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.

LBD12674-01-2

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:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2022-2023 state fiscal year. Each component is wholly contained within a Part identified as Parts A through EE. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

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

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

[~~If the New York taxable income is: The tax is:~~

~~Not over $17,150~~	~~4% of the New York taxable income~~
~~Over $17,150 but not over $23,600~~	~~$686 plus 4.5% of excess over $17,150~~
~~Over $23,600 but not over $27,900~~	~~$976 plus 5.25% of excess over $23,600~~
~~Over $27,900 but not over $161,550~~	~~$1,202 plus 5.73% of excess over $27,900~~
~~Over $161,550 but not over $323,200~~	~~$8,860 plus 6.17% of excess over $161,550~~
~~Over $323,200 but not over $2,155,350~~	~~$18,834 plus 6.85% of excess over $323,200~~
~~Over $2,155,350 but not over $5,000,000~~	~~$144,336 plus 9.65% of excess over $2,155,350~~
~~Over $5,000,000 but not over~~	~~$418,845 plus 10.30% of excess over~~

~~$25,000,000 $5,000,000~~
~~Over $25,000,000 $2,478,845 plus 10.90% of excess over $25,000,000~~

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

~~If the New York taxable income is:~~	~~The tax is:~~
~~Not over $17,150~~	~~4% of the New York taxable income~~
~~Over $17,150 but not over $23,600~~	~~$686 plus 4.5% of excess over $17,150~~
~~Over $23,600 but not over $27,900~~	~~$976 plus 5.25% of excess over $23,600~~
~~Over $27,900 but not over $161,550~~	~~$1,202 plus 5.61% of excess over $27,900~~
~~Over $161,550 but not over $323,200~~	~~$8,700 plus 6.09% of excess over $161,550~~
~~Over $323,200 but not over $2,155,350~~	~~$18,544 plus 6.85% of excess over $323,200~~
~~Over $2,155,350 but not over $5,000,000~~	~~$144,047 plus 9.65% of excess over $2,155,350~~
~~Over $5,000,000 but not over $25,000,000~~	~~$418,555 plus 10.30% of excess over $5,000,000~~
~~Over $25,000,000~~	~~$2,478,555 plus 10.90% of excess over $25,000,000~~

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

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.5% of excess over $27,900
Over $161,550 but not over $323,200	$8,553 plus 6.00% of excess over $161,550
Over $323,200 but not over $2,155,350	$18,252 plus 6.85% of excess over $323,200
Over $2,155,350 but not over $5,000,000	$143,754 plus 9.65% of excess over $2,155,350
Over $5,000,000 but not over $25,000,000	$418,263 plus 10.30% of excess over $5,000,000
Over $25,000,000	$2,478,263 plus 10.90% of excess over $25,000,000

[~~(ix)~~]**(vii)** For taxable years beginning after two thousand twenty-seven the following rates shall apply:

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

	over $161,550
Over $323,200 but not over $2,155,350	$18,252 plus 6.85% of excess over $323,200
Over $2,155,350	$143,754 plus 8.82% of excess over $2,155,350

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

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

[~~If the New York taxable income is: The tax is:~~

~~Not over $12,800~~	~~4% of the New York taxable income~~
~~Over $12,800 but not over $17,650~~	~~$512 plus 4.5% of excess over $12,800~~
~~Over $17,650 but not over $20,900~~	~~$730 plus 5.25% of excess over $17,650~~
~~Over $20,900 but not over $107,650~~	~~$901 plus 5.73% of excess over $20,900~~
~~Over $107,650 but not over $269,300~~	~~$5,872 plus 6.17% of excess over $107,650~~
~~Over $269,300 but not over $1,616,450~~	~~$15,845 plus 6.85% of excess over $269,300~~
~~Over $1,616,450 but not over $5,000,000~~	~~$108,125 plus 9.65% of excess over $1,616,450~~
~~Over $5,000,000 but not over $25,000,000~~	~~$434,638 plus 10.30% of excess over $5,000,000~~
~~Over $25,000,000~~	~~$2,494,638 plus 10.90% of excess over $25,000,000~~

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

~~If the New York taxable income is:~~	~~The tax is:~~
~~Not over $12,800~~	~~4% of the New York taxable income~~
~~Over $12,800 but not over $17,650~~	~~$512 plus 4.5% of excess over $12,800~~
~~Over $17,650 but not over $20,900~~	~~$730 plus 5.25% of excess over $17,650~~
~~Over $20,900 but not over $107,650~~	~~$901 plus 5.61% of excess over $20,900~~
~~Over $107,650 but not over $269,300~~	~~$5,768 plus 6.09% of excess over $107,650~~
~~Over $269,300 but not over $1,616,450~~	~~$15,612 plus 6.85% of excess over $269,300~~
~~Over $1,616,450 but not over $5,000,000~~	~~$107,892 plus 9.65% of excess over $1,616,450~~
~~Over $5,000,000 but not over $25,000,000~~	~~$434,404 plus 10.30% of excess over $5,000,000~~
~~Over $25,000,000~~	~~$2,494,404 plus 10.90% of excess over $25,000,000~~

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

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

	$12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.5% of excess over $20,900
Over $107,650 but not over $269,300	$5,672 plus 6.00% of excess over $107,650
Over $269,300 but not over $1,616,450	$15,371 plus 6.85% of excess over $269,300
Over $1,616,450 but not over $5,000,000	$107,651 plus 9.65% of excess over $1,616,450
Over $5,000,000 but not over $25,000,000	$434,163 plus 10.30% of excess over $5,000,000
Over $25,000,000	$2,494,163 plus 10.90% of excess over $25,000,000

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

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.5% of excess over $20,900
Over $107,650 but not over $269,300	$5,672 plus 6.00% of excess over $107,650
Over $269,300 but not over $1,616,450	$15,371 plus 6.85% of excess over $269,300
Over $1,616,450	$107,651 plus 8.82% of excess over $1,616,450

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

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

[~~If the New York taxable income is: The tax is:~~

~~Not over $8,500~~	~~4% of the New York taxable income~~
~~Over $8,500 but not over $11,700~~	~~$340 plus 4.5% of excess over $8,500~~
~~Over $11,700 but not over $13,900~~	~~$484 plus 5.25% of excess over $11,700~~
~~Over $13,900 but not over $80,650~~	~~$600 plus 5.73% of excess over $13,900~~
~~Over $80,650 but not over $215,400~~	~~$4,424 plus 6.17% of excess over $80,650~~
~~Over $215,400 but not over $1,077,550~~	~~$12,738 plus 6.85% of excess over $215,400~~
~~Over $1,077,550 but not over $5,000,000~~	~~$71,796 plus 9.65% of excess over $1,077,550~~
~~Over $5,000,000 but not over~~	~~$450,312 plus 10.30% of excess over~~

