. This act shall take effect immediately and shall apply to taxable
46 years beginning on or after January 1, 2022.

47 PART J

48 Section 1. Subdivision 4 of section 22 of the public housing law, as
49 amended by section 2 of part GG of chapter 59 of the laws of 2021, is
50 amended to read as follows:

51 4. Statewide limitation. The aggregate dollar amount of credit which
52 the commissioner may allocate to eligible low-income buildings under
53 this article shall be one hundred [~~twenty~~] twenty-seven million dollars.
54 The limitation provided by this subdivision applies only to allocation

1 of the aggregate dollar amount of credit by the commissioner, and does
2 not apply to allowance to a taxpayer of the credit with respect to an
3 eligible low-income building for each year of the credit period.

4 § 2. Subdivision 4 of section 22 of the public housing law, as
5 amended by section 3 of part GG of chapter 59 of the laws of 2021, is
6 amended to read as follows:

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

14 § 3. Subdivision 4 of section 22 of the public housing law, as amended
15 by section 4 of part GG of chapter 59 of the laws of 2021, is amended to
16 read as follows:

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

24 § 4. Subdivision 4 of section 22 of the public housing law, as amended
25 by section 5 of part GG of chapter 59 of the laws of 2021, is amended to
26 read as follows:

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

34 § 5. This act shall take effect immediately; provided, however,
35 section one of this act shall take effect April 1, 2022; section two of
36 this act shall take effect April 1, 2023; section three of this act
37 shall take effect April 1, 2024; and section four of this act shall take
38 effect April 1, 2025.

39

PART K

40 Section 1. Paragraph (a) of subdivision 25 of section 210-B of the tax
41 law, as amended by section 1 of part R of chapter 59 of the laws of
42 2019, is amended to read as follows:

43 (a) General. A taxpayer shall be allowed a credit against the tax
44 imposed by this article. Such credit, to be computed as hereinafter
45 provided, shall be allowed for bioheating fuel, used for space heating
46 or hot water production for residential purposes within this state
47 purchased before January first, two thousand [~~twenty-three~~] twenty-six.
48 Such credit shall be \$0.01 per percent of biodiesel per gallon of
49 bioheating fuel, not to exceed twenty cents per gallon, purchased by
50 such taxpayer. Provided, however, that on or after January first, two
51 thousand seventeen, this credit shall not apply to bioheating fuel that
52 is less than six percent biodiesel per gallon of bioheating fuel.

1 § 2. Paragraph 1 of subdivision (mm) of section 606 of the tax law, as
2 amended by section 2 of part R of chapter 59 of the laws of 2019, is
3 amended to read as follows:

4 (1) A taxpayer shall be allowed a credit against the tax imposed by
5 this article. Such credit, to be computed as hereinafter provided, shall
6 be allowed for bioheating fuel, used for space heating or hot water
7 production for residential purposes within this state and purchased on
8 or after July first, two thousand six and before July first, two thou-
9 sand seven and on or after January first, two thousand eight and before
10 January first, two thousand [~~twenty-three~~] twenty-six. Such credit shall
11 be \$0.01 per percent of biodiesel per gallon of bioheating fuel, not to
12 exceed twenty cents per gallon, purchased by such taxpayer. Provided,
13 however, that on or after January first, two thousand seventeen, this
14 credit shall not apply to bioheating fuel that is less than six percent
15 biodiesel per gallon of bioheating fuel.

16 § 3. This act shall take effect immediately.

17 PART L

18 Section 1. Section 5 of chapter 604 of the laws of 2011 amending the
19 tax law relating to the credit for companies who provide transportation
20 to people with disabilities, as amended by section 1 of part K of chap-
21 ter 60 of the laws of 2016, is amended to read as follows:

22 § 5. This act shall take effect immediately and shall remain in effect
23 until December 31, 2016 when upon such date it shall be deemed repealed;
24 provided that this act shall be deemed to have been in full force and
25 effect on December 31, 2010; provided further that this act shall apply
26 to all tax years commencing on or after January 1, 2011; and provided
27 further that sections one and two of this act shall remain in effect
28 until December 31, [~~2022~~] 2028 when upon such date such sections shall
29 be deemed repealed.

30 § 2. Paragraph (c) of subdivision 38 of section 210-B of the tax law,
31 as amended by section 2 of part K of chapter 60 of the laws of 2016, is
32 amended to read as follows:

33 (c) Application of credit. In no event shall the credit allowed under
34 this subdivision for any taxable year reduce the tax due for such year
35 to less than the amount prescribed in paragraph (d) of subdivision one
36 of section two hundred ten of this article. However, if the amount of
37 credit allowed under this subdivision for any taxable year reduces the
38 tax to such amount or if the taxpayer otherwise pays tax based on the
39 fixed dollar minimum amount, any amount of credit thus not deductible in
40 such taxable year shall be carried over to the following year or years,
41 and may be deducted from the taxpayer's tax for such year or years. The
42 tax credit allowed pursuant to this subdivision shall not apply to taxa-
43 ble years beginning on or after January first, two thousand [~~twenty-~~
44 ~~three~~] twenty-nine.

45 § 3. This act shall take effect immediately.

46 PART M

47 Section 1. Paragraph 4 of subdivision (a) of section 24 of the tax
48 law, as added by section 5 of part Q of chapter 57 of the laws of 2010,
49 is amended to read as follows:

50 (4) (i) Notwithstanding the foregoing provisions of this subdivision,
51 a qualified film production company or qualified independent film
52 production company, that has applied for credit under the provisions of

1 this section, agrees as a condition for the granting of the credit:
2 [~~(i)~~] (A) to include in each qualified film distributed by DVD, or other
3 media for the secondary market, a New York promotional video approved by
4 the governor's office of motion picture and television development or to
5 include in the end credits of each qualified film "Filmed With the
6 Support of the New York State Governor's Office of Motion Picture and
7 Television Development" and a logo provided by the governor's office of
8 motion picture and television development, and [~~(ii)~~] (B) to certify
9 that it will purchase taxable tangible property and services, defined as
10 qualified production costs pursuant to paragraph one of subdivision (b)
11 of this section, only from companies registered to collect and remit
12 state and local sales and use taxes pursuant to articles twenty-eight
13 and twenty-nine of this chapter.

14 (ii) On or after January first, two thousand twenty-three, a qualified
15 film production company or qualified independent film production company
16 that has applied for credit under the provisions of this section shall,
17 as a condition for the granting of the credit, file a diversity plan
18 with the governor's office for motion picture and television development
19 outlining specific goals for hiring a diverse workforce. The commission-
20 er of economic development shall promulgate regulations implementing the
21 requirements of this paragraph, which, notwithstanding any provisions to
22 the contrary in the state administrative procedure act, may be adopted
23 on an emergency basis, to ensure compliance with the provisions of this
24 paragraph. The governor's office for motion picture and television
25 development shall review each submitted plan as to whether it meets the
26 requirements established by the commissioner of economic development,
27 and shall verify that the applicant has met or made good-faith efforts
28 in achieving these goals. The diversity plan also shall indicate whether
29 the qualified film production company or qualified independent film
30 production company that has applied for credit under the provisions of
31 this section intends to participate in training, education, and recruit-
32 ment programs that are designed to promote and encourage the training
33 and hiring in the film and television industry of New York residents who
34 represent the diversity of the State's population.

35 § 2. Paragraph 5 of subdivision (a) of section 24 of the tax law, as
36 amended by section 1 of part F of chapter 59 of the laws of 2021, is
37 amended to read as follows:

38 (5) For the period two thousand fifteen through two thousand [~~twenty-~~
39 ~~six~~] twenty-nine, in addition to the amount of credit established in
40 paragraph two of this subdivision, a taxpayer shall be allowed a credit
41 equal to the product (or pro rata share of the product, in the case of a
42 member of a partnership) of ten percent and the amount of wages or sala-
43 ries paid to individuals directly employed (excluding those employed as
44 writers, directors, music directors, producers and performers, including
45 background actors with no scripted lines) by a qualified film production
46 company or a qualified independent film production company for services
47 performed by those individuals in one of the counties specified in this
48 paragraph in connection with a qualified film with a minimum budget of
49 five hundred thousand dollars. For purposes of this additional credit,
50 the services must be performed in one or more of the following counties:
51 Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung,
52 Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex,
53 Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis,
54 Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga,
55 Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga,
56 Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sulli-

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

23 § 3. Paragraph 4 of subdivision (e) of section 24 of the tax law, as
24 amended by section 2 of part F of chapter 59 of the laws of 2021, is
25 amended to read as follows:

26 (4) Additional pool 2 - The aggregate amount of tax credits allowed in
27 subdivision (a) of this section shall be increased by an additional four
28 hundred twenty million dollars in each year starting in two thousand ten
29 through two thousand [~~twenty-six~~] twenty-nine provided however, seven
30 million dollars of the annual allocation shall be available for the
31 empire state film post production credit pursuant to section thirty-one
32 of this article in two thousand thirteen and two thousand fourteen,
33 twenty-five million dollars of the annual allocation shall be available
34 for the empire state film post production credit pursuant to section
35 thirty-one of this article in each year starting in two thousand fifteen
36 through two thousand [~~twenty-six~~] twenty-nine and five million dollars
37 of the annual allocation shall be made available for the television
38 writers' and directors' fees and salaries credit pursuant to section
39 twenty-four-b of this article in each year starting in two thousand
40 twenty through two thousand [~~twenty-six~~] twenty-nine. This amount shall
41 be allocated by the governor's office for motion picture and television
42 development among taxpayers in accordance with subdivision (a) of this
43 section. If the commissioner of economic development determines that the
44 aggregate amount of tax credits available from additional pool 2 for the
45 empire state film production tax credit have been previously allocated,
46 and determines that the pending applications from eligible applicants
47 for the empire state film post production tax credit pursuant to section
48 thirty-one of this article is insufficient to utilize the balance of
49 unallocated empire state film post production tax credits from such
50 pool, the remainder, after such pending applications are considered,
51 shall be made available for allocation in the empire state film tax
52 credit pursuant to this section, subdivision twenty of section two
53 hundred ten-B and subsection (gg) of section six hundred six of this
54 chapter. Also, if the commissioner of economic development determines
55 that the aggregate amount of tax credits available from additional pool
56 2 for the empire state film post production tax credit have been previ-

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

21 § 4. Paragraph 4 of subdivision (e) of section 24 of the tax law, as
22 amended by section 3 of part F of chapter 59 of the laws of 2021, is
23 amended to read as follows:

24 (4) Additional pool 2 - The aggregate amount of tax credits allowed in
25 subdivision (a) of this section shall be increased by an additional four
26 hundred twenty million dollars in each year starting in two thousand ten
27 through two thousand [~~twenty-six~~ twenty-nine provided however, seven
28 million dollars of the annual allocation shall be available for the
29 empire state film post production credit pursuant to section thirty-one
30 of this article in two thousand thirteen and two thousand fourteen and
31 twenty-five million dollars of the annual allocation shall be available
32 for the empire state film post production credit pursuant to section
33 thirty-one of this article in each year starting in two thousand fifteen
34 through two thousand [~~twenty-six~~ twenty-nine. This amount shall be
35 allocated by the governor's office for motion picture and television
36 development among taxpayers in accordance with subdivision (a) of this
37 section. If the commissioner of economic development determines that the
38 aggregate amount of tax credits available from additional pool 2 for the
39 empire state film production tax credit have been previously allocated,
40 and determines that the pending applications from eligible applicants
41 for the empire state film post production tax credit pursuant to section
42 thirty-one of this article is insufficient to utilize the balance of
43 unallocated empire state film post production tax credits from such
44 pool, the remainder, after such pending applications are considered,
45 shall be made available for allocation in the empire state film tax
46 credit pursuant to this section, subdivision twenty of section two
47 hundred ten-B and subsection (gg) of section six hundred six of this
48 chapter. Also, if the commissioner of economic development determines
49 that the aggregate amount of tax credits available from additional pool
50 2 for the empire state film post production tax credit have been previ-
51 ously allocated, and determines that the pending applications from
52 eligible applicants for the empire state film production tax credit
53 pursuant to this section is insufficient to utilize the balance of unal-
54 located film production tax credits from such pool, then all or part of
55 the remainder, after such pending applications are considered, shall be
56 made available for allocation for the empire state film post production

1 credit pursuant to this section, subdivision thirty-two of section two
2 hundred ten-B and subsection (qq) of section six hundred six of this
3 chapter. The governor's office for motion picture and television devel-
4 opment must notify taxpayers of their allocation year and include the
5 allocation year on the certificate of tax credit. Taxpayers eligible to
6 claim a credit must report the allocation year directly on their empire
7 state film production credit tax form for each year a credit is claimed
8 and include a copy of the certificate with their tax return. In the case
9 of a qualified film that receives funds from additional pool 2, no
10 empire state film production credit shall be claimed before the later of
11 the taxable year the production of the qualified film is complete, or
12 the taxable year immediately following the allocation year for which the
13 film has been allocated credit by the governor's office for motion
14 picture and television development.

15 § 5. Paragraph 1 of subdivision (f) of section 24 of the tax law, as
16 added by section 2 of subpart A of part H of chapter 39 of the laws of
17 2019, is amended to read as follows:

18 (1) With regard to certificates of tax credit issued on or after Janu-
19 ary first, two thousand twenty, the commissioner of economic development
20 shall reduce by one-quarter of one percent the amount of credit allowed
21 to a taxpayer and this reduced amount shall be reported on a certificate
22 of tax credit issued pursuant to this section and the regulations
23 promulgated by the commissioner of economic development to implement
24 this credit program. Provided, however, for certificates of tax credit
25 issued on or after January first, two thousand twenty-three, the amount
26 of credit shall be reduced by one-half of one percent allowed to the
27 taxpayer.

28 § 6. Paragraph 6 of subdivision (a) of section 31 of the tax law, as
29 amended by section 4 of part F of chapter 59 of the laws of 2021, is
30 amended to read as follows:

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

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

19 § 7. This act shall take effect immediately; provided, however that
20 the amendments to paragraph 4 of subdivision (e) of section 24 of the
21 tax law made by section three of this act shall take effect on the same
22 date and in the same manner as section 5 of chapter 683 of the laws of
23 2019, as amended, takes effect.

24

PART N

25 Section 1. Subdivision (a) of section 25-a of the labor law, as
26 amended by section 1 of subpart A of part N of chapter 59 of the laws of
27 2017, is amended to read as follows:

28 (a) The commissioner is authorized to establish and administer the
29 program established under this section to provide tax incentives to
30 employers for employing at risk youth in part-time and full-time posi-
31 tions. There will be ten distinct pools of tax incentives. Program one
32 will cover tax incentives allocated for two thousand twelve and two
33 thousand thirteen. Program two will cover tax incentives allocated in
34 two thousand fourteen. Program three will cover tax incentives allocated
35 in two thousand fifteen. Program four will cover tax incentives allo-
36 cated in two thousand sixteen. Program five will cover tax incentives
37 allocated in two thousand seventeen. Program six will cover tax incen-
38 tives allocated in two thousand eighteen. Program seven will cover tax
39 incentives allocated in two thousand nineteen. Program eight will cover
40 tax incentives allocated in two thousand twenty. Program nine will cover
41 tax incentives allocated in two thousand twenty-one. Program ten will
42 cover tax incentives allocated in two thousand twenty-two. Program elev-
43 en will cover tax incentives allocated in two thousand twenty-three.
44 Program twelve will cover tax incentives allocated in two thousand twen-
45 ty-four. Program thirteen will cover tax incentives allocated in two
46 thousand twenty-five. Program fourteen will cover tax incentives allo-
47 cated in two thousand twenty-six. Program fifteen will cover tax incen-
48 tives allocated in two thousand twenty-seven. The commissioner is
49 authorized to allocate up to twenty-five million dollars of tax credits
50 under program one, ten million dollars of tax credits under program two,
51 twenty million dollars of tax credits under program three, fifty million
52 dollars of tax credits under each of programs four and five, and forty
53 million dollars of tax credits under programs six, seven, eight, nine
54 [~~and~~], ten, eleven, twelve, thirteen, fourteen and fifteen.

1 § 2. Paragraph 4 of subdivision (b) of section 25-a of the labor law,
2 as added by section 1-a of subpart A of part N of chapter 59 of the laws
3 of 2017, is amended to read as follows:

4 (4) For programs six, seven, eight, nine [~~and~~], ten, eleven, twelve,
5 thirteen, fourteen, and fifteen the tax credit under each program shall
6 be allocated as follows: (i) twenty million dollars of tax credit for
7 qualified employees; and (ii) twenty million dollars of tax credit for
8 individuals who meet all of the requirements for a qualified employee
9 except for the residency requirement of subparagraph (ii) of paragraph
10 two of this subdivision, which individuals shall be deemed to meet the
11 residency requirements of subparagraph (ii) of paragraph two of this
12 subdivision if they reside in New York state.

