STATE OF NEW YORK

9224

IN ASSEMBLY

February 9, 2022

Introduced by M. of A. ANDERSON -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing the green air travel tax, to amend the state finance law, in relation to establishing the green fund, and to amend the environmental conservation law, in relation to establishing the state airline community resiliency board

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

Section 1. The tax law is amended by adding a new article 16 to read as follows:

ARTICLE 16
TAX ON AIR TRAVEL

Section 370. Green air travel tax.

§ 370. Green air travel tax. (a) For purposes of this section the following terms shall have the following meanings:

1. "aircraft" means an airplane being operated by a United States certificated airline.

2. "boarding pass" means a passage ticket issued by a United States certificated airline, required by any one passenger for the transportation from his or her original point of departure to a final destination.

(b) There is hereby imposed and shall be paid upon the purchase of a boarding pass by any person for an aircraft which is flying to or flying from an airport located within any city having a population of one million or more persons. Such tax shall be imposed on such purchase as follows:

1. a tax of eight dollars for an economy boarding pass or equivalent thereof;

2. a tax of fifteen dollars for a business class boarding pass or equivalent thereof; or

3. a tax of twenty dollars for a first class boarding pass or equivalent thereof.

(c) The tax imposed pursuant to subdivision (b) of this section shall apply at the point of sale of the boarding pass. The airline shall pass

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

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on the full amount of such tax as a charge to the person during his or her checkout.

(d) Such tax shall be itemized on all invoices, receipts or dockers issued to a person at the point of sale.

(e) All taxes collected or received by the tax commission under the taxes imposed by this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter.

§ 2. Subdivision 1 of section 171-a of the tax law, as amended by section 5 of part C of chapter 59 of the laws of 2021, is amended to read as follows:

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

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

§ 3. Subdivision 1 of section 171-a of the tax law, as amended by chapter 795 of the laws of 2021, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), **sixteen,** eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, twenty-C, twenty-D, twenty-one, twenty-two, twenty-four, twenty-four-A, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof),

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

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

§ 4. The state finance law is amended by adding a new section 88-c to read as follows:

§ 88-c. Green fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a fund to be known as the "green fund".

2. The green fund shall consist of all the revenues received by the department of taxation and finance pursuant to section three hundred seventy of the tax law and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law.

3. Moneys in the green fund shall be kept separate from and shall not be commingled with any other moneys in the custody of the commissioner of taxation and finance and the comptroller.

4. The moneys of the fund shall be made available to the state airline community resiliency board for the purpose of providing grants to non-profits, qualified community-based organizations and local governments in communities disproportionally impacted by the health detriments and quality of life issues associated with airline communities.

§ 5. The environmental conservation law is amended by adding a new section 19-0331 to read as follows:

§ 19-0331. State airline community resiliency board.

1. There is hereby established within the department a board, to be known as the state airline community resiliency board. Such board shall consist of:

(a) one member appointed by the governor;

(b) one member appointed by the assembly;

(c) one member appointed by the senate;

(d) one member appointed by a qualified community organization from each of the following airports:

(i) John F. Kennedy international airport;

(ii) LaGuardia airport;

(iii) Buffalo Niagara international airport;

(iv) Albany international airport;

(v) Greater Rochester international airport;

(vi) Syracuse Hancock international airport;

(vii) Long Island MacArthur airport;
(viii) Westchester county airport;
(ix) Stewart international airport;
(x) Elmira/Corning regional airport; and
(xi) Plattsburgh international airport;
(e) one member appointed by the department to represent the department;
(f) one member appointed by the department of transportation to represent such department;
(g) one member appointed by the department of health to represent such department; and
(h) two members from environmental advocacy based organizations within the state.
2. The governor shall designate one member who shall serve as chairperson of the board until the expiration of his or her term. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member whom he or she is to succeed. All members of the board shall be appointed for a term of three years. A member of the board shall continue in such position upon the expiration of his or her term until such time as he or she is reappointed or his or her successor is appointed, as the case may be. All members shall be voting members.
3. The members of the board shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.
4. No member of the board shall be disqualified from holding any public office or employment, nor shall he or she forfeit any such office or employment, by reason of his or her appointment pursuant to this section, notwithstanding the provisions of any other general, special or local law, ordinance or city charter.
5. The board shall make determinations regarding the disbursement of funds from the green fund established pursuant to section eighty-eight-c of the state finance law. Such funds shall be used for the purpose of providing grants to non-profits, qualified community-based organizations and local governments in communities disproportionally impacted by the health detriments and quality of life issues associated with airline communities.

§ 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided however, that the amendments to subdivision 1 of section 171-a of the tax law made by section two of this act shall be subject to the expiration of such subdivision pursuant to section 12 of chapter 90 of the laws of 2014, when upon such date the provisions of section three of this act shall take effect. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.