~~$25,000,000 $5,000,000~~
~~Over $25,000,000 $2,510,312 plus 10.90% of excess over $25,000,000~~

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

~~If the New York taxable income is:~~	~~The tax is:~~
~~Not over $8,500~~	~~4% of the New York taxable income~~
~~Over $8,500 but not over $11,700~~	~~$340 plus 4.5% of excess over $8,500~~
~~Over $11,700 but not over $13,900~~	~~$484 plus 5.25% of excess over $11,700~~
~~Over $13,900 but not over $80,650~~	~~$600 plus 5.61% of excess over $13,900~~
~~Over $80,650 but not over $215,400~~	~~$4,344 plus 6.09% of excess over $80,650~~
~~Over $215,400 but not over $1,077,550~~	~~$12,550 plus 6.85% of excess over $215,400~~
~~Over $1,077,550 but not over $5,000,000~~	~~$71,608 plus 9.65% of excess over $1,077,550~~
~~Over $5,000,000 but not over $25,000,000~~	~~$450,124 plus 10.30% of excess over $5,000,000~~
~~Over $25,000,000~~	~~$2,510,124 plus 10.90% of excess over $25,000,000~~

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

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.50% of excess over $13,900
Over $80,650 but not over $215,400	$4,271 plus 6.00% of excess over $80,650
Over $215,400 but not over $1,077,550	$12,356 plus 6.85% of excess over $215,400
Over $1,077,550 but not over $5,000,000	$71,413 plus 9.65% of excess over $1,077,550
Over $5,000,000 but not over $25,000,000	$449,929 plus 10.30% of excess over $5,000,000
Over $25,000,000	$2,509,929 plus 10.90% of excess over $25,000,000

[~~(ix)~~]**(vii)** For taxable years beginning after two thousand twenty-seven the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.50% of excess over $13,900
Over $80,650 but not over $215,400	$4,271 plus 6.00% of excess over $80,650
Over $215,400 but not over	$12,356 plus 6.85% of excess

$1,077,550	over $215,400
Over $1,077,550	$71,413 plus 8.82% of excess over $1,077,550

§ 4. This act shall take effect immediately.

PART B

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

SUBPART A

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

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

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

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

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

SUBPART B

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

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

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

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

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

§ 3. This act shall take effect immediately.

SUBPART C

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

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

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

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

(b) A farm employer is a corporation (including a New York S corporation), a sole proprietorship, a limited liability company or a partnership that is an eligible farmer.

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

(d) An eligible farm employee is an individual who meets the definition of a "farm laborer" under section two of the labor law who is employed by a farm employer in New York state, but excluding general 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:

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

§ 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.

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

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

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

PART C

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART D

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

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

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

PART E

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

ARTICLE 26

COVID-19 CAPITAL COSTS TAX CREDIT PROGRAM

Section 480. Short title.

481. Statement of legislative findings and declaration.

482. Definitions.

483. Eligibility criteria.

484. Application and approval process.

485. COVID-19 capital costs tax credit.

486. Powers and duties of the commissioner.

487. Maintenance of records.

488. Cap on tax credit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) provide evidence in a form and manner prescribed by the commissioner of their business eligibility;

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

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

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

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

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

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

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

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

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

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

4. A business entity may claim the tax credit in the taxable year that includes the business entity's application deadline as defined by subdivision four of section four hundred eighty-four of this chapter. However, if such application deadline occurred on or before December thirty-first, two thousand twenty-one, the business entity may claim the credit on its tax return for the taxable year that includes December thirty-first, two thousand twenty-two.

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

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

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

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

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

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

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

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

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

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

(d) Information sharing. Notwithstanding any provision of this chapter, employees of the department of economic development and the department shall be allowed and are directed to share and exchange:

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

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

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

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

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

(1) article 9-A: section 210-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. COVID-19 capital costs tax credit. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-seven of this chapter, against the taxes imposed by this article.

(b) Application of credit. The credit allowed under this subdivision for the 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 the 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 will be paid thereon.

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

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

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

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

(xlix) COVID-19 capital costs tax credit under subsection (nnn)	**Amount of credit under subdivision 58 of section two hundred ten-B**

§ 6. This act shall take effect immediately.

PART F

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

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

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

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

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

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

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

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

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

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

(g) Any qualified New York city musical and theatrical production company that performs in a qualified New York city production facility and applies to receive a credit under this section shall be required to: (1) participate in a New York state diversity and arts job training program; (2) create and implement a plan to ensure that their production is available and accessible for low-or no-cost to low income New Yorkers; and (3) contribute to the New York state council on the arts, cultural program fund an amount up to fifty percent of the total credits received if its production earns ongoing revenue prospectively after the end of the credit period that is at least equal to two hundred percent

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

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

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

§ 7. Section 6 of 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, is amended to read as follows:

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

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

PART G

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

(a) For the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of its taxable year, there is hereby imposed on every corporation, other than a New York S corporation, subject to tax under section two hundred nine of this article, or any receiver, referee, trustee, assignee or other fiduciary, or any officer or agent appointed by any court, who conducts the business of any such corporation, a tax surcharge, in addition to the tax imposed under section two hundred nine of this article, to be computed at the rate of seventeen percent of the tax imposed under such section for such taxable years or any part of such taxable years ending on or after December thirty-first, nineteen hundred eighty-three and before January first, two thousand fifteen after the deduction of any credits otherwise allowable under this article, at the rate of twenty-five and six-tenths percent of the tax imposed under such section for taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen before the deduction of any credits other-

wise allowable under this article, [~~and~~] at the rate determined by the commissioner pursuant to paragraph (f) of this subdivision of the tax imposed under such section, for taxable years beginning on or after January first, two thousand sixteen **and before January first, two thousand twenty-three** before the deduction of any credits otherwise allowable under this article**, and at the rate of thirty percent of the tax imposed under such section for taxable years beginning on or after January first, two thousand twenty-three before the deduction of any credits otherwise allowable under this article**. However, such rate of tax surcharge shall be applied only to that portion of the tax imposed under section two hundred nine of this article before the deduction of any credits otherwise allowable under this article which is attributable to the taxpayer's business activity carried on within the metropolitan commuter transportation district; and provided, further, the surcharge computed on a combined report shall include a surcharge on the fixed dollar minimum tax for each member of the combined group subject to the surcharge under this subdivision.