13 § 3. The opening paragraph of subdivision (d) of section 25-a of the
14 labor law, as amended by section 2 of part R of chapter 59 of the laws
15 of 2018, is amended to read as follows:

16 To participate in the program established under this section, an
17 employer must submit an application (in a form prescribed by the commis-
18 sioner) to the commissioner after January first, two thousand twelve but
19 no later than November thirtieth, two thousand twelve for program one,
20 after January first, two thousand fourteen but no later than November
21 thirtieth, two thousand fourteen for program two, after January first,
22 two thousand fifteen but no later than November thirtieth, two thousand
23 fifteen for program three, after January first, two thousand sixteen but
24 no later than November thirtieth, two thousand sixteen for program four,
25 after January first, two thousand seventeen but no later than November
26 thirtieth, two thousand seventeen for program five, after January first,
27 two thousand eighteen but no later than November thirtieth, two thousand
28 eighteen for program six, after January first, two thousand nineteen but
29 no later than November thirtieth, two thousand nineteen for program
30 seven, after January first, two thousand twenty but no later than Novem-
31 ber thirtieth, two thousand twenty for program eight, after January
32 first, two thousand twenty-one but no later than November thirtieth, two
33 thousand twenty-one for program nine, [~~and~~] after January first, two
34 thousand twenty-two but no later than November thirtieth, two thousand
35 twenty-two for program ten, after January first, two thousand twenty-
36 three but no later than November thirtieth, two thousand twenty-three
37 for program eleven, after January first, two thousand twenty-four but no
38 later than November thirtieth, two thousand twenty-four for program
39 twelve, after January first, two thousand twenty-five but no later than
40 November thirtieth, two thousand twenty-five for program thirteen, after
41 January first, two thousand twenty-six but no later than November thir-
42 tieth, two thousand twenty-six for program fourteen, and after January
43 first, two thousand twenty-seven but no later than November thirtieth,
44 two thousand twenty-seven for program fifteen. The qualified employees
45 must start their employment on or after January first, two thousand
46 twelve but no later than December thirty-first, two thousand twelve for
47 program one, on or after January first, two thousand fourteen but no
48 later than December thirty-first, two thousand fourteen for program two,
49 on or after January first, two thousand fifteen but no later than Decem-
50 ber thirty-first, two thousand fifteen for program three, on or after
51 January first, two thousand sixteen but no later than December thirty-
52 first, two thousand sixteen for program four, on or after January first,
53 two thousand seventeen but no later than December thirty-first, two
54 thousand seventeen for program five, on or after January first, two
55 thousand eighteen but no later than December thirty-first, two thousand
56 eighteen for program six, on or after January first, two thousand nine-

1 teen but no later than December thirty-first, two thousand nineteen for
2 program seven, on or after January first, two thousand twenty but no
3 later than December thirty-first, two thousand twenty for program eight,
4 on or after January first, two thousand twenty-one but no later than
5 December thirty-first, two thousand twenty-one for program nine, [~~and~~]
6 on or after January first, two thousand twenty-two but no later than
7 December thirty-first, two thousand twenty-two for program ten, on or
8 after January first, two thousand twenty-three but no later than Decem-
9 ber thirty-first, two thousand three for program eleven, on or after
10 January first, two thousand twenty-four but no later than December thir-
11 ty-first, two thousand twenty-four for program twelve, on or after Janu-
12 ary first, two thousand twenty-five but no later than December thirty-
13 first, two thousand twenty-five for program thirteen, on or after
14 January first, two thousand twenty-six but no later than December thir-
15 ty-first, two thousand twenty-six for program fourteen, and on or after
16 January first, two thousand twenty-seven but no later than December
17 thirty-first, two thousand twenty-seven for program fifteen. As part of
18 such application, an employer must:

19 § 4. This act shall take effect immediately.

20 PART O

21 Section 1. Subdivision (a) of section 25-c of the labor law, as added
22 by section 1 of subpart B of part N of chapter 59 of the laws of 2017,
23 is amended to read as follows:

24 (a) The commissioner is authorized to establish and administer the
25 empire state apprenticeship tax credit program to provide tax incentives
26 to certified employers for employing qualified apprentices pursuant to
27 an apprenticeship agreement registered with the department pursuant to
28 paragraph (d) of subdivision one of section eight hundred eleven of this
29 chapter. The commissioner is authorized to allocate up to ten million
30 dollars of tax credits annually, beginning in two thousand eighteen and
31 ending before two thousand [~~twenty-three~~] twenty-eight. Any unused annu-
32 al allocation of the credit shall be made available in each of the
33 subsequent years before two thousand [~~twenty-three~~] twenty-eight.

34 § 2. This act shall take effect immediately.

35 PART P

36 Section 1. Subdivision 6 of section 187-b of the tax law, as amended
37 by section 1 of part O of chapter 59 of the laws of 2017, is amended to
38 read as follows:

39 6. Termination. The credit allowed by subdivision two of this section
40 shall not apply in taxable years beginning after December thirty-first,
41 two thousand [~~twenty-two~~] twenty-seven.

42 § 2. Paragraph (f) of subdivision 30 of section 210-B of the tax law,
43 as amended by section 2 of part O of chapter 59 of the laws of 2017, is
44 amended to read as follows:

45 (f) Termination. The credit allowed by paragraph (b) of this subdivi-
46 sion shall not apply in taxable years beginning after December thirty-
47 first, two thousand [~~twenty-two~~] twenty-seven.

48 § 3. Paragraph 6 of subsection (p) of section 606 of the tax law, as
49 amended by section 3 of part O of chapter 59 of the laws of 2017, is
50 amended to read as follows:

1 (6) Termination. The credit allowed by this subsection shall not apply
2 in taxable years beginning after December thirty-first, two thousand
3 [~~twenty-two~~] twenty-seven.
4 § 4. This act shall take effect immediately.

PART Q

6 Section 1. Section 5 of part MM of chapter 59 of the laws of 2014
7 amending the labor law and the tax law relating to the creation of the
8 workers with disabilities tax credit program, as amended by section 1 of
9 part E of chapter 59 of the laws of 2019, is amended to read as follows:

10 § 5. This act shall take effect January 1, 2015, and shall apply to
11 taxable years beginning on and after that date[~~, provided, however, that~~
12 ~~this act shall expire and be deemed repealed January 1, 2023~~].

13 § 2. Section 25-b of the labor law is amended by adding a new subdivi-
14 sion (f) to read as follows:

15 (f) The tax credits provided under this program shall be applicable to
16 taxable periods beginning on or before January first, two thousand twen-
17 ty-nine.

18 § 3. This act shall take effect immediately.

PART R

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

23 1-A. The term "New York S corporation" means, with respect to any
24 taxable year, a corporation subject to tax under this article [~~for which~~
25 ~~an election is in effect pursuant to~~] and described in paragraph (i) or
26 (ii) of subsection (a) of section six hundred sixty of this chapter [~~for~~
27 ~~such year~~], and any such year shall be denominated a "New York S year"[~~r~~
28 ~~and such election shall be denominated a "New York S election"~~]. The
29 term "New York C corporation" means, with respect to any taxable year, a
30 corporation subject to tax under this article which is not a New York S
31 corporation, and any such year shall be denominated a "New York C year".
32 The term "termination year" means any taxable year of a corporation
33 during which the corporation's status as a New York S [~~election~~] corpo-
34 ration terminates on a day other than the first day of such year. The
35 portion of the taxable year ending before the first day for which such
36 termination is effective shall be denominated the "S short year", and
37 the portion of such year beginning on such first day shall be denomi-
38 nated the "C short year". The term "New York S termination year" means
39 any termination year which is [~~not~~] also an S termination year for
40 federal purposes.

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

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

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

49 (i) [~~where the election provided for in~~] subject to subsection (a) of
50 section six hundred sixty of this chapter [~~is in effect with respect to~~
51 ~~such corporation~~], there shall be added to federal unrelated business
52 taxable income an amount equal to the shareholder's pro rata share of

1 the corporation's reductions for taxes described in paragraphs two and
2 three of subsection (f) of section thirteen hundred sixty-six of the
3 internal revenue code, and

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

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

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

17 § 4. Paragraph 18 of subsection (b) of section 612 of the tax law, as
18 amended by chapter 606 of the laws of 1984, subparagraph (A) as amended
19 by chapter 28 of the laws of 1987 and subparagraph (B) as amended by
20 chapter 190 of the laws of 1990, is amended to read as follows:

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

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

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

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

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

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

50 (21) In relation to the disposition of stock or indebtedness of a
51 corporation which elected under subchapter s of chapter one of the
52 internal revenue code for any taxable year of such corporation begin-
53 ning, in the case of a corporation taxable under article nine-A of this
54 chapter, after December thirty-first, nineteen hundred eighty and before
55 January first, two thousand twenty-three, the amount required to be

1 added to federal adjusted gross income pursuant to subsection (n) of
2 this section.

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

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

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

16 § 9. Subsection (e) of section 612 of the tax law, as amended by chap-
17 ter 166 of the laws of 1991, paragraph 3 as added by chapter 760 of the
18 laws of 1992, is amended to read as follows:

19 (e) Modifications of partners and shareholders of S corporations. (1)
20 Partners and shareholders of S corporations [~~which are not New York C~~
21 ~~corporations~~]. The amounts of modifications required to be made under
22 this section by a partner or by a shareholder of an S corporation
23 [~~(other than an S corporation which is a New York C corporation)~~], which
24 relate to partnership or S corporation items of income, gain, loss or
25 deduction shall be determined under section six hundred seventeen and,
26 in the case of a partner of a partnership doing an insurance business as
27 a member of the New York insurance exchange described in section six
28 thousand two hundred one of the insurance law, under section six hundred
29 seventeen-a of this article.

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

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

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

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

51 (1) There shall be added to federal adjusted gross income the amount
52 of increase in basis with respect to such stock or indebtedness pursuant
53 to subsection (a) of section thirteen hundred seventy-six of the inter-
54 nal revenue code as such section was in effect for taxable years begin-
55 ning before January first, nineteen hundred eighty-three and subpara-
56 graphs (A) and (B) of paragraph one of subsection (a) of section

1 thirteen hundred sixty-seven of such code, for each taxable year of the
2 corporation beginning, in the case of a corporation taxable under arti-
3 cle nine-A of this chapter, after December thirty-first, nineteen
4 hundred eighty and before January first, two thousand twenty-three, and
5 in the case of a corporation taxable under former article thirty-two of
6 this chapter, after December thirty-first, nineteen hundred ninety-six
7 and before January first, two thousand fifteen, for which the election
8 provided for in subsection (a) of section six hundred sixty of this
9 article was not in effect, and

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

11 (A) the amount of reduction in basis with respect to such stock or
12 indebtedness pursuant to subsection (b) of section thirteen hundred
13 seventy-six of the internal revenue code as such section was in effect
14 for taxable years beginning before January first, nineteen hundred
15 eighty-three and subparagraphs (B) and (C) of paragraph two of
16 subsection (a) of section thirteen hundred sixty-seven of such code, for
17 each taxable year of the corporation beginning, in the case of a corpo-
18 ration taxable under article nine-A of this chapter, after December
19 thirty-first, nineteen hundred eighty and before January first, two
20 thousand twenty-three, and in the case of a corporation taxable under
21 former article thirty-two of this chapter, after December thirty-first,
22 nineteen hundred ninety-six and before January first, two thousand
23 fifteen, for which the election provided for in subsection (a) of
24 section six hundred sixty of this article was not in effect and

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

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

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

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

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

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

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

52 (a) Partner's and shareholder's modifications. In determining New York
53 adjusted gross income and New York taxable income of a resident partner
54 or a resident shareholder of an S corporation [~~(other than an S corpo-~~
55 ~~ration which is a New York C corporation)~~], any modification described
56 in subsections (b), (c) or (d) of section six hundred twelve, subsection

1 (c) of section six hundred fifteen or paragraphs (2) or (3) of
2 subsection (d) of such section, which relates to an item of partnership
3 or S corporation income, gain, loss or deduction shall be made in
4 accordance with the partner's distributive share or the shareholder's
5 pro rata share, for federal income tax purposes, of the item to which
6 the modification relates. Where a partner's distributive share or a
7 shareholder's pro rata share of any such item is not required to be
8 taken into account separately for federal income tax purposes, the part-
9 ner's or shareholder's share of such item shall be determined in accord-
10 ance with his or her share, for federal income tax purposes, of partner-
11 ship or S corporation taxable income or loss generally. In the case of a
12 New York S termination year, his or her pro rata share of any such item
13 shall be determined under subsection (s) of section six hundred twelve.

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

17 (E-1) in the case of an S corporation [~~for which an election is in~~
18 ~~effect pursuant~~] subject to subsection (a) of section six hundred sixty
19 of this article that terminates its taxable status in New York, any
20 income or gain recognized on the receipt of payments from an installment
21 sale contract entered into when the S corporation was subject to tax in
22 New York, allocated in a manner consistent with the applicable methods
23 and rules for [~~allocation~~] apportionment under article nine-A or former
24 article thirty-two of this chapter, in the year that the S corporation
25 sold its assets.

26 § 15. The section heading and paragraph 2 of subsection (a) of section
27 632 of the tax law, the section heading as amended by chapter 606 of the
28 laws of 1984, and paragraph 2 of subsection (a) as amended by section 71
29 of part A of chapter 59 of the laws of 2014, are amended to read as
30 follows:

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

32 (2) In determining New York source income of a nonresident shareholder
33 of an S corporation [~~where the election provided for in~~] subject to
34 subsection (a) of section six hundred sixty of this article [~~is in~~
35 ~~effect~~], there shall be included only the portion derived from or
36 connected with New York sources of such shareholder's pro rata share of
37 items of S corporation income, loss and deduction entering into [~~his~~]
38 such shareholder's federal adjusted gross income, increased by
39 reductions for taxes described in paragraphs two and three of subsection
40 (f) of section thirteen hundred sixty-six of the internal revenue code,
41 as such portion shall be determined under regulations of the commission-
42 er consistent with the applicable methods and rules for [~~allocation~~]
43 apportionment under article nine-A of this chapter [~~, regardless of~~
44 ~~whether or not such item or reduction is included in entire net income~~
45 ~~under article nine-A for the tax year~~]. If a nonresident is a sharehold-
46 er in an S corporation [~~where the election provided for in~~] subject to
47 subsection (a) of section six hundred sixty of this article [~~is in~~
48 ~~effect~~], and the S corporation has distributed an installment obligation
49 under section 453(h)(1)(A) of the Internal Revenue Code, then any gain
50 recognized on the receipt of payments from the installment obligation
51 for federal income tax purposes will be treated as New York source
52 income allocated in a manner consistent with the applicable methods and
53 rules for [~~allocation~~] apportionment under article nine-A of this chap-
54 ter in the year that the assets were sold. In addition, if the share-
55 holders of the S corporation have made an election under section
56 338(h)(10) of the Internal Revenue Code, then any gain recognized on the

1 deemed asset sale for federal income tax purposes will be treated as New
2 York source income allocated in a manner consistent with the applicable
3 methods and rules for [~~allocation~~] apportionment under article nine-A of
4 this chapter in the year that the shareholder made the section
5 338(h)(10) election. For purposes of a section 338(h)(10) election, when
6 a nonresident shareholder exchanges his or her S corporation stock as
7 part of the deemed liquidation, any gain or loss recognized shall be
8 treated as the disposition of an intangible asset and will not increase
9 or offset any gain recognized on the deemed assets sale as a result of
10 the section 338(h)(10) election.

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

14 (a) General. If (1) substantially all of the services of a personal
15 service corporation or S corporation are performed for or on behalf of
16 another corporation, partnership, or other entity and (2) the effect of
17 forming or availing of such personal service corporation or S corpo-
18 ration is the avoidance or evasion of New York income tax by reducing
19 the income of, or in the case of a nonresident, reducing the New York
20 source income of, or securing the benefit of any expense, deduction,
21 credit, exclusion, or other allowance for, any employee-owner which
22 would not otherwise be available, then the commissioner may allocate all
23 income, deductions, credits, exclusions, and other allowances between
24 such personal service corporation or S corporation (even if such
25 personal service corporation or S corporation [~~is taxed under article~~
26 ~~nine A of this chapter or~~] is not subject to tax in this state) and its
27 employee-owners, provided such allocation is necessary to prevent avoid-
28 ance or evasion of New York state income tax or to clearly reflect the
29 source and the amount of the income of the personal service corporation
30 or S corporation or any of its employee-owners.

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

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

44 (A) General. Every entity which is a partnership, other than a public-
45 ly traded partnership as defined in section 7704 of the federal Internal
46 Revenue Code, subchapter K limited liability company or an S corporation
47 [~~for which the election provided for in subsection (a) of section six~~
48 ~~hundred sixty of this part is in effect~~], which has partners, members or
49 shareholders who are nonresident individuals, as defined under
50 subsection (b) of section six hundred five of this article, or C corpo-
51 rations, and which has any income derived from New York sources, deter-
52 mined in accordance with the applicable rules of section six hundred
53 thirty-one of this article as in the case of a nonresident individual,
54 shall pay estimated tax on such income on behalf of such partners,
55 members or shareholders in the manner and at the times prescribed by
56 subsection (c) of section six hundred eighty-five of this article. For

1 purposes of this paragraph, the term "estimated tax" shall mean a part-
2 ner's, member's or shareholder's distributive share or pro rata share of
3 the entity income derived from New York sources, multiplied by the high-
4 est rate of tax prescribed by section six hundred one of this article
5 for the taxable year of any partner, member or shareholder who is an
6 individual taxpayer, or paragraph (a) of subdivision one of section two
7 hundred ten of this chapter for the taxable year of any partner, member
8 or shareholder which is a C corporation, whether or not such C corpo-
9 ration is subject to tax under article nine, nine-A or thirty-three of
10 this chapter, and reduced by the distributive share or pro rata share of
11 any credits determined under section one hundred eighty-seven, one
12 hundred eighty-seven-a, six hundred six or fifteen hundred eleven of
13 this chapter, whichever is applicable, derived from the entity.