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

§ 2. This act shall take effect immediately.

PART H

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

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

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

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

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

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

(d) Amount of credit. The amount of the credit shall be [~~ten~~] **fifteen** percent of the total amount of wages paid to the qualified veteran during the veteran's first [~~full year~~] **twelve-month period** of employment. Provided, however, that[~~, if the qualified veteran is a disabled veteran, as defined in paragraph (b) of subdivision one of section eighty-five of the civil service law, the amount of the credit shall be fifteen percent of the total amount of wages paid to the qualified veteran during the veteran's first full year of employment. The~~] **the** credit allowed pursuant to this subdivision shall not exceed in any taxable year, [~~five~~] **fifteen** thousand dollars for any qualified veteran **employed in a full-time position for one thousand eight hundred twenty or more hours in one twelve-month period** and [~~fifteen thousand dollars for any qualified veteran who is a disabled veteran~~] **seven thousand five hundred dollars for any qualified veteran employed in a part-time position for at least one thousand forty hours but not more than one thousand eight hundred nineteen hours in one twelve-month period**.

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

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

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

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

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

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

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

(4) Amount of credit. The amount of the credit shall be [~~ten~~] **fifteen** percent of the total amount of wages paid to [~~he~~] **the** qualified veteran during the veteran's first [~~full year~~] **twelve-month period** of employment. Provided, however, that[~~, if the qualified veteran is a disabled veteran, as defined in paragraph (b) of subdivision one of section eighty-five of the civil service law, the amount of the credit shall be fifteen percent of the total amount of wages paid to the qualified veteran during the veteran's first full year of employment. The~~] **the** credit allowed pursuant to this subsection shall not exceed in any taxable year, [~~five~~] **fifteen** thousand dollars for any qualified veteran **employed in a full-time position for one thousand eight hundred twenty or more hours in one twelve-month period** and [~~fifteen thousand dollars for any qualified veteran who is a disabled veteran~~] **seven thousand five hundred dollars for any qualified veteran employed in a part-time position for at least one thousand forty hours but not more than one thousand eight hundred nineteen hours in one twelve-month period**.

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

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

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

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

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

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

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

(4) Amount of credit. The amount of the credit shall be [~~ten~~] **fifteen** percent of the total amount of wages paid to the qualified veteran during the veteran's first [~~full year~~] **twelve-month period** of employment. Provided, however, that[~~, if the qualified veteran is a disabled veteran, as defined in paragraph (b) of subdivision one of section eighty-five of the civil service law, the amount of the credit shall be fifteen percent of the total amount of wages paid to the qualified veteran during the veteran's first full year of employment. The~~] **the** credit allowed pursuant to this subdivision shall not exceed in any taxable year, [~~five~~] **fifteen** thousand dollars for any qualified veteran **employed in a full-time position for one thousand eight hundred twenty or more hours in one twelve-month period** and [~~fifteen thousand dollars for any qualified veteran who is a disabled veteran~~] **seven thousand five hundred dollars for any qualified veteran employed in a part-time position for at least one thousand forty hours but not more than one thousand eight hundred nineteen hours in one twelve-month period**.

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

PART I

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

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

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

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

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

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

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

(ii) submit an application to and obtain approval of such application by the New York state energy research and development authority describing the conversion and approved costs to complete such conversion;

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

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

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

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

(1) Conversion costs means the equipment and labor costs associated with the design, installation and use of space heating and other energy conversion systems that are designed to or accommodate the use of biodiesel fuel or a geothermal system and, at the option of the taxpayer, the costs of completing an ASRAE level 2 energy audit including assessment of electrification options.

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

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

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

(e) Information sharing. The department, the department of environmental conservation and the New York state energy research and development authority shall be allowed and are directed to share and exchange information regarding the information contained on the credit application for claiming the grade no. 6 heating oil conversion tax credit and

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

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

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

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

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

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

(b) Application of credit. The credit allowed under this subdivision for the taxable year will 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 the 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 not deductible in such taxable year will 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 will be paid thereon.

§ 3. 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:

(xlix) Grade no. 6 heating oil conversion tax credit under subsection (nnn)	Amount of credit under subdivision fifty-eight of section two hundred ten-B

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

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

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

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

PART J

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

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

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

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

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

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

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

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

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

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

PART K

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

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

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

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

§ 3. This act shall take effect immediately.

PART L

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

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

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

(c) Application of credit. In no event shall the credit allowed under this subdivision for any taxable year 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 carried over to the following year or years, and may be deducted from the taxpayer's tax for such year or years. The tax credit allowed pursuant to this subdivision shall not apply to taxable years beginning on or after January first, two thousand [~~twenty-three~~] twenty-nine.

§ 3. This act shall take effect immediately.

PART M

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

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

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

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

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

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

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

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

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand [~~twenty-six~~] twenty-nine provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in two thousand thirteen and two thousand fourteen, twenty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand [~~twenty-six~~] twenty-nine and five million dollars of the annual allocation shall be made available for the television writers' and directors' fees and salaries credit pursuant to section twenty-four-b of this article in each year starting in two thousand twenty through two thousand [~~twenty-six~~] twenty-nine. This amount shall be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previ-

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

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

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

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

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

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

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

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

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

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

PART N

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

(a) The commissioner is authorized to establish and administer the program established under this section to provide tax incentives to employers for employing at risk youth in part-time and full-time positions. There will be ten distinct pools of tax incentives. Program one will cover tax incentives allocated for two thousand twelve and two thousand thirteen. Program two will cover tax incentives allocated in two thousand fourteen. Program three will cover tax incentives allocated in two thousand fifteen. Program four will cover tax incentives allocated in two thousand sixteen. Program five will cover tax incentives allocated in two thousand seventeen. Program six will cover tax incentives allocated in two thousand eighteen. Program seven will cover tax incentives allocated in two thousand nineteen. Program eight will cover tax incentives allocated in two thousand twenty. Program nine will cover tax incentives allocated in two thousand twenty-one. Program ten will cover tax incentives allocated in two thousand twenty-two. **Program eleven will cover tax incentives allocated in two thousand twenty-three. Program twelve will cover tax incentives allocated in two thousand twenty-four. Program thirteen will cover tax incentives allocated in two thousand twenty-five. Program fourteen will cover tax incentives allocated in two thousand twenty-six. Program fifteen will cover tax incentives allocated in two thousand twenty-seven.** The commissioner is authorized to allocate up to twenty-five million dollars of tax credits under program one, ten million dollars of tax credits under program two, twenty million dollars of tax credits under program three, fifty million dollars of tax credits under each of programs four and five, and forty million dollars of tax credits under programs six, seven, eight, nine [~~and~~], ten**, eleven, twelve, thirteen, fourteen and fifteen**.

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

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

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

To participate in the program established under this section, an employer must submit an application (in a form prescribed by the commissioner) to the commissioner after January first, two thousand twelve but no later than November thirtieth, two thousand twelve for program one, after January first, two thousand fourteen but no later than November thirtieth, two thousand fourteen for program two, after January first, two thousand fifteen but no later than November thirtieth, two thousand fifteen for program three, after January first, two thousand sixteen but no later than November thirtieth, two thousand sixteen for program four, after January first, two thousand seventeen but no later than November thirtieth, two thousand seventeen for program five, after January first, two thousand eighteen but no later than November thirtieth, two thousand eighteen for program six, after January first, two thousand nineteen but no later than November thirtieth, two thousand nineteen for program seven, after January first, two thousand twenty but no later than November thirtieth, two thousand twenty for program eight, after January first, two thousand twenty-one but no later than November thirtieth, two thousand twenty-one for program nine, [~~and~~] after January first, two thousand twenty-two but no later than November thirtieth, two thousand twenty-two for program ten**, after January first, two thousand twenty-three but no later than November thirtieth, two thousand twenty-three for program eleven, after January first, two thousand twenty-four but no later than November thirtieth, two thousand twenty-four for program twelve, after January first, two thousand twenty-five but no later than November thirtieth, two thousand twenty-five for program thirteen, after January first, two thousand twenty-six but no later than November thirtieth, two thousand twenty-six for program fourteen, and after January first, two thousand twenty-seven but no later than November thirtieth, two thousand twenty-seven for program fifteen**. The qualified employees must start their employment on or after January first, two thousand twelve but no later than December thirty-first, two thousand twelve for program one, on or after January first, two thousand fourteen but no later than December thirty-first, two thousand fourteen for program two, on or after January first, two thousand fifteen but no later than December thirty-first, two thousand fifteen for program three, on or after January first, two thousand sixteen but no later than December thirty-first, two thousand sixteen for program four, on or after January first, two thousand seventeen but no later than December thirty-first, two thousand seventeen for program five, on or after January first, two thousand eighteen but no later than December thirty-first, two thousand eighteen for program six, on or after January first, two thousand nine-

teen but no later than December thirty-first, two thousand nineteen for program seven, on or after January first, two thousand twenty but no later than December thirty-first, two thousand twenty for program eight, on or after January first, two thousand twenty-one but no later than December thirty-first, two thousand twenty-one for program nine, [~~and~~] on or after January first, two thousand twenty-two but no later than December thirty-first, two thousand twenty-two for program ten**, on or after January first, two thousand twenty-three but no later than December thirty-first, two thousand three for program eleven, on or after January first, two thousand twenty-four but no later than December thirty-first, two thousand twenty-four for program twelve, on or after January first, two thousand twenty-five but no later than December thirty-first, two thousand twenty-five for program thirteen, on or after January first, two thousand twenty-six but no later than December thirty-first, two thousand twenty-six for program fourteen, and on or after January first, two thousand twenty-seven but no later than December thirty-first, two thousand twenty-seven for program fifteen**. As part of such application, an employer must:

§ 4. This act shall take effect immediately.

PART O

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

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

§ 2. This act shall take effect immediately.

PART P

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

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

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

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

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

(6) Termination. The credit allowed by this subsection shall not apply in taxable years beginning after December thirty-first, two thousand [~~twenty-two~~] twenty-seven.

§ 4. This act shall take effect immediately.

PART Q

Section 1. Section 5 of 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, as amended by section 1 of part E of chapter 59 of the laws of 2019, is amended to read as follows:

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

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

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

§ 3. This act shall take effect immediately.

PART R

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) There shall be added to federal adjusted gross income the amount of increase in basis with respect to such stock or indebtedness pursuant to subsection (a) of section thirteen hundred seventy-six of the internal revenue code as such section was in effect for taxable years beginning before January first, nineteen hundred eighty-three and subparagraphs (A) and (B) of paragraph one of subsection (a) of section

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

purposes of this paragraph, the term "estimated tax" shall mean a partner's, member's or shareholder's distributive share or pro rata share of the entity income derived from New York sources, multiplied by the highest rate of tax prescribed by section six hundred one of this article for the taxable year of any partner, member or shareholder who is an individual taxpayer, or paragraph (a) of subdivision one of section two hundred ten of this chapter for the taxable year of any partner, member or shareholder which is a C corporation, whether or not such C corporation is subject to tax under article nine, nine-A or thirty-three of this chapter, and reduced by the distributive share or pro rata share of any credits determined under section one hundred eighty-seven, one hundred eighty-seven-a, six hundred six or fifteen hundred eleven of this chapter, whichever is applicable, derived from the entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 20. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2023.