14 § 18. Section 660 of the tax law, as amended by chapter 606 of the
15 laws of 1984, subsections (a) and (h) as amended by section 73 of part A
16 of chapter 59 of the laws of 2014, paragraph 3 of subsection (b) as
17 amended by section 51, paragraphs 4 and 5 of subsection (b) as added and
18 paragraph 6 of subsection (b) as renumbered by section 52 and
19 subsections (e) and (f) as added and subsection (g) as relettered by
20 section 53 of part A of chapter 389 of the laws of 1997, subsection (d)
21 as added by chapter 760 of the laws of 1992, subsection (i) as added by
22 section 1 of part L of chapter 60 of the laws of 2007 and paragraph 1 of
23 subsection (i) as amended by section 39 of part T of chapter 59 of the
24 laws of 2015, is amended to read as follows:

25 § 660. [~~Election by shareholders of S corporations~~] Tax treatment of
26 federal S corporations. (a) [~~Election.~~] If a corporation is an eligible
27 S corporation, the shareholders of the corporation [~~may elect in the~~
28 ~~manner set forth in subsection (b) of this section to~~] shall take into
29 account, to the extent provided for in this article (or in article thir-
30 teen of this chapter, in the case of a shareholder which is a taxpayer
31 under such article), the S corporation items of income, loss, deduction
32 and reductions for taxes described in paragraphs two and three of
33 subsection (f) of section thirteen hundred sixty-six of the internal
34 revenue code which are taken into account for federal income tax
35 purposes for the taxable year. [~~No election under this subsection shall~~
36 ~~be effective unless all shareholders of the corporation have so~~
37 ~~elected.~~] An eligible S corporation is (i) [~~an S~~] a corporation that has
38 elected to be an S corporation for federal income tax purposes pursuant
39 to section thirteen hundred sixty-two of the internal revenue code which
40 is subject to tax under article nine-A of this chapter, or (ii) [~~an S~~] a
41 corporation that has elected to be an S corporation for federal income
42 tax purposes pursuant to section thirteen hundred sixty-two of the
43 internal revenue code which is the parent of a qualified subchapter S
44 subsidiary as defined in subparagraph (B) of paragraph three of
45 subsection (b) of section thirteen hundred sixty-one of the internal
46 revenue code subject to tax under article nine-A[, ~~where the sharehold-~~
47 ~~ers of such parent corporation are entitled to make the election under~~
48 ~~this subsection by reason of subparagraph three of paragraph (k) of~~
49 ~~subdivision nine of section two hundred eight~~] of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 ~~(i) Mandated New York S corporation election. (1) Notwithstanding the~~
16 ~~provisions in subsection (a) of this section, in the case of an eligible~~
17 ~~S corporation for which the election under subsection (a) of this~~
18 ~~section is not in effect for the current taxable year, the shareholders~~
19 ~~of an eligible S corporation are deemed to have made that election~~
20 ~~effective for the eligible S corporation's entire current taxable year,~~
21 ~~if the eligible S corporation's investment income for the current tax-~~
22 ~~able year is more than fifty percent of its federal gross income for such~~
23 ~~year. In determining whether an eligible S corporation is deemed to have~~
24 ~~made that election, the income of a qualified subchapter S subsidiary~~
25 ~~owned directly or indirectly by the eligible S corporation shall be~~
26 ~~included with the income of the eligible S corporation.~~

27 ~~(2) For the purposes of this subsection, the term "eligible S corpo-~~
28 ~~ration" has the same definition as in subsection (a) of this section.~~

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

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

49 § 19. Transition rules. Any prior net operating loss conversion
50 subtraction and net operating loss carryforward that otherwise would
51 have been allowed under subparagraphs (viii) and (ix), respectively, of
52 paragraph (a) of subdivision 1 of section 210 of the tax law for the
53 taxable years beginning on or after January 1, 2023 to any taxpayer that
54 was a New York C corporation for a taxable year beginning on or after
55 January 1, 2022 and before January 1, 2023, and that becomes a New York
56 S corporation for a taxable year beginning on or after January 1, 2023

1 as a result of the amendments made by this act, shall be held in abey-
2 ance and be available to such taxpayer if its election to be a federal S
3 corporation is terminated. Further, any credit carryforwards allowed to
4 such a taxpayer under section 210-B of the tax law shall be held in
5 abeyance and be available to such taxpayer if its election to be a
6 federal S corporation is terminated. However, the taxpayer's years as a
7 New York S corporation shall be counted for purposes of computing any
8 time period applicable to the allowance of the prior net operating loss
9 conversion subtraction or carryforward, the net operating loss
10 deduction, or any credit carryforward.

11 § 20. This act shall take effect immediately and shall apply to taxa-
12 ble years beginning on or after January 1, 2023.

13

PART S

14 Section 1. Subparagraph (i) of paragraph (b) of subdivision 1 of
15 section 210-B of the tax law, as amended by section 2 of part P of chap-
16 ter 59 of the laws of 2017, is amended to read as follows:

17 (i) A credit shall be allowed under this subdivision with respect to
18 tangible personal property and other tangible property, including build-
19 ings and structural components of buildings, which are: depreciable
20 pursuant to section one hundred sixty-seven of the internal revenue
21 code, have a useful life of four years or more, are acquired by purchase
22 as defined in section one hundred seventy-nine (d) of the internal
23 revenue code, have a situs in this state and are (A) principally used by
24 the taxpayer in the production of goods by manufacturing, processing,
25 assembling, refining, mining, extracting, farming, agriculture, horti-
26 culture, floriculture, viticulture or commercial fishing, (B) industrial
27 waste treatment facilities or air pollution control facilities, used in
28 the taxpayer's trade or business, (C) research and development property,
29 or (D) principally used in the ordinary course of the taxpayer's trade
30 or business as a broker or dealer in connection with the purchase or
31 sale (which shall include but not be limited to the issuance, entering
32 into, assumption, offset, assignment, termination, or transfer) of
33 stocks, bonds or other securities as defined in section four hundred
34 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as
35 defined in section four hundred seventy-five (e) of the Internal Revenue
36 Code, (E) principally used in the ordinary course of the taxpayer's
37 trade or business of providing investment advisory services for a regu-
38 lated investment company as defined in section eight hundred fifty-one
39 of the Internal Revenue Code, or lending, loan arrangement or loan orig-
40 ination services to customers in connection with the purchase or sale
41 (which shall include but not be limited to the issuance, entering into,
42 assumption, offset, assignment, termination, or transfer) of securities
43 as defined in section four hundred seventy-five (c)(2) of the Internal
44 Revenue Code, (F) principally used in the ordinary course of the taxpay-
45 er's business as an exchange registered as a national securities
46 exchange within the meaning of sections 3(a)(1) and 6(a) of the Securi-
47 ties Exchange Act of 1934 or a board of trade as defined in subparagraph
48 one of paragraph (a) of section fourteen hundred ten of the not-for-pro-
49 fit corporation law or as an entity that is wholly owned by one or more
50 such national securities exchanges or boards of trade and that provides
51 automation or technical services thereto, or (G) principally used as a
52 qualified film production facility including qualified film production
53 facilities having a situs in an empire zone designated as such pursuant
54 to article eighteen-B of the general municipal law, where the taxpayer

1 is providing three or more services to any qualified film production
2 company using the facility, including such services as a studio lighting
3 grid, lighting and grip equipment, multi-line phone service, broadband
4 information technology access, industrial scale electrical capacity,
5 food services, security services, and heating, ventilation and air
6 conditioning. For purposes of clauses (D), (E) and (F) of this subpara-
7 graph, property purchased by a taxpayer affiliated with a regulated
8 broker, dealer, registered investment advisor, national securities
9 exchange or board of trade, is allowed a credit under this subdivision
10 if the property is used by its affiliated regulated broker, dealer,
11 registered investment advisor, national securities exchange or board of
12 trade in accordance with this subdivision. For purposes of determining
13 if the property is principally used in qualifying uses, the uses by the
14 taxpayer described in clauses (D) and (E) of this subparagraph may be
15 aggregated. In addition, the uses by the taxpayer, its affiliated regu-
16 lated broker, dealer and registered investment advisor under either or
17 both of those clauses may be aggregated. Provided, however, a taxpayer
18 shall not be allowed the credit provided by clauses (D), (E) and (F) of
19 this subparagraph unless the property is first placed in service before
20 October first, two thousand fifteen and (i) eighty percent or more of
21 the employees performing the administrative and support functions
22 resulting from or related to the qualifying uses of such equipment are
23 located in this state or (ii) the average number of employees that
24 perform the administrative and support functions resulting from or
25 related to the qualifying uses of such equipment and are located in this
26 state during the taxable year for which the credit is claimed is equal
27 to or greater than ninety-five percent of the average number of employ-
28 ees that perform these functions and are located in this state during
29 the thirty-six months immediately preceding the year for which the cred-
30 it is claimed, or (iii) the number of employees located in this state
31 during the taxable year for which the credit is claimed is equal to or
32 greater than ninety percent of the number of employees located in this
33 state on December thirty-first, nineteen hundred ninety-eight or, if the
34 taxpayer was not a calendar year taxpayer in nineteen hundred ninety-
35 eight, the last day of its first taxable year ending after December
36 thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes
37 subject to tax in this state after the taxable year beginning in nine-
38 teen hundred ninety-eight, then the taxpayer is not required to satisfy
39 the employment test provided in the preceding sentence of this subpara-
40 graph for its first taxable year. For purposes of clause (iii) of this
41 subparagraph the employment test will be based on the number of employ-
42 ees located in this state on the last day of the first taxable year the
43 taxpayer is subject to tax in this state. If the uses of the property
44 must be aggregated to determine whether the property is principally used
45 in qualifying uses, then either each affiliate using the property must
46 satisfy this employment test or this employment test must be satisfied
47 through the aggregation of the employees of the taxpayer, its affiliated
48 regulated broker, dealer, and registered investment advisor using the
49 property. For purposes of clause (A) of this subparagraph, tangible
50 personal property and other tangible property shall not include property
51 principally used by the taxpayer (I) in the production or distribution
52 of electricity, natural gas after extraction from wells, steam, or water
53 delivered through pipes and mains, or (II) in the creation, production
54 or reproduction, in any medium, of any audio or visual recording,
55 including but not limited to films, television shows, commercials, and
56 musical recordings, or in the duplication, for purposes of broadcast in

1 any medium, of a master of any audio or visual recording, including but
2 not limited to films, television shows, commercials, and musical
3 recordings.

4 § 2. Subparagraph (A) of paragraph 2 of subsection (a) of section 606
5 of the tax law, as amended by section 3 of part P of chapter 59 of the
6 laws of 2017, is amended to read as follows:

7 (A) A credit shall be allowed under this subsection with respect to
8 tangible personal property and other tangible property, including build-
9 ings and structural components of buildings, which are: depreciable
10 pursuant to section one hundred sixty-seven of the internal revenue
11 code, have a useful life of four years or more, are acquired by purchase
12 as defined in section one hundred seventy-nine (d) of the internal
13 revenue code, have a situs in this state and are (i) principally used by
14 the taxpayer in the production of goods by manufacturing, processing,
15 assembling, refining, mining, extracting, farming, agriculture, horti-
16 culture, floriculture, viticulture or commercial fishing, (ii) indus-
17 trial waste treatment facilities or air pollution control facilities,
18 used in the taxpayer's trade or business, (iii) research and development
19 property, (iv) principally used in the ordinary course of the taxpayer's
20 trade or business as a broker or dealer in connection with the purchase
21 or sale (which shall include but not be limited to the issuance, enter-
22 ing into, assumption, offset, assignment, termination, or transfer) of
23 stocks, bonds or other securities as defined in section four hundred
24 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as
25 defined in section 475(e) of the Internal Revenue Code, (v) principally
26 used in the ordinary course of the taxpayer's trade or business of
27 providing investment advisory services for a regulated investment compa-
28 ny as defined in section eight hundred fifty-one of the Internal Revenue
29 Code, or lending, loan arrangement or loan origination services to
30 customers in connection with the purchase or sale (which shall include
31 but not be limited to the issuance, entering into, assumption, offset,
32 assignment, termination, or transfer) of securities as defined in
33 section four hundred seventy-five (c)(2) of the Internal Revenue Code,
34 or (vi) principally used as a qualified film production facility includ-
35 ing qualified film production facilities having a situs in an empire
36 zone designated as such pursuant to article eighteen-B of the general
37 municipal law, where the taxpayer is providing three or more services to
38 any qualified film production company using the facility, including such
39 services as a studio lighting grid, lighting and grip equipment, multi-
40 line phone service, broadband information technology access, industrial
41 scale electrical capacity, food services, security services, and heat-
42 ing, ventilation and air conditioning. For purposes of clauses (iv) and
43 (v) of this subparagraph, property purchased by a taxpayer affiliated
44 with a regulated broker, dealer, or registered investment adviser is
45 allowed a credit under this subsection if the property is used by its
46 affiliated regulated broker, dealer or registered investment adviser in
47 accordance with this subsection. For purposes of determining if the
48 property is principally used in qualifying uses, the uses by the taxpay-
49 er described in clauses (iv) and (v) of this subparagraph may be aggre-
50 gated. In addition, the uses by the taxpayer, its affiliated regulated
51 broker, dealer and registered investment adviser under either or both of
52 those clauses may be aggregated. Provided, however, a taxpayer shall not
53 be allowed the credit provided by clauses (iv) and (v) of this subpara-
54 graph unless (I) eighty percent or more of the employees performing the
55 administrative and support functions resulting from or related to the
56 qualifying uses of such equipment are located in this state, or (II) the

1 average number of employees that perform the administrative and support
2 functions resulting from or related to the qualifying uses of such
3 equipment and are located in this state during the taxable year for
4 which the credit is claimed is equal to or greater than ninety-five
5 percent of the average number of employees that perform these functions
6 and are located in this state during the thirty-six months immediately
7 preceding the year for which the credit is claimed, or (III) the number
8 of employees located in this state during the taxable year for which the
9 credit is claimed is equal to or greater than ninety percent of the
10 number of employees located in this state on December thirty-first,
11 nineteen hundred ninety-eight or, if the taxpayer was not a calendar
12 year taxpayer in nineteen hundred ninety-eight, the last day of its
13 first taxable year ending after December thirty-first, nineteen hundred
14 ninety-eight. If the taxpayer becomes subject to tax in this state after
15 the taxable year beginning in nineteen hundred ninety-eight, then the
16 taxpayer is not required to satisfy the employment test provided in the
17 preceding sentence of this subparagraph for its first taxable year. For
18 the purposes of clause (III) of this subparagraph the employment test
19 will be based on the number of employees located in this state on the
20 last day of the first taxable year the taxpayer is subject to tax in
21 this state. If the uses of the property must be aggregated to determine
22 whether the property is principally used in qualifying uses, then either
23 each affiliate using the property must satisfy this employment test or
24 this employment test must be satisfied through the aggregation of the
25 employees of the taxpayer, its affiliated regulated broker, dealer, and
26 registered investment adviser using the property. For purposes of clause
27 (i) of this subparagraph, tangible personal property and other tangible
28 property shall not include property principally used by the taxpayer (a)
29 in the production or distribution of electricity, natural gas after
30 extraction from wells, steam, or water delivered through pipes and
31 mains, or (b) in the creation, production or reproduction, in any medi-
32 um, of any audio or visual recording, including but not limited to
33 films, television shows, commercials, and musical recordings, or in the
34 duplication, for purposes of broadcast in any medium, of a master of any
35 audio or visual recording, including but not limited to films, tele-
36 vision shows, commercials, and musical recordings.

37 § 3. This act shall take effect immediately, and shall apply to prop-
38 erty placed in service on or after January 1, 2023.

39 PART T

40 Section 1. Section 301-b of the tax law is amended by adding a new
41 subdivision (j) to read as follows:

42 (j) Exemption for tugboats and towboats. The use by a tugboat or
43 towboat of motor fuel, diesel motor fuel, or residual petroleum product.
44 Provided, that the commissioner shall require such documentary proof to
45 qualify for any exemption provided hereunder as the commissioner deems
46 appropriate.

47 § 2. The opening paragraph of section 301-c of the tax law, as amended
48 by section 5 of part W-1 of chapter 109 of the laws of 2006, is amended
49 to read as follows:

50 A subsequent purchaser shall be eligible for reimbursement of tax with
51 respect to the following gallonage, subsequently sold by such purchaser
52 in accordance with subdivision (a), (b), (e), (h), (j), (k), (n) or (o)
53 of this section or used by such purchaser in accordance with subdivision
54 (c), (d), (f), (g), (i), (l) ~~(e)~~, (m) or (q) of this section, which

1 gallonage has been included in the measure of the tax imposed by this
2 article on a petroleum business:

3 § 3. The opening paragraph of section 301-c of the tax law, as amended
4 by chapter 468 of the laws of 2000, is amended to read as follows:

5 A subsequent purchaser shall be eligible for reimbursement of tax with
6 respect to the following gallonage, subsequently sold by such purchaser
7 in accordance with subdivision (a), (b), (e), (h), (j) or (k) of this
8 section or used by such purchaser in accordance with subdivision (c),
9 (d), (f), (g), (i), (l) ~~[e]~~, (m) or (q) of this section, which gallo-
10 nage has been included in the measure of the tax imposed by this article
11 on a petroleum business:

12 § 4. Section 301-c of the tax law is amended by adding a new subdivi-
13 sion (q) to read as follows:

14 (q) Reimbursement for tugboats and towboats. A use by a tugboat or
15 towboat of motor fuel, diesel motor fuel, or residual petroleum product.
16 This reimbursement may be claimed only where (1) any tax imposed pursu-
17 ant to this article has been paid with respect to such gallonage and the
18 entire amount of such tax has been absorbed by such purchaser, and (2)
19 such tugboat or towboat possesses documentary proof satisfactory to the
20 commissioner evidencing the absorption by it of the entire amount of
21 such tax. Provided, that the commissioner shall require such documentary
22 proof to qualify for any reimbursement provided hereunder as the commis-
23 sioner deems appropriate.