PART S

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

(i) A credit shall be allowed under this subdivision with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which are: depreciable pursuant to section one hundred sixty-seven of the internal revenue code, have a useful life of four years or more, are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code, have a situs in this state and are (A) principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, (B) industrial waste treatment facilities or air pollution control facilities, used in the taxpayer's trade or business, (C) research and development property, or (D) principally used in the ordinary course of the taxpayer's trade or business as a broker or dealer in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of stocks, bonds or other securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, or of commodities as defined in section four hundred seventy-five (e) of the Internal Revenue Code, (E) principally used in the ordinary course of the taxpayer's trade or business of providing investment advisory services for a regulated investment company as defined in section eight hundred fifty-one of the Internal Revenue Code, or lending, loan arrangement or loan origination services to customers in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, (F) principally used in the ordinary course of the taxpayer's business as an exchange registered as a national securities exchange within the meaning of sections 3(a)(1) and 6(a) of the Securities Exchange Act of 1934 or a board of trade as defined in subparagraph one of paragraph (a) of section fourteen hundred ten of the not-for-profit corporation law or as an entity that is wholly owned by one or more such national securities exchanges or boards of trade and that provides automation or technical services thereto, or (G) principally used as a qualified film production facility including qualified film production facilities having a situs in an empire zone designated as such pursuant to article eighteen-B of the general municipal law, where the taxpayer

is providing three or more services to any qualified film production company using the facility, including such services as a studio lighting grid, lighting and grip equipment, multi-line phone service, broadband information technology access, industrial scale electrical capacity, food services, security services, and heating, ventilation and air conditioning. For purposes of clauses (D), (E) and (F) of this subparagraph, property purchased by a taxpayer affiliated with a regulated broker, dealer, registered investment advisor, national securities exchange or board of trade, is allowed a credit under this subdivision if the property is used by its affiliated regulated broker, dealer, registered investment advisor, national securities exchange or board of trade in accordance with this subdivision. For purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer described in clauses (D) and (E) of this subparagraph may be aggregated. In addition, the uses by the taxpayer, its affiliated regulated broker, dealer and registered investment advisor under either or both of those clauses may be aggregated. Provided, however, a taxpayer shall not be allowed the credit provided by clauses (D), (E) and (F) of this subparagraph unless the property is first placed in service before October first, two thousand fifteen and (i) eighty percent or more of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such equipment are located in this state or (ii) the average number of employees that perform the administrative and support functions resulting from or related to the qualifying uses of such equipment and are located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety-five percent of the average number of employees that perform these functions and are located in this state during the thirty-six months immediately preceding the year for which the credit is claimed, or (iii) the number of employees located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety percent of the number of employees located in this state on December thirty-first, nineteen hundred ninety-eight or, if the taxpayer was not a calendar year taxpayer in nineteen hundred ninety-eight, the last day of its first taxable year ending after December thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes subject to tax in this state after the taxable year beginning in nineteen hundred ninety-eight, then the taxpayer is not required to satisfy the employment test provided in the preceding sentence of this subparagraph for its first taxable year. For purposes of clause (iii) of this subparagraph the employment test will be based on the number of employees located in this state on the last day of the first taxable year the taxpayer is subject to tax in this state. If the uses of the property must be aggregated to determine whether the property is principally used in qualifying uses, then either each affiliate using the property must satisfy this employment test or this employment test must be satisfied through the aggregation of the employees of the taxpayer, its affiliated regulated broker, dealer, and registered investment adviser using the property. For purposes of clause (A) of this subparagraph, tangible personal property and other tangible property shall not include property principally used by the taxpayer **(I)** in the production or distribution of electricity, natural gas after extraction from wells, steam, or water delivered through pipes and mains**, or (II) in the creation, production or reproduction, in any medium, of any audio or visual recording, including but not limited to films, television shows, commercials, and musical recordings, or in the duplication, for purposes of broadcast in**

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

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

(A) A credit shall be allowed under this subsection with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which are: depreciable pursuant to section one hundred sixty-seven of the internal revenue code, have a useful life of four years or more, are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code, have a situs in this state and are (i) principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, (ii) industrial waste treatment facilities or air pollution control facilities, used in the taxpayer's trade or business, (iii) research and development property, (iv) principally used in the ordinary course of the taxpayer's trade or business as a broker or dealer in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of stocks, bonds or other securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, or of commodities as defined in section 475(e) of the Internal Revenue Code, (v) principally used in the ordinary course of the taxpayer's trade or business of providing investment advisory services for a regulated investment company as defined in section eight hundred fifty-one of the Internal Revenue Code, or lending, loan arrangement or loan origination services to customers in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, or (vi) principally used as a qualified film production facility including qualified film production facilities having a situs in an empire zone designated as such pursuant to article eighteen-B of the general municipal law, where the taxpayer is providing three or more services to any qualified film production company using the facility, including such services as a studio lighting grid, lighting and grip equipment, multiline phone service, broadband information technology access, industrial scale electrical capacity, food services, security services, and heating, ventilation and air conditioning. For purposes of clauses (iv) and (v) of this subparagraph, property purchased by a taxpayer affiliated with a regulated broker, dealer, or registered investment adviser is allowed a credit under this subsection if the property is used by its affiliated regulated broker, dealer or registered investment adviser in accordance with this subsection. For purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer described in clauses (iv) and (v) of this subparagraph may be aggregated. In addition, the uses by the taxpayer, its affiliated regulated broker, dealer and registered investment adviser under either or both of those clauses may be aggregated. Provided, however, a taxpayer shall not be allowed the credit provided by clauses (iv) and (v) of this subparagraph unless (I) eighty percent or more of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such equipment are located in this state, or (II) the

average number of employees that perform the administrative and support functions resulting from or related to the qualifying uses of such equipment and are located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety-five percent of the average number of employees that perform these functions and are located in this state during the thirty-six months immediately preceding the year for which the credit is claimed, or (III) the number of employees located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety percent of the number of employees located in this state on December thirty-first, nineteen hundred ninety-eight or, if the taxpayer was not a calendar year taxpayer in nineteen hundred ninety-eight, the last day of its first taxable year ending after December thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes subject to tax in this state after the taxable year beginning in nineteen hundred ninety-eight, then the taxpayer is not required to satisfy the employment test provided in the preceding sentence of this subparagraph for its first taxable year. For the purposes of clause (III) of this subparagraph the employment test will be based on the number of employees located in this state on the last day of the first taxable year the taxpayer is subject to tax in this state. If the uses of the property must be aggregated to determine whether the property is principally used in qualifying uses, then either each affiliate using the property must satisfy this employment test or this employment test must be satisfied through the aggregation of the employees of the taxpayer, its affiliated regulated broker, dealer, and registered investment adviser using the property. For purposes of clause (i) of this subparagraph, tangible personal property and other tangible property shall not include property principally used by the taxpayer **(a)** in the production or distribution of electricity, natural gas after extraction from wells, steam, or water delivered through pipes and mains**, or (b) in the creation, production or reproduction, in any medium, of any audio or visual recording, including but not limited to films, television shows, commercials, and musical recordings, or in the duplication, for purposes of broadcast in any medium, of a master of any audio or visual recording, including but not limited to films, television shows, commercials, and musical recordings**.

§ 3. This act shall take effect immediately, and shall apply to property placed in service on or after January 1, 2023.

PART T

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

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

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

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

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

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

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

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

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

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

PART U

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 4. Section 1210 of the tax law is amended by adding a new subdivision (p) to read as follows:

(p) Notwithstanding any provision of this section or any other law to the contrary, a county authorized to impose an additional rate or rates of sales and compensating use taxes by clause two of subparagraph (i) of the opening paragraph of this section, or a city, other than the city of Mount Vernon, authorized to impose an additional rate of such taxes by subparagraph (ii) of such opening paragraph, may adopt a local law, ordinance, or resolution by a majority vote of its governing body imposing such rate or rates for a period not to exceed two years, and any such period must end on November thirtieth of an odd-numbered year. Notwithstanding the preceding sentence, the city of White Plains is authorized to exceed such two-year limitation to impose the tax authorized by subparagraph (ii) of such opening paragraph for the period commencing on September first, two thousand twenty-three and ending on November thirtieth, two thousand twenty-five. Any such local law, ordinance, or resolution shall also be subject to the provisions of subdivisions (d) and (e) of this section.

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

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

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

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

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

(1) Counties:

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

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

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

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

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

(2) Cities:

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

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

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

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

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

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

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

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

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

§ 1262-g. Oneida county allocation and distribution of net collections from the additional [~~one percent rate~~] rates of sales and compensating use taxes. Notwithstanding any contrary provision of law, (a) if the county of Oneida imposes sales and compensating use taxes at a rate which is one percent additional to the three percent rate authorized by section twelve hundred ten of this article, as authorized by such section, [~~(a)~~] (i) where a city in such county imposes tax pursuant to the authority of subdivision (a) of such section twelve hundred ten, such county shall allocate, distribute and pay in cash quarterly to such city one-half of the net collections attributable to such additional one percent rate of the county's taxes collected in such city's boundaries; [~~(b)~~] (ii) where a city in such county does not impose tax pursuant to the authority of such subdivision (a) of such section twelve hundred ten, such county shall allocate, distribute and pay in cash quarterly to such city not so imposing tax a portion of the net collections attributable to one-half of the county's additional one percent rate of tax calculated on the basis of the ratio which such city's population bears to the county's total population, such populations as determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, which special census must include the entire area of the county; [~~and (c)~~] provided, however, that such county shall dedicate the first one million five hundred thousand dollars of net collections attributable to such additional one percent rate of tax received by such county after the county receives in the aggregate eighteen million five hundred thousand dollars of net collections from such additional one percent rate of tax [~~imposed for any of the periods: September first, two thousand twelve through August thirty-first, two thousand thirteen; September first, two thousand thirteen through August thirty-first, two thousand fourteen; and September first, two thousand fourteen through August thirty-first, two thousand fifteen; September first, two thousand fifteen through August thirty-first, two thousand sixteen; and September first, two thousand sixteen through August thirty-first, two thousand seventeen; September first, two thousand seventeen through August thirty-first, two thousand eighteen; September first, two thousand eighteen through August thirty-first, two thousand twenty; and September first, two thousand twenty through August thirty-first, two thousand twenty-three,~~] to an allocation on a per capita basis, utilizing figures from the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law, completed and published prior to the end of the year for which such allocation is made, which special census must include the entire area of such county, to be allocated and distributed among the towns of Oneida county by appropriation of its board of legislators; provided, further, that nothing herein shall require such board of legislators to make any such appropriation until it has been notified by any town by appropriate resolution and, in any case where there is a

village wholly or partly located within a town, a resolution of every such village, embodying the agreement of such town and village or villages upon the amount of such appropriation to be distributed to such village or villages out of the allocation to the town or towns in which it is located. **(b) If the county of Oneida imposes sales and compensating use taxes at a rate which is one and three-quarters percent additional to the three percent rate authorized by section twelve hundred ten of this article, as authorized pursuant to clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article, net collections attributable to the additional three-quarters percent of such additional rate shall not be subject to any revenue distribution agreement entered into by the county and the cities in the county pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part.**

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

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

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

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

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

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

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

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

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

§ 1265. References to certain provisions authorizing additional rates or to expirations of a period. Notwithstanding any provision of law to the contrary: (a) any reference in any section of this chapter or other law, or in any local law, ordinance, or resolution adopted pursuant to the authority of this article, to net collections or revenues from a tax imposed by a county or city pursuant to the authority of a clause, or to a subclause of a clause, of subparagraph (i) or (ii) of the opening paragraph of section twelve hundred ten of this article repealed by section one or two of a part of a chapter of the laws of two thousand twenty-two that added this section or pursuant to section twelve hundred ten-E of this article repealed by section five of such part shall be deemed to be a reference to net collections or revenues from a tax imposed by that county or city pursuant to the authority of the equivalent provision of clause two of subparagraph (i) or to subparagraph (ii) of the opening paragraph of such section twelve hundred ten as added by such section one or two of such part of a chapter of the laws of two thousand twenty-two; (b) any reference in this chapter or in any other law relating to the expiration of a provision concerning the distribution of revenue from the taxes authorized to be imposed by the opening paragraph of section twelve hundred ten of this article shall be disregarded, and such provision shall continue in effect unless later amended or repealed.

§ 13. This act shall take effect immediately.

PART V

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 5. Section 1132 of the tax law is amended by adding a new subdivision (m) to read as follows:

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

(2) An operator is relieved from the duty to collect tax in regard to a particular rent for the occupancy of a vacation rental subject to tax under subdivision (e) of section eleven hundred five of this article and shall not include the rent from such occupancy in its taxable sales for purposes of section eleven hundred thirty-six of this part if, in regard to such occupancy: (A) the operator of the vacation rental can show that such occupancy was facilitated by a vacation rental marketplace provider from whom such operator has received in good faith a properly completed certificate of collection in a form prescribed by the commissioner, certifying that the vacation rental marketplace provider is registered to collect sales tax and will collect sales tax on all taxable sales of occupancy of a vacation rental by the operator facilitated by the vacation rental marketplace provider, and with such other information as the commissioner may prescribe; and (B) any failure of the vacation rental marketplace provider to collect the proper amount of tax in regard to such sale was not the result of such operator providing the vacation rental marketplace provider with incorrect information. This provision shall be administered in a manner consistent with subparagraph (i) of paragraph one of subdivision (c) of this section as if a certificate of collection were a resale or exemption certificate for purposes of such subparagraph, including with regard to the completeness of such certificate of collection and the timing of its acceptance by the operator. Provided that, with regard to any sales of occupancy of a vacation rental by an operator that are facilitated by a vacation rental marketplace provider who is affiliated with such operator within the meaning of paragraph ten of subdivision (c) of section eleven hundred one of this article, the operator shall be deemed liable as a person under a duty to act for such vacation rental marketplace provider for purposes of subdivision one of section eleven hundred thirty-one of this part.