24 § 5. This act shall take effect September 1, 2022, and shall apply to
25 uses of motor fuel, diesel motor fuel and residual petroleum product on
26 and after such date; provided however that the amendments to the opening
27 paragraph of section 301-c of the tax law made by section two of this
28 act shall be subject to the expiration and reversion of such paragraph
29 pursuant to section 19 of part W-1 of chapter 109 of the laws of 2006,
30 as amended, when upon such date the provisions of section three of this
31 act shall take effect.

32 PART U

33 Section 1. Subparagraph (i) of the opening paragraph of section 1210
34 of the tax law is REPEALED and a new subparagraph (i) is added to read
35 as follows:

36 (i) with respect to a city of one million or more and the following
37 counties: (1) any such city having a population of one million or more
38 is hereby authorized and empowered to adopt and amend local laws, ordi-
39 nanances or resolutions imposing such taxes in any such city, at the rate
40 of four and one-half percent;

41 (2) the following counties that impose taxes described in subdivision
42 (a) of this section at the rate of three percent as authorized above in
43 this paragraph are hereby further authorized and empowered to adopt and
44 amend local laws, ordinances, or resolutions imposing such taxes at
45 additional rates, in quarter percent increments, not to exceed the
46 following rates, which rates are additional to the three percent rate
47 authorized above in this paragraph:

48 (A) One percent - Albany, Broome, Cattaraugus, Cayuga, Chautauqua,
49 Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess,
50 Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Jefferson, Lewis,
51 Livingston, Madison, Monroe, Montgomery, Niagara, Onondaga, Ontario,
52 Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Rockland, St.
53 Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben,

1 Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne,
2 Westchester, Wyoming, Yates;

3 (B) One and one-quarter percent - Herkimer, Nassau;

4 (C) One and one-half percent - Allegany;

5 (D) One and three-quarters percent - Erie, Oneida.

6 (E) Provided, however, that (I) the county of Rockland may impose
7 additional rates of five-eighths percent and three-eighths percent, in
8 lieu of imposing such additional rate in quarter percent increments;
9 (II) the county of Ontario may impose additional rates of one-eighth
10 percent and three-eighths percent, in lieu of imposing such additional
11 rate in quarter percent increments; (III) three-quarters percent of the
12 additional rate authorized to be imposed by the county of Nassau shall
13 be subject to the limitation set forth in section twelve hundred sixty-
14 two-e of this article.

15 § 2. Subparagraph (ii) of the opening paragraph of section 1210 of the
16 tax law is REPEALED and a new subparagraph (ii) is added to read as
17 follows:

18 (ii) the following cities that impose taxes described in subdivision
19 (a) of this section at the rate of one and one-half percent or higher as
20 authorized above in this paragraph for such cities are hereby further
21 authorized and empowered to adopt and amend local laws, ordinances, or
22 resolutions imposing such taxes at additional rates, in quarter percent
23 increments, not to exceed the following rates, which rates are addi-
24 tional to the one and one-half percent or higher rates authorized above
25 in this paragraph:

26 (1) One percent - Mount Vernon; New Rochelle; Oswego; White Plains;

27 (2) One and one-quarter percent - None;

28 (3) One and one-half percent - Yonkers.

29 § 3. Subparagraphs (iii) and (iv) of the opening paragraph of section
30 1210 of the tax law are REPEALED and a new subparagraph (iii) is added
31 to read as follows:

32 (iii) the maximum rate referred to in section twelve hundred twenty-
33 four of this article shall be calculated without reference to the addi-
34 tional rates authorized for counties, other than the counties of Cayuga,
35 Cortland, Fulton, Madison, and Otsego, in clause two of subparagraph (i)
36 and the cities in subparagraph (ii) of this paragraph.

37 § 4. Section 1210 of the tax law is amended by adding a new subdivi-
38 sion (p) to read as follows:

39 (p) Notwithstanding any provision of this section or any other law to
40 the contrary, a county authorized to impose an additional rate or rates
41 of sales and compensating use taxes by clause two of subparagraph (i) of
42 the opening paragraph of this section, or a city, other than the city of
43 Mount Vernon, authorized to impose an additional rate of such taxes by
44 subparagraph (ii) of such opening paragraph, may adopt a local law,
45 ordinance, or resolution by a majority vote of its governing body impos-
46 ing such rate or rates for a period not to exceed two years, and any
47 such period must end on November thirtieth of an odd-numbered year.
48 Notwithstanding the preceding sentence, the city of White Plains is
49 authorized to exceed such two-year limitation to impose the tax author-
50 ized by subparagraph (ii) of such opening paragraph for the period
51 commencing on September first, two thousand twenty-three and ending on
52 November thirtieth, two thousand twenty-five. Any such local law, ordi-
53 nance, or resolution shall also be subject to the provisions of subdivi-
54 sions (d) and (e) of this section.

55 § 5. Section 1210-E of the tax law is REPEALED.

1 § 6. Subdivisions (d), (e), (f), (g), (h), (i), (j), (k), (l), (m),
2 (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (z-1),
3 (aa), (bb), (cc), (dd), (ee), (ff), (gg), (hh), (ii) and (jj) of section
4 1224 of the tax law are REPEALED.

5 § 7. Section 1224 of the tax law is amended by adding three new subdivi-
6 sions (d), (e), and (f) to read as follows:

7 (d) For purposes of this section, the term "prior right" shall mean
8 the preferential right to impose any tax described in sections twelve
9 hundred two and twelve hundred three, or twelve hundred ten and twelve
10 hundred eleven, of this article and thereby to preempt such tax and to
11 preclude another municipal corporation from imposing or continuing the
12 imposition of such tax to the extent that such right is exercised.
13 However, the right of preemption shall only apply within the territorial
14 limits of the taxing jurisdiction having the right of preemption.

15 (e) Each of the following counties and cities shall have the sole
16 right to impose the following additional rate of sales and compensating
17 use taxes in excess of three percent that such county or city is author-
18 ized to impose pursuant to clause two of subparagraph (i) or subpara-
19 graph (ii) of the opening paragraph of section twelve hundred ten of
20 this article. Such additional rates of tax shall not be subject to
21 preemption.

22 (1) Counties:

23 (A) One percent - Albany, Broome, Cattaraugus, Chautauqua, Chemung,
24 Chenango, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Gene-
25 see, Greene, Hamilton, Jefferson, Lewis, Livingston, Monroe, Montgomery,
26 Niagara, Onondaga, Ontario, Orange, Orleans, Oswego, Putnam, Rensselaer,
27 Rockland, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler,
28 Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren,
29 Washington, Wayne, Westchester, Wyoming, Yates;

30 (B) One and one-quarter percent - Herkimer, Nassau;

31 (C) One and one-half percent - Allegany;

32 (D) One and three-quarters percent - Erie, Oneida.

33 (E) Provided, however, that the county of Westchester shall have the
34 sole right to impose the additional one percent rate of tax which such
35 county is authorized to impose pursuant to the authority of clause two
36 of subparagraph (i) of the opening paragraph of section twelve hundred
37 ten of this article in the area of the county outside the cities of
38 Mount Vernon, New Rochelle, White Plains, and Yonkers.

39 (2) Cities:

40 (A) One-quarter of one percent - Rome;

41 (B) One-half of one percent - None;

42 (C) Three-quarters of one percent - None;

43 (D) One percent - Mount Vernon, New Rochelle, White Plains;

44 (E) One and one-quarter percent - None;

45 (F) One and one-half percent - Yonkers.

46 (f) Each of the following cities is authorized to preempt the taxes
47 imposed by the county in which it is located pursuant to the authority
48 of section twelve hundred ten of this article, to the extent of one-half
49 the maximum aggregate rate authorized under section twelve hundred ten
50 of this article, including the additional rate that the county in which
51 such city is located is authorized to impose: Auburn, in Cayuga county;
52 Cortland, in Cortland county; Gloversville and Johnstown, in Fulton
53 county; Oneida, in Madison county; Oneonta, in Otsego county. As of the
54 date this subdivision takes effect, any such preemption by such a city
55 in effect on such date shall continue in full force and effect until the
56 effective date of a local law, ordinance, or resolution adopted or

1 amended by the city to change such preemption. Any preemption by such a
2 city pursuant to this subdivision that takes effect after the effective
3 date of this subdivision shall be subject to the notice requirements in
4 section twelve hundred twenty-three of this subpart and to the other
5 requirements of this article.

6 § 8. Section 1262-g of the tax law, as amended by section 2 of item DD
7 of subpart C of part XXX of chapter 58 of the laws of 2020, is amended
8 to read as follows:

9 § 1262-g. Oneida county allocation and distribution of net collections
10 from the additional [~~one percent rate~~] rates of sales and compensating
11 use taxes. Notwithstanding any contrary provision of law, (a) if the
12 county of Oneida imposes sales and compensating use taxes at a rate
13 which is one percent additional to the three percent rate authorized by
14 section twelve hundred ten of this article, as authorized by such
15 section, [~~(a)~~] (i) where a city in such county imposes tax pursuant to
16 the authority of subdivision (a) of such section twelve hundred ten,
17 such county shall allocate, distribute and pay in cash quarterly to such
18 city one-half of the net collections attributable to such additional one
19 percent rate of the county's taxes collected in such city's boundaries;
20 [~~(b)~~] (ii) where a city in such county does not impose tax pursuant to
21 the authority of such subdivision (a) of such section twelve hundred
22 ten, such county shall allocate, distribute and pay in cash quarterly to
23 such city not so imposing tax a portion of the net collections attribut-
24 able to one-half of the county's additional one percent rate of tax
25 calculated on the basis of the ratio which such city's population bears
26 to the county's total population, such populations as determined in
27 accordance with the latest decennial federal census or special popu-
28 lation census taken pursuant to section twenty of the general municipal
29 law completed and published prior to the end of the quarter for which
30 the allocation is made, which special census must include the entire
31 area of the county; [~~and (c)~~] provided, however, that such county shall
32 dedicate the first one million five hundred thousand dollars of net
33 collections attributable to such additional one percent rate of tax
34 received by such county after the county receives in the aggregate eigh-
35 teen million five hundred thousand dollars of net collections from such
36 additional one percent rate of tax [~~imposed for any of the periods:~~
37 ~~September first, two thousand twelve through August thirty first, two~~
38 ~~thousand thirteen; September first, two thousand thirteen through August~~
39 ~~thirty first, two thousand fourteen; and September first, two thousand~~
40 ~~fourteen through August thirty first, two thousand fifteen; September~~
41 ~~first, two thousand fifteen through August thirty first, two thousand~~
42 ~~sixteen; and September first, two thousand sixteen through August thir-~~
43 ~~ty first, two thousand seventeen; September first, two thousand seven-~~
44 ~~teen through August thirty first, two thousand eighteen; September~~
45 ~~first, two thousand eighteen through August thirty first, two thousand~~
46 ~~twenty; and September first, two thousand twenty through August thirty~~
47 ~~first, two thousand twenty three,~~] to an allocation on a per capita
48 basis, utilizing figures from the latest decennial federal census or
49 special population census taken pursuant to section twenty of the gener-
50 al municipal law, completed and published prior to the end of the year
51 for which such allocation is made, which special census must include the
52 entire area of such county, to be allocated and distributed among the
53 towns of Oneida county by appropriation of its board of legislators;
54 provided, further, that nothing herein shall require such board of
55 legislators to make any such appropriation until it has been notified by
56 any town by appropriate resolution and, in any case where there is a

1 village wholly or partly located within a town, a resolution of every
2 such village, embodying the agreement of such town and village or
3 villages upon the amount of such appropriation to be distributed to such
4 village or villages out of the allocation to the town or towns in which
5 it is located. (b) If the county of Oneida imposes sales and compensat-
6 ing use taxes at a rate which is one and three-quarters percent addi-
7 tional to the three percent rate authorized by section twelve hundred
8 ten of this article, as authorized pursuant to clause two of subpara-
9 graph (i) of the opening paragraph of section twelve hundred ten of this
10 article, net collections attributable to the additional three-quarters
11 percent of such additional rate shall not be subject to any revenue
12 distribution agreement entered into by the county and the cities in the
13 county pursuant to the authority of subdivision (c) of section twelve
14 hundred sixty-two of this part.

15 § 9. The opening paragraph of section 1262-r of the tax law, as added
16 by chapter 37 of the laws of 2006, is amended to read as follows:

17 (1) Notwithstanding any contrary provision of law, if the county of
18 Ontario imposes the additional one-eighth of one percent and the addi-
19 tional three-eighths of one percent rates of tax authorized pursuant to
20 clause two of subparagraph (i) of the opening paragraph of section
21 twelve hundred ten of this article, net collections from the such addi-
22 tional three-eighths of one percent rate of such taxes shall be set
23 aside for county purposes and shall not be subject to any agreement
24 entered into by the county and the cities in the county pursuant to the
25 authority of subdivision (c) of section twelve hundred sixty-two of this
26 part or this section.

27 (2) Notwithstanding the provisions of subdivision (c) of section
28 twelve hundred sixty-two of this part to the contrary, if the cities of
29 Canandaigua and Geneva in the county of Ontario do not impose sales and
30 compensating use taxes pursuant to the authority of section twelve
31 hundred ten of this article and such cities and county enter into an
32 agreement pursuant to the authority of subdivision (c) of section twelve
33 hundred sixty-two of this part to be effective March first, two thousand
34 six, such agreement may provide that:

35 § 10. The tax law is amended by adding a new section 1262-v to read as
36 follows:

37 § 1262-v. Disposition of net collections from the additional rate of
38 sales and compensating use tax in Clinton county. Notwithstanding any
39 contrary provision of law, if the county of Clinton imposes the addi-
40 tional one percent rate of sales and compensating use taxes authorized
41 pursuant to clause two of subparagraph (i) of the opening paragraph of
42 section twelve hundred ten of this article, net collections from such
43 additional rate shall be paid to the county and the county shall set
44 aside such net collections and use them solely for county purposes. Such
45 net collections shall not be subject to any revenue distribution agree-
46 ment entered into by the county and the city in the county pursuant to
47 the authority of subdivision (c) of section twelve hundred sixty-two of
48 this part.

49 § 11. Section 1262-s of the tax law, as amended by section 3 of item U
50 of subpart C of part XXX of chapter 58 of the laws of 2020, is amended
51 to read as follows:

52 § 1262-s. Disposition of net collections from the additional one-quarter
53 of one percent rate of sales and compensating use taxes in the coun-
54 ty of Herkimer. Notwithstanding any contrary provision of law, if the
55 county of Herkimer imposes [~~the additional~~] sales and compensating use
56 tax at a rate that is one and one-quarter [~~of one~~] percent [~~rate of~~

1 ~~sales and compensating use taxes~~ additional to the three percent rate
2 authorized by section twelve hundred ten of this article as authorized
3 by ~~[section twelve hundred ten-E]~~ clause two of subparagraph (i) of the
4 opening paragraph of section twelve hundred ten of this article ~~[for all~~
5 ~~or any portion of the period beginning December first, two thousand~~
6 ~~seven and ending November thirtieth, two thousand twenty-three]~~, the
7 county shall use all net collections ~~[from such]~~ attributable to the
8 additional one-quarter ~~[of one]~~ percent of such additional rate to pay
9 the county's expenses for the construction of additional correctional
10 facilities. The net collections from ~~[the]~~ such additional one-quarter
11 percent of such additional rate ~~[imposed pursuant to section twelve~~
12 ~~hundred ten-E of this article]~~ shall be deposited in a special fund to
13 be created by such county separate and apart from any other funds and
14 accounts of the county. Any and all remaining net collections from such
15 additional tax, after the expenses of such construction are paid, shall
16 be deposited by the county of Herkimer in the general fund of such coun-
17 ty for any county purpose.

18 § 12. The tax law is amended by adding a new section 1265 to read as
19 follows:

20 § 1265. References to certain provisions authorizing additional rates
21 or to expirations of a period. Notwithstanding any provision of law to
22 the contrary: (a) any reference in any section of this chapter or other
23 law, or in any local law, ordinance, or resolution adopted pursuant to
24 the authority of this article, to net collections or revenues from a tax
25 imposed by a county or city pursuant to the authority of a clause, or to
26 a subclause of a clause, of subparagraph (i) or (ii) of the opening
27 paragraph of section twelve hundred ten of this article repealed by
28 section one or two of a part of a chapter of the laws of two thousand
29 twenty-two that added this section or pursuant to section twelve hundred
30 ten-E of this article repealed by section five of such part shall be
31 deemed to be a reference to net collections or revenues from a tax
32 imposed by that county or city pursuant to the authority of the equiv-
33 alent provision of clause two of subparagraph (i) or to subparagraph
34 (ii) of the opening paragraph of such section twelve hundred ten as
35 added by such section one or two of such part of a chapter of the laws
36 of two thousand twenty-two; (b) any reference in this chapter or in any
37 other law relating to the expiration of a provision concerning the
38 distribution of revenue from the taxes authorized to be imposed by the
39 opening paragraph of section twelve hundred ten of this article shall be
40 disregarded, and such provision shall continue in effect unless later
41 amended or repealed.

42 § 13. This act shall take effect immediately.