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

§ 6. Section 1133 of the tax law is amended by adding a new subdivision (g) to read as follows:

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

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

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

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

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

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

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

(B) The liability, pursuant to subdivision (a) of section eleven hundred thirty-three of this article, of any officer, director or employee of a corporation or of a dissolved corporation, member or employee of a partnership or employee of an individual proprietorship who as such officer, director, employee or member is under a duty to act for such corporation, partnership or individual proprietorship in complying with any requirement of this article for the tax imposed, collected or required to be collected, or for the tax required to be paid or paid over to the [~~tax commission~~] **commissioner** under this article, and the amount of such tax liability (whether or not a return is filed under this article, whether or not such return when filed is incorrect or insufficient, or where the tax shown to be due on the return filed under this article has not been paid or has not been paid in full) shall be determined by the [~~tax commission~~] **commissioner** in the manner provided for in paragraphs one and two of this subdivision. Such determination shall be an assessment of the tax and liability for the tax with respect to such person unless such person, within ninety days after the giving of notice of such determination, shall apply to the division of tax appeals for a hearing. If such determination is identical to or arises out of a previously issued determination of tax of the corporation, dissolved corporation, partnership or individual proprietorship for which such person is under a duty to act, an application filed with the division of tax appeals on behalf of the corporation, dissolved corporation, partnership or individual proprietorship shall be deemed to include any and all subsequently issued personal determinations and a separate application to the division of tax appeals for a hearing shall not be required. The [~~tax commission~~] **commissioner** may, nevertheless, of [~~its~~] **his or her** own motion, redetermine such determination of tax or liability for tax. Where the [~~tax commission~~] **commissioner** determines or redetermines that the amount of tax claimed to be due from a vendor of tangible personal property or services, a recipient of amusement charges, or an operator of a hotel **or vacation rental** is erroneous or excessive in whole or in part, [~~it~~] **he or she** shall redetermine the amount of tax properly due from any such person as a person required to collect tax with respect to such vendor, recipient, or operator, and if such amount is less than the amount of tax for which such person would have been liable in the absence of such determination or redetermination, [~~it~~] **he or she** shall reduce such liability accordingly. Furthermore, the [~~tax commission~~] **commissioner** may, of [~~its~~] **his or her** own motion, abate on behalf of any such person, any part of the tax determined to be erroneous or excessive whether or not such tax had become finally and irrevocably fixed with respect to such person but no claim for abatement may be filed by any such person. The provisions of

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

§ 10. Section 1142 of the tax law is amended by adding a new subdivision 16 to read as follows:

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

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

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

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

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

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

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

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

suspend, revoke or refuse to issue a certificate of authority has become final, and without possession of a valid certificate of authority (1) sells tangible personal property or services subject to tax, receives amusement charges or operates a hotel **or vacation rental**, (2) purchases or sells tangible personal property for resale, or (3) sells petroleum products, shall be guilty of a misdemeanor. It shall be an affirmative defense that such person performed the acts described in this subdivision without knowledge of such determination. Any person who violates a provision of this subdivision, upon conviction, shall be subject to a fine in any amount authorized by this article, but not less than five hundred dollars, in addition to any other penalty provided by law.

§ 14. This act shall take effect immediately and shall apply to collections of rent by the operator or vacation rental marketplace provider on or after September 1, 2022.

PART W

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

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

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

(6) Publication of interest rates. The commissioner of taxation and finance **shall publish the interest rates set under this subsection on the website of the department of taxation and finance. Immediately following such publication, the commissioner** shall cause **such interest rates** to be published in the section for miscellaneous notices in the state register[~~,~~] and give other appropriate general notice of[~~, the~~] **such** interest rates [~~to be set under this subsection no later than twenty days preceding the first day of the calendar quarter during which such interest rates apply~~]. The setting and publication of such interest rates shall not be included within paragraph (a) of subdivision two of section one hundred two of the state administrative procedure act relating to the definition of a rule.

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

(5) Publication of interest rates. The commissioner of taxation and finance shall **publish the interest rates set under this subsection on the website of the department of taxation and finance. Immediately following such publication, the commissioner shall** cause **such interest rates** to be published in the section for miscellaneous notices in the state register[~~,~~] and give other appropriate general notice of[~~, the~~] **such** interest rates [~~to be set under this subsection no later than twenty days preceding the first day of the calendar quarter during which such interest rates apply~~]. The setting and publication of such interest rates shall not be included within paragraph (a) of subdivision two of section one hundred two of the state administrative procedure act relating to the definition of a rule.

§ 4. This act shall take effect immediately.

PART X

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

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

§ 2. This act shall take effect immediately.

PART Y

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

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

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

4. Any final determination of an assessment ceiling by the commissioner pursuant to subdivision one of this section shall be subject to judicial challenge by an owner of local public utility mass real property or a local assessing jurisdiction in a proceeding under article seven of this chapter; provided however, the time to commence such proceeding shall be within sixty days of the issuance of the final assessment ceiling certificate and all questions of fact and law shall be determined de novo. Any judicial proceeding shall be commenced in the supreme court in the county of Albany or the county agreed upon by the parties in which the local public utility mass real property is located. Nothing in this

section shall preclude a challenge of the assessed value established by a local assessing jurisdiction with respect to local public utility mass real property as otherwise provided in article seven of this chapter, **provided however that upon motion of the local assessing jurisdiction, such challenge shall be consolidated with the challenge to the final assessment ceiling commenced pursuant to this subdivision and litigated in the venue specified by this subdivision**. In any proceeding challenging an assessed value established by a local assessing jurisdiction for local public utility mass real property, the final certified assessment ceiling established pursuant to subdivision one of this section [~~**shall not**~~], **, and the evidence submitted in connection therewith, may** be considered by the court **when determining the merits of the challenge to the assessed value established by the assessing unit**. **In such a proceeding, the local assessing jurisdiction, upon request to the local public utility mass real property owner, shall be provided with a copy of the annual report provided to the commissioner under section four hundred ninety-nine-rrrr of this title. If the local public utility mass real property owner fails to provide the report within thirty days of such a request, the proceeding shall be dismissed.**