43

PART V

44 Section 1. Subdivision (c) of section 1101 of the tax law, as added
45 by chapter 93 of the laws of 1965, paragraphs 2, 3, 4 and 6 as amended
46 by section 2 and paragraph 8 as added by section 3 of part AA of chapter
47 57 of the laws of 2010, and paragraph 5 as amended by chapter 575 of the
48 laws of 1965, is amended to read as follows:

49 (c) When used in this article for the purposes of the tax imposed
50 under subdivision (e) of section eleven hundred five of this article,
51 the following terms shall mean:

52 (1) Hotel. A building or portion of it which is regularly used and
53 kept open as such for the lodging of guests. The term "hotel" includes

1 an apartment hotel, a motel, boarding house or club, whether or not
2 meals are served.

3 (2) Occupancy. The use or possession, or the right to the use or
4 possession, of any room in a hotel or vacation rental. "Right to the
5 use or possession" includes the rights of a room remarketer as described
6 in paragraph eight of this subdivision.

7 (3) Occupant. A person who, for a consideration, uses, possesses, or
8 has the right to use or possess, any room in a hotel or vacation rental
9 under any lease, concession, permit, right of access, license to use or
10 other agreement, or otherwise. "Right to use or possess" includes the
11 rights of a room remarketer as described in paragraph eight of this
12 subdivision.

13 (4) Operator. Any person operating a hotel or vacation rental. Such
14 term shall include a room remarketer and such room remarketer shall be
15 deemed to operate a hotel, or portion thereof, with respect to which
16 such person has the rights of a room remarketer.

17 (5) Permanent resident. Any occupant of any room or rooms in a hotel
18 or vacation rental for at least ninety consecutive days shall be consid-
19 ered a permanent resident with regard to the period of such occupancy.

20 (6) Rent. The consideration received for occupancy, including any
21 service or other charge or amount required to be paid as a condition for
22 occupancy, valued in money, whether received in money or otherwise and
23 whether received by the operator or a room remarketer or another person
24 on behalf of either of them.

25 (7) Room. Any room or rooms of any kind in any part or portion of a
26 hotel or vacation rental, which is available for or let out for any
27 purpose other than a place of assembly.

28 (8) Room remarketer. A person who reserves, arranges for, conveys, or
29 furnishes occupancy, whether directly or indirectly, to an occupant for
30 rent in a hotel for an amount determined by the room remarketer, direct-
31 ly or indirectly, whether pursuant to a written or other agreement. Such
32 person's ability or authority to reserve, arrange for, convey, or
33 furnish occupancy, directly or indirectly, and to determine rent there-
34 for, shall be the "rights of a room remarketer". A room remarketer is
35 not a permanent resident with respect to a room for which such person
36 has the rights of a room remarketer.

37 (9) Vacation rental. A building or portion of it that is used for the
38 lodging of guests. The term "vacation rental" includes a house, an
39 apartment, a condominium, a cooperative unit, a cabin, a cottage, or a
40 bungalow, or one or more rooms therein, where sleeping accommodations
41 are provided for the lodging of paying occupants, the typical occupants
42 are transients or travelers, and the relationship between the operator
43 and occupant is not that of a landlord and tenant. It is not necessary
44 that meals are served. A building or portion of a building may qualify
45 as a vacation rental whether or not amenities, including but not limited
46 to daily housekeeping services, concierge services, or linen services,
47 are provided.

48 (10) (i) Vacation rental marketplace provider. A person who, pursuant
49 to an agreement with an operator, facilitates the occupancy of a vaca-
50 tion rental by such operator or operators. A person "facilitates the
51 occupancy of a vacation rental" for purposes of this paragraph when the
52 person meets both of the following conditions: (A) such person provides
53 the forum in which, or by means of which, the sale of the occupancy
54 takes place or the offer of such sale is accepted, including a shop,
55 store, or booth, an internet website, catalog, or similar forum; and (B)
56 such person or an affiliate of such person collects the rent paid by a

1 customer to an operator for the occupancy of a vacation rental, or
2 contracts with a third party to collect such rent.

3 (ii) For the purposes of this article, the term "vacation rental
4 marketplace provider" shall not include a "room remarketer" as defined
5 in paragraph eight of this subdivision. For purposes of this paragraph,
6 persons are affiliated if one person has an ownership interest of more
7 than five percent, whether direct or indirect, in another, or where an
8 ownership interest of more than five percent, whether direct or indi-
9 rect, is held in each of such persons by another person or by a group of
10 other persons that are affiliated persons with respect to each other.
11 The term "vacation rental marketplace provider" shall not include a
12 "real estate broker" as licensed under article twelve-A of the real
13 property law.

14 § 2. Subdivision (a) of section 1104 of the tax law, as added by chap-
15 ter 3 of the laws of 2004, is amended to read as follows:

16 (a) Imposition. In addition to any other fee or tax imposed by this
17 article or any other law, on and after April first, two thousand five,
18 there is hereby imposed within the territorial limits of a city with a
19 population of a million or more and there shall be paid a unit fee on
20 every occupancy of a unit in a hotel or vacation rental in such city at
21 the rate of one dollar and fifty cents per unit per day, except that
22 such unit fee shall not be imposed upon (1) occupancy by a permanent
23 resident or (2) where the rent per unit is not more than at the rate of
24 two dollars per day.

25 § 3. Paragraph 1 of subdivision (e) of section 1105 of the tax law, as
26 amended by section 1 of part Q of chapter 59 of the laws of 2012, is
27 amended to read as follows:

28 (1) The rent for every occupancy of a room or rooms in a hotel and
29 vacation rental in this state, except that the tax shall not be imposed
30 upon (i) a permanent resident, or (ii) where the rent is not more than
31 at the rate of two dollars per day.

32 § 4. Subdivisions 1 and 2 of section 1131 of the tax law, subdivision
33 1 as amended by section 2 of part G of chapter 59 of the laws of 2019
34 and subdivision 2 as added by chapter 93 of the laws of 1965, are
35 amended to read as follows:

36 (1) "Persons required to collect tax" or "person required to collect
37 any tax imposed by this article" shall include: every vendor of tangible
38 personal property or services; every recipient of amusement charges;
39 every operator of a hotel or vacation rental; every vacation rental
40 marketplace provider with respect to the rent for every occupancy of a
41 vacation rental it facilitates as described in paragraph ten of subdivi-
42 sion (c) of section eleven hundred one of this article; and every
43 marketplace provider with respect to sales of tangible personal property
44 it facilitates as described in paragraph one of subdivision (e) of
45 section eleven hundred one of this article. Said terms shall also
46 include any officer, director or employee of a corporation or of a
47 dissolved corporation, any employee of a partnership, any employee or
48 manager of a limited liability company, or any employee of an individual
49 proprietorship who as such officer, director, employee or manager is
50 under a duty to act for such corporation, partnership, limited liability
51 company or individual proprietorship in complying with any requirement
52 of this article, or has so acted; and any member of a partnership or
53 limited liability company. Provided, however, that any person who is a
54 vendor solely by reason of clause (D) or (E) of subparagraph (i) of
55 paragraph ~~(8)~~ eight of subdivision (b) of section eleven hundred one
56 of this article shall not be a "person required to collect any tax

1 imposed by this article" until twenty days after the date by which such
2 person is required to file a certificate of registration pursuant to
3 section eleven hundred thirty-four of this part. Such terms shall not
4 include an operator of a vacation rental who rents out the operator's
5 own property for three days or fewer in a calendar year and does not use
6 a vacation rental marketplace provider to facilitate such rental.

7 (2) "Customer" shall include: every purchaser of tangible personal
8 property or services; every patron paying or liable for the payment of
9 any amusement charge; and every occupant of a room or rooms in a hotel
10 or vacation rental.

11 § 5. Section 1132 of the tax law is amended by adding a new subdivi-
12 sion (m) to read as follows:

13 (m)(1) A vacation rental marketplace provider with respect to a sale
14 for every occupancy of a vacation rental it facilitates: (A) shall have
15 all the obligations and rights of a vendor under this article and arti-
16 cle twenty-nine of this chapter and under any regulations adopted pursu-
17 ant thereto, including, but not limited to, the duty to obtain a certif-
18 icate of authority, to collect tax, file returns, remit tax, and the
19 right to accept a certificate or other documentation from a customer
20 substantiating an exemption or exclusion from tax, the right to receive
21 the refund authorized by subdivision (e) of this section and the credit
22 allowed by subdivision (f) of section eleven hundred thirty-seven of
23 this part subject to the provisions of such subdivisions; and (B) shall
24 keep such records and information and cooperate with the commissioner to
25 ensure the proper collection and remittance of tax imposed, collected or
26 required to be collected under this article and article twenty-nine of
27 this chapter.

28 (2) An operator is relieved from the duty to collect tax in regard to
29 a particular rent for the occupancy of a vacation rental subject to tax
30 under subdivision (e) of section eleven hundred five of this article and
31 shall not include the rent from such occupancy in its taxable sales for
32 purposes of section eleven hundred thirty-six of this part if, in regard
33 to such occupancy: (A) the operator of the vacation rental can show that
34 such occupancy was facilitated by a vacation rental marketplace provider
35 from whom such operator has received in good faith a properly completed
36 certificate of collection in a form prescribed by the commissioner,
37 certifying that the vacation rental marketplace provider is registered
38 to collect sales tax and will collect sales tax on all taxable sales of
39 occupancy of a vacation rental by the operator facilitated by the vaca-
40 tion rental marketplace provider, and with such other information as the
41 commissioner may prescribe; and (B) any failure of the vacation rental
42 marketplace provider to collect the proper amount of tax in regard to
43 such sale was not the result of such operator providing the vacation
44 rental marketplace provider with incorrect information. This provision
45 shall be administered in a manner consistent with subparagraph (i) of
46 paragraph one of subdivision (c) of this section as if a certificate of
47 collection were a resale or exemption certificate for purposes of such
48 subparagraph, including with regard to the completeness of such certif-
49 icate of collection and the timing of its acceptance by the operator.
50 Provided that, with regard to any sales of occupancy of a vacation
51 rental by an operator that are facilitated by a vacation rental market-
52 place provider who is affiliated with such operator within the meaning
53 of paragraph ten of subdivision (c) of section eleven hundred one of
54 this article, the operator shall be deemed liable as a person under a
55 duty to act for such vacation rental marketplace provider for purposes
56 of subdivision one of section eleven hundred thirty-one of this part.

1 (3) The commissioner may, at his or her discretion: (A) develop a
2 standard provision, or approve a provision developed by a vacation
3 rental marketplace provider, in which the vacation rental marketplace
4 provider obligates itself to collect the tax on behalf of all operators
5 for whom the vacation rental marketplace provider facilitates sales of
6 occupancy of a vacation rental, with respect to all sales that it facil-
7 itates for such operators where the rental occurs in the state; and (B)
8 provide by regulation or otherwise that the inclusion of such provision
9 in the publicly-available agreement between the vacation rental market-
10 place provider and operator will have the same effect as an operator's
11 acceptance of a certificate of collection from such vacation rental
12 marketplace provider under paragraph two of this subdivision.

13 § 6. Section 1133 of the tax law is amended by adding a new subdivi-
14 sion (g) to read as follows:

15 (g) A vacation rental marketplace provider is relieved of liability
16 under this section for failure to collect the correct amount of tax to
17 the extent that the vacation rental marketplace provider can show that
18 the error was due to incorrect or insufficient information given to the
19 vacation rental marketplace provider by the operator. Provided, however,
20 this subdivision shall not apply if the operator and vacation rental
21 marketplace provider are affiliated within the meaning of paragraph ten
22 of subdivision (c) of section eleven hundred one of this article.

23 § 7. Subdivision (a) of section 1134 of the tax law is amended by
24 adding a new paragraph 7 to read as follows:

25 (7) An operator of a vacation rental, as defined in paragraph nine of
26 subdivision (c) of section eleven hundred one of this article, is
27 relieved of the requirement to register in paragraph one of this subdivi-
28 vision if its sales of occupancy are wholly facilitated by one or more
29 vacation rental marketplace providers from whom the operator has
30 received in good faith a certificate of collection that meets the
31 requirements set forth in paragraph two of subdivision (m) of section
32 eleven hundred thirty-two of this part.

33 § 8. Paragraph 4 of subdivision (a) of section 1136 of the tax law, as
34 amended by section 5 of part G of chapter 59 of the laws of 2019, is
35 amended to read as follows:

36 (4) The return of a vendor of tangible personal property or services
37 shall show such vendor's receipts from sales and the number of gallons
38 of any motor fuel or diesel motor fuel sold and also the aggregate value
39 of tangible personal property and services and number of gallons of such
40 fuels sold by the vendor, the use of which is subject to tax under this
41 article, and the amount of tax payable thereon pursuant to the
42 provisions of section eleven hundred thirty-seven of this part. The
43 return of a recipient of amusement charges shall show all such charges
44 and the amount of tax thereon, and the return of an operator required to
45 collect tax on rents shall show all rents received or charged and the
46 amount of tax thereon. The return of a marketplace seller shall exclude
47 the receipts from a sale of tangible personal property facilitated by a
48 marketplace provider if, in regard to such sale: (A) the marketplace
49 seller has timely received in good faith a properly completed certif-
50 icate of collection from the marketplace provider or the marketplace
51 provider has included a provision approved by the commissioner in the
52 publicly-available agreement between the marketplace provider and the
53 marketplace seller as described in subdivision one of section eleven
54 hundred thirty-two of this part, and (B) the information provided by the
55 marketplace seller to the marketplace provider about such tangible
56 personal property is accurate. The return of an operator shall exclude

1 the rent from occupancy of a vacation rental facilitated by a vacation
2 rental marketplace provider if, in regard to such sale: (A) the vacation
3 rental operator has timely received in good faith a properly completed
4 certificate of collection from the vacation rental marketplace provider
5 or the vacation rental marketplace provider has included a provision
6 approved by the commissioner in the publicly-available agreement between
7 the vacation rental marketplace provider and the operator as described
8 in subdivision (m) of section eleven hundred thirty-two of this part,
9 and (B) the information provided by the operator to the vacation rental
10 marketplace provider about such rent and such occupancy is accurate.

11 § 9. Subparagraph (B) of paragraph 3 of subdivision (a) of section
12 1138 of the tax law, as amended by chapter 456 of the laws of 1998, is
13 amended to read as follows:

14 (B) The liability, pursuant to subdivision (a) of section eleven
15 hundred thirty-three of this article, of any officer, director or
16 employee of a corporation or of a dissolved corporation, member or
17 employee of a partnership or employee of an individual proprietorship
18 who as such officer, director, employee or member is under a duty to act
19 for such corporation, partnership or individual proprietorship in
20 complying with any requirement of this article for the tax imposed,
21 collected or required to be collected, or for the tax required to be
22 paid or paid over to the [~~tax-commission~~] commissioner under this arti-
23 cle, and the amount of such tax liability (whether or not a return is
24 filed under this article, whether or not such return when filed is
25 incorrect or insufficient, or where the tax shown to be due on the
26 return filed under this article has not been paid or has not been paid
27 in full) shall be determined by the [~~tax-commission~~] commissioner in the
28 manner provided for in paragraphs one and two of this subdivision. Such
29 determination shall be an assessment of the tax and liability for the
30 tax with respect to such person unless such person, within ninety days
31 after the giving of notice of such determination, shall apply to the
32 division of tax appeals for a hearing. If such determination is identi-
33 cal to or arises out of a previously issued determination of tax of the
34 corporation, dissolved corporation, partnership or individual proprie-
35 torship for which such person is under a duty to act, an application
36 filed with the division of tax appeals on behalf of the corporation,
37 dissolved corporation, partnership or individual proprietorship shall be
38 deemed to include any and all subsequently issued personal determi-
39 nations and a separate application to the division of tax appeals for a
40 hearing shall not be required. The [~~tax-commission~~] commissioner may,
41 nevertheless, of [~~it~~] his or her own motion, redetermine such determi-
42 nation of tax or liability for tax. Where the [~~tax-commission~~] commis-
43 sioner determines or redetermines that the amount of tax claimed to be
44 due from a vendor of tangible personal property or services, a recipient
45 of amusement charges, or an operator of a hotel or vacation rental is
46 erroneous or excessive in whole or in part, [~~it~~] he or she shall rede-
47 termine the amount of tax properly due from any such person as a person
48 required to collect tax with respect to such vendor, recipient, or oper-
49 ator, and if such amount is less than the amount of tax for which such
50 person would have been liable in the absence of such determination or
51 redetermination, [~~it~~] he or she shall reduce such liability accordingly.
52 Furthermore, the [~~tax-commission~~] commissioner may, of [~~it~~] his or her
53 own motion, abate on behalf of any such person, any part of the tax
54 determined to be erroneous or excessive whether or not such tax had
55 become finally and irrevocably fixed with respect to such person but no
56 claim for abatement may be filed by any such person. The provisions of

1 this paragraph shall not be construed to limit in any manner the powers
2 of the attorney general under subdivision (a) of section eleven hundred
3 forty-one of this part or the powers of the [~~tax commission~~] commission-
4 er to issue a warrant under subdivision (b) of such section against any
5 person whose liability has become finally and irrevocably fixed.

6 § 10. Section 1142 of the tax law is amended by adding a new subdivi-
7 sion 16 to read as follows:

8 16. To publish a list on the department's website of vacation rental
9 marketplace providers whose certificates of authority have been revoked
10 and, if necessary to protect sales tax revenue, provide by regulation or
11 otherwise that a vacation rental operator will be relieved of the
12 requirement to register and the duty to collect tax on the rent for
13 occupancy of a vacation rental facilitated by a vacation rental market-
14 place provider only if, in addition to the conditions prescribed by
15 paragraph two of subdivision (m) of section eleven hundred thirty-two
16 and paragraph six of subdivision (a) of section eleven hundred thirty-
17 four of this part being met, such vacation rental marketplace provider
18 is not on such list at the commencement of the quarterly period covered
19 thereby.

20 § 11. Subparagraph (i) of paragraph 3 of subdivision (a) of section
21 1145 of the tax law, as amended by section 48 of part K of chapter 61 of
22 the laws of 2011, is amended to read as follows:

23 (i) Any person required to obtain a certificate of authority under
24 section eleven hundred thirty-four of this part who, without possessing
25 a valid certificate of authority, (A) sells tangible personal property
26 or services subject to tax, receives amusement charges or operates a
27 hotel or vacation rental, (B) purchases or sells tangible personal prop-
28 erty for resale, (C) sells petroleum products, or (D) sells cigarettes
29 shall, in addition to any other penalty imposed by this chapter, be
30 subject to a penalty in an amount not exceeding five hundred dollars for
31 the first day on which such sales or purchases are made, plus an amount
32 not exceeding two hundred dollars for each subsequent day on which such
33 sales or purchases are made, not to exceed ten thousand dollars in the
34 aggregate.

35 § 12. Subparagraph (v) of paragraph 4 of subdivision (a) of section
36 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of
37 the laws of 2016, is amended to read as follows:

38 (v) shall provide that, for purposes of the tax described in subdivi-
39 sion (e) of section eleven hundred five of this chapter, "permanent
40 resident" means any occupant of any room or rooms in a hotel or vacation
41 rental for at least one hundred eighty consecutive days with regard to
42 the period of such occupancy;

43 § 13. Subdivisions (a) and (b) of section 1817 of the tax law, as
44 amended by section 53 of part K of chapter 61 of the laws of 2011, are
45 amended to read as follows:

46 (a) Any person required to obtain a certificate of authority under
47 section eleven hundred thirty-four of this chapter who, without possess-
48 ing a valid certificate of authority, willfully (1) sells tangible
49 personal property or services subject to tax, receives amusement charges
50 or operates a hotel or vacation rental, (2) purchases or sells tangible
51 personal property for resale, or (3) sells petroleum products; and any
52 person who fails to surrender a certificate of authority as required by
53 such article shall be guilty of a misdemeanor.

54 (b) Any person required to obtain a certificate of authority under
55 section eleven hundred thirty-four of this chapter who within five years
56 after a determination by the commissioner, pursuant to such section, to

1 suspend, revoke or refuse to issue a certificate of authority has become
2 final, and without possession of a valid certificate of authority (1)
3 sells tangible personal property or services subject to tax, receives
4 amusement charges or operates a hotel or vacation rental, (2) purchases
5 or sells tangible personal property for resale, or (3) sells petroleum
6 products, shall be guilty of a misdemeanor. It shall be an affirmative
7 defense that such person performed the acts described in this subdivi-
8 sion without knowledge of such determination. Any person who violates a
9 provision of this subdivision, upon conviction, shall be subject to a
10 fine in any amount authorized by this article, but not less than five
11 hundred dollars, in addition to any other penalty provided by law.
12 § 14. This act shall take effect immediately and shall apply to
13 collections of rent by the operator or vacation rental marketplace
14 provider on or after September 1, 2022.

15

PART W

16 Section 1. Paragraph 1 of subsection (a) of section 671 of the tax
17 law, as amended by chapter 760 of the laws of 1992, is amended to read
18 as follows:

19 (1) Every employer maintaining an office or transacting business with-
20 in this state and making payment of any wages taxable under this article
21 shall deduct and withhold from such wages for each payroll period a tax
22 computed in such manner as to result, so far as practicable, in with-
23 holding from the employee's wages during each calendar year an amount
24 substantially equivalent to the tax reasonably estimated to be due under
25 this article resulting from the inclusion in the employee's New York
26 adjusted gross income or New York source income of [~~his~~] the employee's
27 wages received during such calendar year. The method of determining the
28 amount to be withheld shall be prescribed by [~~regulations of~~] the
29 commissioner, with due regard to the New York withholding exemptions of
30 the employee and the sum of any credits allowable against [~~his~~] the
31 employee's tax. The commissioner shall publish any changes to such meth-
32 od of determining the amount of tax to be withheld on the website of the
33 department of taxation and finance. The commissioner shall also cause
34 notice of such changes to be published in the section for miscellaneous
35 notices in the state register and shall give other appropriate general
36 notice of such changes.

37 § 2. Paragraph 6 of subsection (j) of section 697 of the tax law, as
38 amended by chapter 61 of the laws of 1989, is amended to read as
39 follows:

40 (6) Publication of interest rates. The commissioner of taxation and
41 finance shall publish the interest rates set under this subsection on
42 the website of the department of taxation and finance. Immediately
43 following such publication, the commissioner shall cause such interest
44 rates to be published in the section for miscellaneous notices in the
45 state register[7] and give other appropriate general notice of[7-the]
46 such interest rates [to be set under this subsection no later than twenty
47 days preceding the first day of the calendar quarter during which
48 such interest rates apply]. The setting and publication of such interest
49 rates shall not be included within paragraph (a) of subdivision two of
50 section one hundred two of the state administrative procedure act relat-
51 ing to the definition of a rule.

52 § 3. Paragraph 5 of subsection (e) of section 1096 of the tax law, as
53 amended by chapter 61 of the laws of 1989, is amended to read as
54 follows:

1 (5) Publication of interest rates. The commissioner of taxation and
2 finance shall publish the interest rates set under this subsection on
3 the website of the department of taxation and finance. Immediately
4 following such publication, the commissioner shall cause such interest
5 rates to be published in the section for miscellaneous notices in the
6 state register[,] and give other appropriate general notice of[, ~~the~~]
7 such interest rates [~~to be set under this subsection no later than twen-~~
8 ~~ty days preceding the first day of the calendar quarter during which~~
9 ~~such interest rates apply~~]. The setting and publication of such interest
10 rates shall not be included within paragraph (a) of subdivision two of
11 section one hundred two of the state administrative procedure act relat-
12 ing to the definition of a rule.

13 § 4. This act shall take effect immediately.

14 PART X

15 Section 1. Paragraph (c) of subdivision 1 of section 1701 of the tax
16 law, as added by section 1 of part CC-1 of chapter 57 of the laws of
17 2008, is amended to read as follows:

18 (c) "Financial institution" means (i) any financial institution
19 authorized or required to participate in a financial institution data
20 match system or program for child support enforcement purposes under
21 federal or state law, and (ii) any virtual currency business licensed by
22 the superintendent of financial services.

23 § 2. This act shall take effect immediately.

24 PART Y

25 Section 1. Section 4 of chapter 475 of the laws of 2013, relating to
26 assessment ceilings for local public utility mass real property, as
27 amended by section 1 of part G of chapter 59 of the laws of 2018, is
28 amended to read as follows:

29 § 4. This act shall take effect on the first of January of the second
30 calendar year commencing after this act shall have become a law and
31 shall apply to assessment rolls with taxable status dates on or after
32 such date; provided, however, that this act shall expire and be deemed
33 repealed [~~eight~~] twelve years after such effective date; and provided,
34 further, that no assessment of local public utility mass real property
35 appearing on the municipal assessment roll with a taxable status date
36 occurring in the first calendar year after this act shall have become a
37 law shall be less than ninety percent or more than one hundred ten
38 percent of the assessment of the same property on the date this act
39 shall have become a law.

40 § 2. Subdivision 4 of section 499-pppp of the real property tax law,
41 as added by chapter 475 of the laws of 2013, is amended to read as
42 follows:

43 4. Any final determination of an assessment ceiling by the commission-
44 er pursuant to subdivision one of this section shall be subject to judi-
45 cial challenge by an owner of local public utility mass real property or
46 a local assessing jurisdiction in a proceeding under article seven of
47 this chapter; provided however, the time to commence such proceeding
48 shall be within sixty days of the issuance of the final assessment ceil-
49 ing certificate and all questions of fact and law shall be determined de
50 novo. Any judicial proceeding shall be commenced in the supreme court in
51 the county of Albany or the county agreed upon by the parties in which
52 the local public utility mass real property is located. Nothing in this

1 section shall preclude a challenge of the assessed value established by
2 a local assessing jurisdiction with respect to local public utility mass
3 real property as otherwise provided in article seven of this chapter,
4 provided however that upon motion of the local assessing jurisdiction,
5 such challenge shall be consolidated with the challenge to the final
6 assessment ceiling commenced pursuant to this subdivision and litigated
7 in the venue specified by this subdivision. In any proceeding challeng-
8 ing an assessed value established by a local assessing jurisdiction for
9 local public utility mass real property, the final certified assessment
10 ceiling established pursuant to subdivision one of this section [~~shall~~
11 ~~not~~], and the evidence submitted in connection therewith, may be consid-
12 ered by the court when determining the merits of the challenge to the
13 assessed value established by the assessing unit. In such a proceeding,
14 the local assessing jurisdiction, upon request to the local public util-
15 ity mass real property owner, shall be provided with a copy of the annu-
16 al report provided to the commissioner under section four hundred nine-
17 ty-nine-rrrr of this title. If the local public utility mass real
18 property owner fails to provide the report within thirty days of such a
19 request, the proceeding shall be dismissed.

20 § 3. This act shall take effect immediately, provided, however, that
21 the amendments to subdivision 4 of section 499-pppp of the real property
22 tax law made by section two of this act shall not affect the repeal of
23 such subdivision and shall be deemed to be repealed therewith.

24

PART Z

25 Section 1. This Part enacts into law major components of legislation
26 relating to the administration of the STAR program authorized by section
27 425 of the real property tax law and subsection (eee) of section 606 of
28 the tax law. Each component is wholly contained within a Subpart identi-
29 fied as Subparts A through E. The effective date for each particular
30 provision contained within such Subpart is set forth in the last section
31 of such Subpart. Any provision in any section contained within a
32 Subpart, including the effective date of the Subpart, which makes refer-
33 ence to a section of "this act", when used in connection with that
34 particular component, shall be deemed to mean and refer to the corre-
35 sponding section of the Subpart in which it is found. Section two
36 contains a severability clause for all provisions contained in each
37 Subpart of this Part. Section three of this act sets forth the general
38 effective date of this Part.

39

SUBPART A

40 Section 1. Paragraph (a-2) of subdivision 6 of section 425 of the real
41 property tax law, as amended by section 1 of part TT of chapter 59 of
42 the laws of 2019, is amended to read as follows:

43 (a-2) Notwithstanding any provision of law to the contrary, where an
44 application for the "enhanced" STAR exemption authorized by subdivision
45 four of this section has not been filed on or before the taxable status
46 date, and the owner believes that good cause existed for the failure to
47 file the application by that date, the owner may, no later than the last
48 day for paying school taxes without incurring interest or penalty,
49 submit a written request to the commissioner asking him or her to extend
50 the filing deadline and grant the exemption. Such request shall contain
51 an explanation of why the deadline was missed, and shall be accompanied
52 by an application, reflecting the facts and circumstances as they

1 existed on the taxable status date. After consulting with the assessor,
2 the commissioner may extend the filing deadline and grant the exemption
3 if the commissioner is satisfied that (i) good cause existed for the
4 failure to file the application by the taxable status date, and that
5 (ii) the applicant is otherwise entitled to the exemption. The commis-
6 sioner shall mail notice of his or her determination to such owner and
7 the assessor. If the determination states that the commissioner has
8 granted the exemption, the assessor shall thereupon be authorized and
9 directed to correct the assessment roll accordingly, or, if another
10 person has custody or control of the assessment roll, to direct that
11 person to make the appropriate corrections. [~~If the correction is not
12 made before school taxes are levied, the school district authorities
13 shall be authorized and directed to take account of the fact that the
14 commissioner has granted the exemption by correcting the applicant's tax
15 bill and/or issuing a refund accordingly~~] Provided, however, that if the
16 assessment roll cannot be corrected in time for the exemption to appear
17 on the applicant's school tax bill, the commissioner shall be authorized
18 to remit directly to the applicant the tax savings that the STAR
19 exemption would have yielded if it had appeared on the applicant's tax
20 bill. The amounts so payable shall be paid from the account established
21 for the payment of STAR benefits to late registrants pursuant to subpar-
22 agraph (iii) of paragraph (a) of subdivision fourteen of this section.
23 § 2. This act shall take effect immediately.

24

SUBPART B

25 Section 1. Subparagraph (i) of paragraph (c) of subdivision 17 of
26 section 425 of the real property tax law, as added by section 2 of part
27 G of chapter 39 of the laws of 2019, is amended to read as follows:
28 (i) A STAR credit switch may be deferred if the application for the
29 credit is submitted after a cutoff date set by the commissioner. When
30 setting a cutoff date, the commissioner shall take into account the time
31 required to ensure that the STAR exemptions of all STAR credit appli-
32 cants in the assessing unit will be removed before school tax bills are
33 prepared. The commissioner shall specify the applicable cutoff dates
34 after taking into account local assessment calendars, provided that
35 different cutoff dates may be set for municipalities with different
36 assessment calendars, and provided further that any such cutoff date may
37 be no earlier than the [~~fifteenth~~ forty-fifth] day prior to the date on
38 which the applicable final assessment roll is required by law to be
39 completed and filed.
40 § 2. This act shall take effect immediately.

41

SUBPART C

42 Section 1. Subparagraph (A) of paragraph 3 of subsection (eee) of
43 section 606 of the tax law, as amended by section 2 of part RR of chap-
44 ter 59 of the laws of 2019, is amended to read as follows:
45 (A) Beginning with taxable years after two thousand fifteen, a basic
46 STAR credit shall be available to a qualified taxpayer if the affiliated
47 income of the parcel that serves as the taxpayer's primary residence is
48 less than or equal to five hundred thousand dollars for the applicable
49 income tax year specified by paragraph (b-1) of subdivision three of
50 section four hundred twenty-five of the real property tax law. The
51 income limit established for the basic STAR exemption by paragraph (b-1)
52 of subdivision three of section four hundred twenty-five of the real

1 property tax law shall not be taken into account when determining eligi-
2 bility for the basic STAR credit.
3 § 2. This act shall take effect immediately.

4 SUBPART D

5 Section 1. Subparagraph (B) of paragraph 7 of subsection (eee) of
6 section 606 of the tax law, as amended by section 7 of part E of chapter
7 59 of the laws of 2018, is amended to read as follows:

8 (B) Notwithstanding any provision of law to the contrary, the names
9 and addresses of individuals who have applied for or are receiving the
10 credit authorized by this subsection may be disclosed to assessors,
11 county directors of real property tax services, and municipal tax
12 collecting officers within New York state. In addition, [~~where an agree-~~
13 ~~ment is in place between the commissioner and the head of the tax~~
14 ~~department of another state, such information may be disclosed to such~~
15 ~~official or his or her designees] such information may be exchanged with
16 assessors and tax officials from jurisdictions outside New York state if
17 the laws of the other jurisdiction allow it to provide similar informa-
18 tion to this state. Such information shall be considered confidential
19 and shall not be subject to further disclosure pursuant to the freedom
20 of information law or otherwise.~~

21 § 2. This act shall take effect immediately.

22 SUBPART E

23 Section 1. Subsection (c) of section 651 of the tax law, as amended by
24 section 3 of part QQ of chapter 59 of the laws of 2019, is amended to
25 read as follows:

26 (c) Decedents. The return for any deceased individual shall be made
27 and filed by [~~his~~] the decedent's executor, administrator, or other
28 person charged with [~~his~~] the decedent's property. If a final return of
29 a decedent is for a fractional part of a year, the due date of such
30 return shall be the fifteenth day of the fourth month following the
31 close of the twelve-month period which began with the first day of such
32 fractional part of the year. Notwithstanding any provision of law to the
33 contrary, when a return has been filed for a decedent, the commissioner
34 may disclose the decedent's name, address, and the date of death to the
35 director of real property tax services of the county and the assessor of
36 the assessing unit in which the address reported on such return is
37 located.

38 § 2. Paragraph (a) of subdivision 1 of section 1125 of the real prop-
39 erty tax law, as amended by chapter 415 of the laws of 2006, is amended
40 to read as follows:

41 (a) Parties entitled to notice. The enforcing officer shall on or
42 before the date of the first publication of the notice above set forth
43 cause a notice to be mailed to (i) each owner and any other person whose
44 right, title, or interest was a matter of public record as of the date
45 the list of delinquent taxes was filed, which right, title or interest
46 will be affected by the termination of the redemption period, and whose
47 name and address are reasonably ascertainable from the public record,
48 including the records in the offices of the surrogate of the county, or
49 from material submitted to the enforcing officer pursuant to paragraph
50 (d) of this subdivision, (ii) any other person who has filed a declara-
51 tion of interest pursuant to section eleven hundred twenty-six of this
52 title which has not expired, [~~and~~] (iii) where a posthumous declaration

1 of interest has been filed pursuant to section eleven hundred twenty-
2 six-a of this title, the person specified thereon as the person to be
3 informed when taxes are owed on the property, and (iv) the enforcing
4 officer of any other tax district having a right to enforce the payment
5 of a tax imposed upon any of the parcels described upon such petition.
6 Nothing contained herein shall be construed as making any such person a
7 party to the proceeding or as making any such person personally liable
8 for the taxes or other legal charges due thereon.

9 § 3. The real property tax law is amended by adding a new section
10 1126-a to read as follows:

11 § 1126-a. Posthumous declaration of interest. 1. Upon the death of an
12 owner of real property, a personal representative of the decedent's
13 estate or a successor in interest of the decedent may file a posthumous
14 declaration of interest with the enforcing officer on a form prescribed
15 by the commissioner. Such posthumous declaration shall provide the
16 decedent's name and date of death, a description of the property the
17 decedent had owned, and the name and address of a person to be informed
18 when taxes are owed on that property. Thereafter, in addition to any
19 other notification requirements that may apply, the enforcing officer
20 shall cause any notices required by this article to be mailed to such
21 person at the address so provided until such time as the acquisition of
22 title by the decedent's successor or successors in interest has become a
23 matter of public record, or the declaration is revoked or modified. The
24 enforcing officer shall provide copies of any declarations so filed to
25 the assessor, tax collecting officer and county director of real proper-
26 ty tax services within fifteen days of receipt, or as soon thereafter as
27 is practicable.