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

PART Z

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

SUBPART A

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

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

existed on the taxable status date. After consulting with the assessor, the commissioner may extend the filing deadline and grant the exemption if the commissioner is satisfied that (i) good cause existed for the failure to file the application by the taxable status date, and that (ii) the applicant is otherwise entitled to the exemption. The commissioner shall mail notice of his or her determination to such owner and the assessor. If the determination states that the commissioner has granted the exemption, the assessor shall thereupon be authorized and directed to correct the assessment roll accordingly, or, if another person has custody or control of the assessment roll, to direct that person to make the appropriate corrections. [~~If the correction is not made before school taxes are levied, the school district authorities shall be authorized and directed to take account of the fact that the commissioner has granted the exemption by correcting the applicant's tax bill and/or issuing a refund accordingly~~] **Provided, however, that if the assessment roll cannot be corrected in time for the exemption to appear on the applicant's school tax bill, the commissioner shall be authorized to remit directly to the applicant the tax savings that the STAR exemption would have yielded if it had appeared on the applicant's tax bill. The amounts so payable shall be paid from the account established for the payment of STAR benefits to late registrants pursuant to subparagraph (iii) of paragraph (a) of subdivision fourteen of this section**.

§ 2. This act shall take effect immediately.

SUBPART B

Section 1. Subparagraph (i) of paragraph (c) of subdivision 17 of section 425 of the real property tax law, as added by section 2 of part G of chapter 39 of the laws of 2019, is amended to read as follows:

(i) A STAR credit switch may be deferred if the application for the credit is submitted after a cutoff date set by the commissioner. When setting a cutoff date, the commissioner shall take into account the time required to ensure that the STAR exemptions of all STAR credit applicants in the assessing unit will be removed before school tax bills are prepared. The commissioner shall specify the applicable cutoff dates after taking into account local assessment calendars, provided that different cutoff dates may be set for municipalities with different assessment calendars, and provided further that any such cutoff date may be no earlier than the [~~fifteenth~~] **forty-fifth** day prior to the date on which the applicable final assessment roll is required by law to be completed and filed.

§ 2. This act shall take effect immediately.

SUBPART C

Section 1. Subparagraph (A) of paragraph 3 of subsection (eee) of section 606 of the tax law, as amended by section 2 of part RR of chapter 59 of the laws of 2019, is amended to read as follows:

(A) Beginning with taxable years after two thousand fifteen, a basic STAR credit shall be available to a qualified taxpayer if the affiliated income of the parcel that serves as the taxpayer's primary residence is less than or equal to five hundred thousand dollars **for the applicable income tax year specified by paragraph (b-1) of subdivision three of section four hundred twenty-five of the real property tax law**. The income limit established for the basic STAR exemption by paragraph (b-1) of subdivision three of section four hundred twenty-five of the real

property tax law shall not be taken into account when determining eligibility for the basic STAR credit.

§ 2. This act shall take effect immediately.

SUBPART D

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

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

§ 2. This act shall take effect immediately.

SUBPART E

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

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

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

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

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

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

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

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

§ 4. This act shall take effect immediately.

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

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

PART AA

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.

PART BB

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

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

(2) (a) To be eligible for the credit, the taxpayer (or taxpayers filing joint returns) on the personal income tax return filed for the taxable year two years prior, must have (i) been a resident, (ii) owned and primarily resided in real property receiving either the STAR exemption authorized by section four hundred twenty-five of the real property tax law or the school tax relief credit authorized by subsection (eee) of this section, and (iii) had qualified gross income no greater than two hundred [~~seventy-five~~] **fifty** thousand dollars. [~~Provided, however, that no credit shall be allowed if any of the 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%~~] **163%**
Over $75,000 but not over $150,000	[~~60%~~] **115%**
Over $150,000 but not over $200,000	[~~35%~~] **66%**
Over $200,000 but not over [~~$275,000~~] **$250,000**	[~~10%~~] **18%**
Over [~~$275,000~~] **$250,000**	No credit

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

Qualified Gross Income	Percentage
Not over $75,000	125%
Over $75,000 but not over $150,000	115%
Over $150,000 but not over $200,000	105%
Over $200,000 but not over $250,000	100%
Over $250,000	No credit

[~~(c)~~] (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.

[~~(c) "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

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

1. issue a request for applications for zone **one or** two gaming facility licenses pursuant to section one thousand three hundred twelve **or section one thousand three hundred twenty-one-b** of this article;

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

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

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

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

FACILITY DETERMINATION AND LICENSING**: UPSTATE GAMING FACILITIES**

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

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

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

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

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

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

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

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

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

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

TITLE 2-A

FACILITY DETERMINATION AND LICENSING: ADDITIONAL GAMING FACILITIES

Section 1321-a. License authorization; restrictions.
1321-b. Requests for applications; requests for information.
1321-c. Form of application.
1321-d. License applicant eligibility.
1321-e. Required capital investment.
1321-f. Minimum license thresholds.
1321-g. Investigation of license applicants.
1321-h. Disqualifying criteria.
1321-i. Hearings.
1321-j. Siting evaluation.

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

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

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

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

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

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

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

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

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

(a) demonstrate to the board's satisfaction that the applicant has consulted with local governments and considered input from the community; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) providing the highest number of quality jobs in the gaming facility;

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

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

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

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

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

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

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

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

(l) operating in partnership with and promoting local hotels, restaurants and retail facilities so that patrons experience the full diversified regional tourism industry;

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

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

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

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

(1) having new and renovation construction certified under the appropriate certification category in the Leadership in Energy and Environmental Design Green Building Rating System created by the United States Green Building Council;

(2) efforts to mitigate vehicle trips;

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

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

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

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

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

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

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

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

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

(s) implementing a workforce development plan that:

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

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

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

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

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

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

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

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

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

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

§ 9. This act shall take effect immediately.

PART DD

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

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

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

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

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

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

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

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

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

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

§ 3. This act shall take effect immediately.

PART EE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by section 9 of part DD of chapter 59 of the laws of 2021, is amended to read as follows:

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

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

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

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

§ 10. This act shall take effect immediately.

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

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