28 2. If no posthumous declaration of interest has been filed, a delin-
29 quent tax lien may be foreclosed by a proceeding in rem as otherwise
30 provided by this article, notwithstanding the fact that the property
31 owner has died. In such cases, the enforcing officer shall not be
32 obliged to obtain in personam jurisdiction over a personal represen-
33 tative of the decedent's estate; provided, however, that nothing
34 contained herein shall be construed to relieve the enforcing officer of
35 the obligation to cause a notice to be mailed to any persons whose
36 interests in the property are reasonably ascertainable from the records
37 of the surrogate of the county, as provided by subparagraph (i) of para-
38 graph (a) of subdivision one of section eleven hundred twenty-five of
39 this title.

40 § 4. This act shall take effect immediately.

41 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
42 sion, section or subpart contained in any part of this act shall be
43 adjudged by any court of competent jurisdiction to be invalid, such
44 judgment shall not affect, impair, or invalidate the remainder thereof,
45 but shall be confined in its operation to the clause, sentence, para-
46 graph, subdivision, section or subpart contained in any part thereof
47 directly involved in the controversy in which such judgment shall have
48 been rendered. It is hereby declared to be the intent of the legislature
49 that this act would have been enacted even if such invalid provisions
50 had not been included herein.

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

1 Section 1. Section 575-b of the real property tax law is amended by
2 adding a new subdivision 4 to read as follows:

3 4. Complaints with respect to assessments determined under this
4 section shall be governed by sections five hundred twelve and five
5 hundred twenty-four of this article and the following provisions:

6 (a) The assessor shall, upon request, provide the owner with the
7 inputs that he or she entered into the commissioner's appraisal model
8 when valuing the property pursuant to this section.

9 (b) The property owner may advise the assessor of any alleged errors
10 to the appraisal model inputs believed to have been made by the asses-
11 sor, and may provide information to the assessor in support of any
12 proposed change to those inputs.

13 (c) If the property owner provides such information to the assessor
14 prior to the filing of the tentative assessment roll, the assessor may
15 make such adjustments to the appraisal model inputs as he or she deems
16 warranted based upon the information provided by the property owner, and
17 may recalculate the property value by entering the adjusted inputs into
18 the appraisal model.

19 (d) If dissatisfied with the assessed value appearing on the tentative
20 assessment roll, the property owner may file a complaint with the board
21 of assessment review; provided, however, that the grounds for review of
22 an assessment determined under this section with respect to both article
23 five and article seven of this chapter shall be limited to the accuracy
24 of the appraisal model inputs made by the assessor.

25 (e) Actions or proceedings that challenge the validity and accuracy of
26 the appraisal model or discount rates established under this section may
27 not be commenced against assessing units. Such challenges may only be
28 brought by commencing an action against the commissioner in the third
29 department of the appellate division of the supreme court in the manner
30 provided by article seventy-eight of the civil practice law and rules.

31 § 2. This act shall take effect immediately.

32 PART BB

33 Section 1. The subsection heading and paragraphs 1, 2, 3, and 4 of
34 subsection (n-1) of section 606 of the tax law, as added by subpart B of
35 part C of chapter 20 of the laws of 2015, the opening paragraph of
36 subparagraph (a) of paragraph 2 as amended by section 7 of part A of
37 chapter 60 of the laws of 2016, are amended to read as follows:

38 [~~Property tax relief~~] Homeowner tax rebate credit. (1) An individual
39 taxpayer who meets the eligibility standards in paragraph two of this
40 subsection shall be allowed a credit against the taxes imposed by this
41 article in the amount specified in paragraph three of this subsection
42 for tax [~~years two thousand sixteen, two thousand seventeen, two thou-~~
43 ~~sand eighteen, and two thousand nineteen~~] year two thousand twenty-two.

44 (2) (a) To be eligible for the credit, the taxpayer (or taxpayers
45 filing joint returns) on the personal income tax return filed for the
46 taxable year two years prior, must have (i) been a resident, (ii) owned
47 and primarily resided in real property receiving either the STAR
48 exemption authorized by section four hundred twenty-five of the real
49 property tax law or the school tax relief credit authorized by
50 subsection (eee) of this section, and (iii) had qualified gross income
51 no greater than two hundred [~~seventy-five~~] fifty thousand dollars.
52 [~~Provided, however, that no credit shall be allowed if any of the~~
53 ~~following apply:~~

~~(i) Such property is located in an independent school district that is subject to the provisions of section two thousand twenty three a of the education law and that has adopted a budget in excess of the tax levy limit prescribed by that section. To render its taxpayers eligible for the credit authorized by this subsection, the school district must certify its compliance with such tax levy limit in the manner prescribed by subdivision two of section two thousand twenty three b of the education law.~~

~~(ii) Such property is located in a city with a dependent school district that is subject to the provisions of section three c of the general municipal law and that has adopted a budget in excess of the tax levy limit prescribed by that section. To render its taxpayers eligible for the credit authorized by this subsection, the city must certify its compliance with such tax levy limit in the manner prescribed by subdivision two of section three d of the general municipal law.~~

~~(iii) Such property is located in the city of New York.]~~

(3) Amount of credit. (a) ~~[For the two thousand sixteen taxable year (i) for a taxpayer residing in real property located within the metropolitan commuter transportation district (MCTD) and outside the city of New York, the amount of the credit shall be \$130; (ii) for a taxpayer residing in real property located outside the MCTD, the amount of the credit shall be \$185.~~

~~(b) For the two thousand seventeen, two thousand eighteen and two thousand nineteen taxable years (i)]~~ For a taxpayer who owned and primarily resided in real property receiving the basic STAR exemption or who received the basic STAR credit, the amount of the credit shall equal the STAR tax savings associated with such basic STAR exemption in the two thousand twenty-one--two thousand twenty-two school year, multiplied by the following percentage:

~~[(A) for the two thousand seventeen taxable year:~~

| Qualified Gross Income | Percentage |
|--|-----------------------|
| Not over \$75,000 | 28% |
| Over \$75,000 but not over \$150,000 | 20.5% |
| Over \$150,000 but not over \$200,000 | 13% |
| Over \$200,000 but not over \$275,000 | 5.5% |
| Over \$275,000 | No credit |

~~(B) for the two thousand eighteen taxable year:~~

| Qualified Gross Income | Percentage |
|--|-----------------------|
| Not over \$75,000 | 60% |
| Over \$75,000 but not over \$150,000 | 42.5% |
| Over \$150,000 but not over \$200,000 | 25% |
| Over \$200,000 but not over \$275,000 | 7.5% |
| Over \$275,000 | No credit |

~~(C) for the two thousand nineteen taxable year:]~~

(i) For a taxpayer whose primary residence is located outside the city of New York:

| Qualified Gross Income | Percentage |
|--|--------------------------------|
| Not over \$75,000 | [85%] <u>163%</u> |
| Over \$75,000 but not over \$150,000 | [60%] <u>115%</u> |
| Over \$150,000 but not over \$200,000 | [35%] <u>66%</u> |
| Over \$200,000 but not over <u>[\$275,000] \$250,000</u> | [10%] <u>18%</u> |
| Over [\$275,000] <u>\$250,000</u> | No credit |

(ii) For a taxpayer whose primary residence is located within the city of New York:

| <u>Qualified Gross Income</u> | <u>Percentage</u> |
|--|-------------------|
| <u>Not over \$75,000</u> | <u>125%</u> |
| <u>Over \$75,000 but not over \$150,000</u> | <u>115%</u> |
| <u>Over \$150,000 but not over \$200,000</u> | <u>105%</u> |
| <u>Over \$200,000 but not over \$250,000</u> | <u>100%</u> |
| <u>Over \$250,000</u> | <u>No credit</u> |

[~~(e)~~] (b) For a taxpayer who owned and primarily resided in real property receiving the enhanced STAR exemption or who received the enhanced STAR credit, the amount of the credit shall equal the STAR tax savings associated with such enhanced STAR exemption in the two thousand twenty-one--two thousand twenty-two school year, multiplied by [~~the following percentage:~~

| Taxable Year | Percentage |
|-----------------------------------|-----------------------|
| two thousand seventeen | 12% |
| two thousand eighteen | 26% |
| two thousand nineteen | 34% |

sixty-six percent if the taxpayer's primary residence is located outside the city of New York, or one hundred ten percent if the taxpayer's primary residence is located within the city of New York.

[~~(d)~~] (c) In no case may the amount of the credit allowed under this subsection exceed the school district taxes due with respect to the residence for that school year, nor shall any credit be allowed under this subsection if the amount determined pursuant to this paragraph is less than one hundred dollars.

(4) For purposes of this subsection:

(a) "Qualified gross income" means the adjusted gross income of the qualified taxpayer for the taxable year as reported for federal income tax purposes, or which would be reported as adjusted gross income if a federal income tax return were required to be filed. In computing qualified gross income, the net amount of loss reported on Federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule. In addition, the net amount of any other separate category of loss shall not exceed three thousand dollars. The aggregate amount of all losses included in computing qualified gross income shall not exceed fifteen thousand dollars.

(b) "STAR tax savings" means the tax savings attributable to the basic or enhanced STAR exemption, whichever is applicable, within a portion of a school district, as determined by the commissioner pursuant to subdivision two of section thirteen hundred six-a of the real property tax law.

~~[(e) "Metropolitan commuter transportation district" or "MCTD" means the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of the public authorities law.]~~

§ 2. This act shall take effect immediately.

PART CC

Section 1. The opening paragraph and subdivisions 1 and 2 of section 1306 of the racing, pari-mutuel wagering and breeding law, the opening paragraph as amended by chapter 243 of the laws of 2020 and subdivisions 1 and 2 as added by chapter 174 of the laws of 2013, are amended to read as follows:

The New York state gaming facility location board shall select, following a competitive process and subject to the restrictions of this article, no more than [~~four~~] seven entities to apply to the commission for gaming facility licenses. In exercising its authority, the board

1 shall have all powers necessary or convenient to fully carry out and
2 effectuate its purposes including, but not limited to, the following
3 powers. The board shall:

4 1. issue a request for applications for zone one or two gaming facili-
5 ty licenses pursuant to section one thousand three hundred twelve or
6 section one thousand three hundred twenty-one-b of this article;

7 2. assist the commission in prescribing the form of the application
8 for zone one or two gaming facility licenses including information to be
9 furnished by an applicant concerning an applicant's antecedents, habits,
10 character, associates, criminal record, business activities and finan-
11 cial affairs, past or present pursuant to section one thousand three
12 hundred thirteen or section one thousand three hundred twenty-one-c of
13 this article;

14 § 2. Subparagraph 2 of paragraph (a) of subdivision 2 of section 1310
15 of the racing, pari-mutuel wagering and breeding law, as added by chap-
16 ter 174 of the laws of 2013, is amended to read as follows:

17 (2) Region two shall consist of Bronx, Kings, New York, Queens and
18 Richmond counties [~~., No gaming facility shall be authorized in region~~
19 ~~two~~]; and

20 § 3. The title heading of title 2 of article 13 of the racing, pari-
21 mutuel wagering and breeding law, as added by chapter 174 of the laws of
22 2013, is amended to read as follows:

23 FACILITY DETERMINATION AND LICENSING: UPSTATE GAMING FACILITIES

24 § 4. Section 1310 of title 2 of article 13 of the racing, pari-mutuel
25 wagering and breeding law is redesignated section 1310 of title 1 of
26 such article.

27 § 5. Subdivision 1 of section 1311 of the racing, pari-mutuel wagering
28 and breeding law, as amended by chapter 175 of the laws of 2013, is
29 amended to read as follows:

30 1. The commission is authorized to award up to four gaming facility
31 licenses, in regions one, two and five of zone two. The duration of such
32 initial license shall be ten years. The term of renewal shall be deter-
33 mined by the commission. The commission may award a second license to a
34 qualified applicant in no more than a single region. The commission is
35 not empowered to award any license [~~in zone one. No gaming facilities~~
36 ~~are authorized~~] nor are any gaming facilities authorized under this
37 [~~article~~] title for the city of New York or any other portion of zone
38 one.

39 As a condition of licensure, licensees are required to commence gaming
40 operations no more than twenty-four months following license award. No
41 additional licenses may be awarded during the twenty-four month period,
42 nor for an additional sixty months following the end of the twenty-four
43 month period. Should the state legislatively authorize additional gaming
44 facility licenses within these periods, licensees shall have the right
45 to recover the license fee paid pursuant to section one thousand three
46 hundred six of this article.

47 This right shall be incorporated into the license itself, vest upon
48 the opening of a gaming facility in zone one or in the same region as
49 the licensee and entitle the holder of such license to bring an action
50 in the court of claims to recover the license fee paid pursuant to
51 section one thousand three hundred fifteen of this [~~article~~] title in
52 the event that any gaming facility license in excess of the number
53 authorized by this section as of the effective date of this section is
54 awarded within seven years from the date that the initial gaming facili-
55 ty license is awarded. This right to recover any such fee shall be

1 proportionate to the length of the respective period that is still
2 remaining upon the vesting of such right.

3 Additionally, the right to bring an action in the court of claims to
4 recover the fee paid to the state on the twenty-fourth day of September,
5 two thousand ten, by the operator of a video lottery gaming facility in
6 a city of more than one million shall vest with such operator upon the
7 opening of any gaming facility licensed by the commission in zone one
8 within seven years from the date that the initial gaming facility
9 license is awarded; provided however that the amount recoverable shall
10 be limited to the pro rata amount of the time remaining until the end of
11 the seven year exclusivity period, proportionate to the period of time
12 between the date of opening of the video lottery facility until the
13 conclusion of the seven year period.

14 § 6. The opening paragraph of subdivision 1 of section 1312 of the
15 racing, pari-mutuel wagering and breeding law, as added by chapter 174
16 of the laws of 2013, is amended to read as follows:

17 The board shall issue within ninety days of a majority of members
18 being appointed a request for applications for a gaming facility license
19 in regions one, two and five in zone two; provided, however, that the
20 board shall not issue any requests for applications for any region in
21 zone one under this title; and further provided that the board shall not
22 issue any requests for applications with respect to any gaming facility
23 subsequently legislatively authorized until seven years following the
24 commencement of gaming activities in zone two, unless such request for
25 application with respect to any subsequently legislatively authorized
26 gaming facility adheres to the procedure as described in section one
27 thousand three hundred eleven of this title. All requests for applica-
28 tions shall include:

29 § 7. Article 13 of the racing, pari-mutuel wagering and breeding law
30 is amended by adding a new title 2-A to read as follows:

31 TITLE 2-A

32 FACILITY DETERMINATION AND LICENSING: ADDITIONAL GAMING FACILITIES

33 Section 1321-a. License authorization; restrictions.

34 1321-b. Requests for applications; requests for information.

35 1321-c. Form of application.

36 1321-d. License applicant eligibility.

37 1321-e. Required capital investment.

38 1321-f. Minimum license thresholds.

39 1321-g. Investigation of license applicants.

40 1321-h. Disqualifying criteria.

41 1321-i. Hearings.

42 1321-j. Siting evaluation.

43 § 1321-a. License authorization; restrictions. 1. The commission is
44 authorized to award up to three additional gaming facility licenses. The
45 duration of such initial license and the term of renewal shall be deter-
46 mined by the commission.

47 2. Notwithstanding the foregoing, no casino gaming facility shall be
48 authorized:

49 (a) in the counties of Clinton, Essex, Franklin, Hamilton, Jefferson,
50 Lewis, Saint Lawrence and Warren;

51 (b) within the following area: (1) to the east, State Route 14 from
52 Sodus Point to the Pennsylvania border with New York; (2) to the north,
53 the border between New York and Canada; (3) to the south, the Pennsylva-
54 nia border with New York; and (4) to the west, the border between New
55 York and Canada and the border between Pennsylvania and New York; and

1 (c) in the counties of Cayuga, Chenango, Cortland, Herkimer, Lewis,
2 Madison, Oneida, Onondaga, Oswego and Otsego.

3 § 1321-b. Requests for applications; requests for information.
4 Requests for applications shall be handled in the same manner as
5 provided for in section thirteen hundred twelve of this article for
6 gaming licenses authorized but not awarded, provided however that any
7 requests for applications for gaming facility licenses authorized but
8 not awarded may be for gaming facility licenses in any region in zone
9 one or in regions one, two and five in zone two.

10 § 1321-c. Form of application. The form of the application shall be
11 the same as established under section thirteen hundred thirteen of this
12 article.

13 § 1321-d. License applicant eligibility. 1. Gaming facility licenses
14 shall only be issued to applicants who are qualified under the criteria
15 set forth in this article, as determined by the commission.

16 2. As a condition of filing, each potential license applicant must:

17 (a) demonstrate to the board's satisfaction that the applicant has
18 consulted with local governments and considered input from the communi-
19 ty; and

20 (b) waive all rights they or any affiliated entity possess under
21 section one thousand three hundred eleven of this article to bring an
22 action to recover a fee.

23 3. The expiration of the seven year restricted period from the date
24 that an initial gaming facility license was awarded is February twenty-
25 eighth, two thousand twenty-three for the three initial casino licenses
26 and November twenty-second, two thousand twenty-three for the final
27 casino license awarded. Should an applicant or applicants commence
28 gaming activities prior to such dates, such applicant or applicants
29 shall be jointly and severally liable for payment of the proportionate
30 fee for the respective period remaining as required by section one thou-
31 sand three hundred eleven of this article.

32 § 1321-e. Required capital investment. 1. The board shall establish
33 the minimum capital investment for each unawarded gaming facility
34 license. Such investment may include, but not be limited to, a casino
35 area, hotel and other amenities; and provided further, that the board
36 shall determine whether it will include the purchase or lease price of
37 the land where the gaming facility will be located or any infrastructure
38 designed to support the site including, but not limited to, drainage,
39 utility support, roadways, interchanges, fill and soil or groundwater or
40 surface water contamination issues. The board may consider private capi-
41 tal investment made previous to the effective date of this title, but
42 may, in its discretion, discount a percentage of the investment made.
43 Upon award of a gaming license by the commission, the applicant shall be
44 required to deposit ten percent of the total investment proposed in the
45 application into an interest-bearing account. Monies received from the
46 applicant shall be held in escrow until the final stage of construction,
47 as detailed in the timeline of construction submitted with the
48 licensee's application and approved by the commission, at which time the
49 deposit plus interest earned shall be returned to the applicant to be
50 applied for the final stage. Should the applicant be unable to complete
51 the gaming facility, the deposit shall be forfeited to the state. In
52 place of a cash deposit, the commission may allow for an applicant to
53 secure a deposit bond insuring that ten percent of the proposed capital
54 investment shall be forfeited to the state if the applicant is unable to
55 complete the gaming facility.

1 2. Each applicant shall submit its proposed capital investment with
2 its application to the board which shall include stages of construction
3 of the gaming facility and the deadline by which the stages and overall
4 construction and any infrastructure improvements will be completed. In
5 awarding a license, the commission shall determine at what stage of
6 construction a licensee shall be approved to open for gaming; provided,
7 however, that a licensee shall not be approved to open for gaming until
8 the commission has determined that at least the gaming area and other
9 ancillary entertainment services and non-gaming amenities, as required
10 by the board, have been built and are of a superior quality as set forth
11 in the conditions of licensure. The commission shall not approve a
12 gaming facility to open before the completion of the permanent casino
13 area.

14 3. The board shall determine a licensing fee to be paid by a licensee
15 within thirty days after the award of the license which shall be depos-
16 ited into the commercial gaming revenue fund. The license shall set
17 forth the conditions to be satisfied by the licensee before the gaming
18 facility shall be opened to the public. The commission shall set any
19 renewal fee for such license based on the cost of fees associated with
20 the evaluation of a licensee under this article which shall be deposited
21 into the commercial gaming fund. Such renewal fee shall be exclusive of
22 any subsequent licensing fees under this section.

23 4. The commission shall determine the sources and total amount of an
24 applicant's proposed capitalization to develop, construct, maintain and
25 operate a proposed gaming facility under this article. Upon award of a
26 gaming license, the commission shall continue to assess the capitaliza-
27 tion of a licensee for the duration of construction of the proposed
28 gaming facility and the term of the license.

29 § 1321-f. Minimum license thresholds. The minimum licensing thresh-
30 olds shall be the same as those established under section thirteen
31 hundred sixteen of this article.

32 § 1321-g. Investigation of license applicants. The process used to
33 investigate license applicants shall be the same process established
34 under section thirteen hundred seventeen of this article.

35 § 1321-h. Disqualifying criteria. The criteria to disqualify appli-
36 cants shall be the same criteria used for upstate gaming facility
37 licensing, which are enumerated in section thirteen hundred eighteen of
38 this article.

39 § 1321-i. Hearings. The process used for hearings shall be the same
40 process established under section thirteen hundred nineteen of this
41 article.

42 § 1321-j. Siting evaluation. In determining whether an applicant shall
43 be eligible for a gaming facility license, the board shall evaluate how
44 each applicant proposes to advance the following objectives with consid-
45 eration given to the differences between proposed projects related to
46 whether it is a conversion of an existing video lottery gaming facility
47 or new facility construction, and the proposed location. The decision
48 by the board to select a gaming facility license applicant shall be
49 determined based on the following factors which shall include, but not
50 be limited to:

51 (a) realizing maximum capital investment exclusive of land acquisition
52 and infrastructure improvements;

53 (b) maximizing revenues received by the state and localities;

54 (c) providing the highest number of quality jobs in the gaming facili-
55 ty;

1 (d) building a gaming facility of the highest caliber with a variety
2 of quality amenities to be included as part of the gaming facility;

3 (e) offering the highest and best value to patrons to create a secure
4 and robust gaming market in the region and the state;

5 (f) providing a market analysis detailing the benefits of the site
6 location of the gaming facility and the estimated recapture rate of
7 gaming-related spending by residents travelling to an out-of-state
8 gaming facility;

9 (g) offering a reasonable and feasible construction schedule to
10 completion of the full gaming facility;

11 (h) demonstrating the ability to fully finance the gaming facility;

12 (i) demonstrating experience in the development and operation of a
13 quality gaming facility;

14 (j) mitigating potential impacts on host and nearby municipalities
15 which might result from the development or operation of the gaming
16 facility;

17 (k) carefully considering local views and consulting with appropriate
18 local governments;

19 (l) operating in partnership with and promoting local hotels, restau-
20 rants and retail facilities so that patrons experience the full diversi-
21 fied regional tourism industry;

22 (m) establishing a fair and reasonable partnership with live enter-
23 tainment venues that may be impacted by a gaming facility under which
24 the gaming facility actively supports the mission and the operation of
25 the impacted entertainment venues;

26 (n) implementing a workforce development plan that utilizes the exist-
27 ing labor force, including the estimated number of construction jobs a
28 proposed gaming facility will generate, the development of workforce
29 training programs that serve the unemployed and methods for accessing
30 employment at the gaming facility;

31 (o) taking additional measures to address problem gambling including,
32 but not limited to, training of gaming employees to identify patrons
33 exhibiting problems with gambling;

34 (p) utilizing sustainable development principles including, but not
35 limited to:

36 (1) having new and renovation construction certified under the appro-
37 priate certification category in the Leadership in Energy and Environ-
38 mental Design Green Building Rating System created by the United States
39 Green Building Council;

40 (2) efforts to mitigate vehicle trips;

41 (3) efforts to conserve water and manage storm water;

42 (4) demonstrating that electrical and HVAC equipment and appliances
43 will be Energy Star labeled where available;

44 (5) procuring or generating on-site ten percent of its annual elec-
45 tricity consumption from renewable sources; and

46 (6) developing an ongoing plan to submeter and monitor all major
47 sources of energy consumption and undertake regular efforts to maintain
48 and improve energy efficiency of buildings in their systems;

49 (q) establishing, funding and maintaining human resource hiring and
50 training practices that promote the development of a skilled and diverse
51 workforce and access to promotion opportunities through a workforce
52 training program that:

53 (1) establishes transparent career paths with measurable criteria
54 within the gaming facility that lead to increased responsibility and
55 higher pay grades that are designed to allow employees to pursue career
56 advancement and promotion;

1 (2) provides employee access to additional resources, such as tuition
2 reimbursement or stipend policies, to enable employees to acquire the
3 education or job training needed to advance career paths based on
4 increased responsibility and pay grades; and

5 (3) establishes an on-site child day care program;

6 (r) purchasing, whenever possible, domestically manufactured slot
7 machines for installation in the gaming facility;

8 (s) implementing a workforce development plan that:

9 (1) incorporates an affirmative action program of equal opportunity by
10 which the applicant guarantees to provide equal employment opportunities
11 to all employees qualified for licensure in all employment categories,
12 including persons with disabilities;

13 (2) utilizes the existing labor force in the state;

14 (3) estimates the number of construction jobs a gaming facility will
15 generate and provides for equal employment opportunities and which
16 includes specific goals for the utilization of minorities, women and
17 veterans on those construction jobs;

18 (4) identifies workforce training programs offered by the gaming
19 facility; and

20 (5) identifies the methods for accessing employment at the gaming
21 facility; and

22 (t) demonstrating that the applicant has an agreement with organized
23 labor, including hospitality services, and has the support of organized
24 labor for its application, which specifies:

25 (1) the number of employees to be employed at the gaming facility,
26 including detailed information on the pay rate and benefits for employ-
27 ees and contractors in the gaming facility and all infrastructure
28 improvements related to the project; and

29 (2) detailed plans for assuring labor harmony during all phases of the
30 construction, reconstruction, renovation, development and operation of
31 the gaming facility.

32 § 8. Section 1351 of the racing, pari-mutuel wagering and breeding law
33 is amended by adding a new subdivision 1-a to read as follows:

34 1-a. For a gaming facility licensed pursuant to title two-A of this
35 article, there is hereby imposed a tax on gross gaming revenues with the
36 rates to be determined by the gaming commission pursuant to a compet-
37 itive bidding process as outlined in title two-A of this article.

38 § 9. This act shall take effect immediately.

39 PART DD

40 Section 1. Section 509-a of the racing, pari-mutuel wagering and
41 breeding law, as amended by section 1 of part LLL of chapter 59 of the
42 laws of 2021, is amended to read as follows:

43 § 509-a. Capital acquisition fund. 1. The corporation may create and
44 establish a capital acquisition fund for the purpose of financing the
45 acquisition, construction or equipping of offices, facilities or prem-
46 ises of the corporation. Such capital acquisition fund shall consist of
47 (i) the amounts specified pursuant to subdivision three-a of section
48 five hundred thirty-two of this chapter; and (ii) contributions from the
49 corporation's pari-mutuel wagering pools, subject to the following limi-
50 tations:

51 a. no contribution shall exceed the amount of one percent of the total
52 pari-mutuel wagering pools for the quarter in which the contribution is
53 made;

1 b. no contribution shall reduce the amount of quarterly net revenues,
2 exclusive of surcharge revenues, to an amount less than fifty percent of
3 such net revenues; and

4 c. the balance of the fund shall not exceed the lesser of one percent
5 of total pari-mutuel wagering pools for the previous twelve months or
6 the undepreciated value of the corporation's offices, facilities and
7 premises.

8 2. a. Notwithstanding any other provision of law or regulation to the
9 contrary, from April nineteenth, two thousand twenty-one to March thir-
10 ty-first, two thousand twenty-two, twenty-three percent of the funds,
11 not to exceed two and one-half million dollars, in the Catskill off-
12 track betting corporation's capital acquisition fund and twenty-three
13 percent of the funds, not to exceed four hundred forty thousand dollars,
14 in the Capital off-track betting corporation's capital acquisition fund
15 established pursuant to this section shall also be available to such
16 off-track betting corporation for the purposes of statutory obligations,
17 payroll, and expenditures necessary to accept authorized wagers.

18 b. Notwithstanding any other provision of law or regulation to
19 the contrary, from April first, two thousand twenty-two to March thir-
20 ty-first, two thousand twenty-three, twenty-three percent of the funds,
21 not to exceed four hundred forty thousand dollars, in the Capital
22 off-track betting corporation's capital acquisition fund established
23 pursuant to this section shall also be available to such off-track
24 betting corporation for the purposes of statutory obligations,
25 payroll, and expenditures necessary to accept authorized wagers.

26 3. The Catskill off-track betting corporation and the Capital off-
27 track betting corporation shall make a report to the governor, speaker
28 of the assembly, temporary president of the senate and the commission
29 detailing the actual use of the funds made available in the capital
30 acquisition fund. Such report shall include, but not be limited to, any
31 impact on employment levels since utilizing the funds, the status of any
32 statutory obligations, an accounting of the use of such funds, and any
33 other information as deemed necessary by the commission. Such report
34 shall be due no later than the [~~first day of April two thousand twenty-~~
35 ~~two~~] last day of the fiscal year in which the monies were spent.

36 § 2. Section 2 of part LLL of chapter 59 of the laws of 2021 amending
37 the racing, pari-mutuel wagering and breeding law, relating to the
38 utilization of funds in the Catskill and Capital regions off-track
39 betting corporation's capital acquisition funds, is amended to read
40 as follows:

41 § 2. This act shall take effect immediately [~~and shall expire and be~~
42 ~~deemed repealed one year after such date~~].

43 § 3. This act shall take effect immediately.

44 PART EE

45 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the
46 racing, pari-mutuel wagering and breeding law, as amended by section 1
47 of part DD of chapter 59 of the laws of 2021, is amended to read as
48 follows:

49 (a) Any racing association or corporation or regional off-track
50 betting corporation, authorized to conduct pari-mutuel wagering under
51 this chapter, desiring to display the simulcast of horse races on which
52 pari-mutuel betting shall be permitted in the manner and subject to the
53 conditions provided for in this article may apply to the commission for
54 a license so to do. Applications for licenses shall be in such form as

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

49 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
50 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
51 section 2 of part DD of chapter 59 of the laws of 2021, is amended to
52 read as follows:

53 (iii) Of the sums retained by a receiving track located in Westchester
54 county on races received from a franchised corporation, for the period
55 commencing January first, two thousand eight and continuing through June
56 thirtieth, two thousand [~~twenty-two~~] twenty-three, the amount used

1 exclusively for purses to be awarded at races conducted by such receiv-
2 ing track shall be computed as follows: of the sums so retained, two and
3 one-half percent of the total pools. Such amount shall be increased or
4 decreased in the amount of fifty percent of the difference in total
5 commissions determined by comparing the total commissions available
6 after July twenty-first, nineteen hundred ninety-five to the total
7 commissions that would have been available to such track prior to July
8 twenty-first, nineteen hundred ninety-five.

9 § 3. The opening paragraph of subdivision 1 of section 1014 of the
10 racing, pari-mutuel wagering and breeding law, as amended by section 3
11 of part DD of chapter 59 of the laws of 2021, is amended to read as
12 follows:

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

31 § 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering
32 and breeding law, as amended by section 4 of part DD of chapter 59 of
33 the laws of 2021, is amended to read as follows:

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

39 § 5. The opening paragraph of subdivision 1 of section 1016 of the
40 racing, pari-mutuel wagering and breeding law, as amended by section 5
41 of part DD of chapter 59 of the laws of 2021, is amended to read as
42 follows:

43 The provisions of this section shall govern the simulcasting of races
44 conducted at thoroughbred tracks located in another state or country on
45 any day during which a franchised corporation is not conducting a race
46 meeting in Saratoga county at Saratoga thoroughbred racetrack until June
47 thirtieth, two thousand [~~twenty-two~~] twenty-three. Every off-track
48 betting corporation branch office and every simulcasting facility
49 licensed in accordance with section one thousand seven that have entered
50 into a written agreement with such facility's representative horsemen's
51 organization as approved by the commission, one thousand eight or one
52 thousand nine of this article shall be authorized to accept wagers and
53 display the live full-card simulcast signal of thoroughbred tracks
54 (which may include quarter horse or mixed meetings provided that all
55 such wagering on such races shall be construed to be thoroughbred races)
56 located in another state or foreign country, subject to the following

1 provisions; provided, however, no such written agreement shall be
2 required of a franchised corporation licensed in accordance with section
3 one thousand seven of this article:

4 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel
5 wagering and breeding law, as amended by section 6 of part DD of chapter
6 59 of the laws of 2021, is amended to read as follows:

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

22 § 7. Section 32 of chapter 281 of the laws of 1994, amending the
23 racing, pari-mutuel wagering and breeding law and other laws relating to
24 simulcasting, as amended by section 7 of part DD of chapter 59 of the
25 laws of 2021, is amended to read as follows:

26 § 32. This act shall take effect immediately and the pari-mutuel tax
27 reductions in section six of this act shall expire and be deemed
28 repealed on July 1, [~~2022~~] 2023; provided, however, that nothing
29 contained herein shall be deemed to affect the application, qualifica-
30 tion, expiration, or repeal of any provision of law amended by any
31 section of this act, and such provisions shall be applied or qualified
32 or shall expire or be deemed repealed in the same manner, to the same
33 extent and on the same date as the case may be as otherwise provided by
34 law; provided further, however, that sections twenty-three and twenty-
35 five of this act shall remain in full force and effect only until May 1,
36 1997 and at such time shall be deemed to be repealed.

37 § 8. Section 54 of chapter 346 of the laws of 1990, amending the
38 racing, pari-mutuel wagering and breeding law and other laws relating to
39 simulcasting and the imposition of certain taxes, as amended by section
40 8 of part DD of chapter 59 of the laws of 2021, is amended to read as
41 follows:

42 § 54. This act shall take effect immediately; provided, however,
43 sections three through twelve of this act shall take effect on January
44 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
45 ing law, as added by section thirty-eight of this act, shall expire and
46 be deemed repealed on July 1, [~~2022~~] 2023; and section eighteen of this
47 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
48 two of this act shall take effect as of the same date as chapter 772 of
49 the laws of 1989 took effect.

50 § 9. Paragraph (a) of subdivision 1 of section 238 of the racing,
51 pari-mutuel wagering and breeding law, as amended by section 9 of part
52 DD of chapter 59 of the laws of 2021, is 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-two~~] ~~twenty-three~~, 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-two~~] ~~twenty-three~~, 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 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
45 sion, section or part of this act shall be adjudged by any court of
46 competent jurisdiction to be invalid, such judgment shall not affect,
47 impair, or invalidate the remainder thereof, but shall be confined in
48 its operation to the clause, sentence, paragraph, subdivision, section
49 or part thereof directly involved in the controversy in which such judg-
50 ment shall have been rendered. It is hereby declared to be the intent of
51 the legislature that this act would have been enacted even if such
52 invalid provisions had not been included herein.

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