STATE OF NEW YORK

S. 4009--C A. 3009--C

SENATE - ASSEMBLY

February 1, 2023

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing the authority to abate interest for taxpayers impacted by declared disasters (Part A); to amend the tax law, in relation to clarifying the definition of limited partner for the purposes of the metropolitan commuter transportation mobility tax (Part B); to amend the tax law, in relation to making the investment tax credit refundable for eligible farmers for five years (Part C); to amend the tax law, in relation to the empire state film production credit and the empire state film post-production credit (Part D); to amend the tax law, in relation to the abatement of penalties for underpayment of estimated tax by a corporation (Part E); to amend the economic development law, in relation to the COVID-19 capital costs tax credit program (Part F); to amend the social services law and the tax law, in relation to creating a tax credit for the creation and expansion of child care (Part G); to amend the tax law and the administrative code of the city of New York, in relation to a credit for certain businesses engaged in biotechnologies (Part H); to amend the tax law, in relation to extending the current corporate tax rates (Subpart A); to amend the tax law, in relation to extending the rehabilitation of historic properties tax credit (Subpart B); to amend the tax law, in relation to extending the empire

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

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state commercial production tax credit for five years (Subpart C); to amend the tax law, in relation to extending provisions of law relating to the grade No. 6 heating oil conversion tax credit (Subpart D); 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; and to amend the tax law, in relation to the New York city musical and theatrical production tax credit (Subpart E)(Part I); to amend the tax law, in relation to making technical corrections to the credit for companies who provide transportation to individuals with disabilities (Subpart A); to amend the tax law, in relation to eligibility for the brownfield redevelopment tax credit (Subpart B); to amend the tax law, in relation to the pass-through entity tax and city pass-through entity tax and making technical corrections thereto (Subpart C) (Part J); to amend the real property tax law, in relation to simplifying certain senior citizens real property tax exemptions (Part K); to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effectiveness thereof (Part L); intentionally omitted (Part M); to amend the real property tax law and the state administrative procedure act, in relation to clarifying the solar or wind energy system appraisal model (Part N); intentionally omitted (Part O); to repeal certain provisions of the tax law, relating to eliminating congestion surcharge registration requirements (Part P); to amend the tax law, in relation to the payment of tax on increased quantities of motor fuel and Diesel motor fuel on which the taxes pursuant to articles 12-A, 13-A and 28 were not previously paid (Part Q); to amend the tax law, in relation to extending the sales tax exemption for certain sales made through vending machines (Part R); to amend the tax law, in relation to an increase in the rate of tax on cigarettes (Part S); to amend the tax law, in relation to the revocation of certain certificates and civil penalties for refusal of a cigarette and tobacco inspection (Part T); to amend the tax law and the administrative code of the city of New York, in relation to extending the tax rate reduction under the New York state real estate transfer tax and the New York city real property transfer tax for conveyances of real property to existing real estate investment funds (Part U); to amend the tax law, in relation to permitting the commissioner of taxation and finance to seek judicial review of decisions of the tax appeals tribunal (Part V); to amend the state finance law, in relation to clarifying the deposit timeframe for moneys deposited by the commissioner of taxation and finance (Part W); to amend the racing, pari-mutuel wagering and breeding law and the tax law, in relation to requiring the New York Racing Association, Inc. to enter into a repayment agreement with the state of New York for the repayment of funds provided by the state for the renovation of Belmont Park racetrack; and in relation to the membership of the franchise oversight board (Part X); intentionally omitted (Part Y); intentionally omitted (Part Z); intentionally omitted (Part AA); 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 BB); intentionally omitted (Part CC); to amend the state finance law, in relation to the liability of a person who presents false claims for money or property to the state or a local government (Part DD); to repeal subparagraph 9 of paragraph (e) of subdivision 1 of section 210-B of the tax law relating to the transferability of the investment tax credit (Part EE); to amend the tax law, in relation to the amount of credit for cider, wine, and liquor under the alcoholic beverage production credit (Part FF); and to amend the tax law, in relation to establishing a permanent rate for the metropolitan transportation business tax surcharge (Part GG)

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 2023-2024 state fiscal year. Each component is wholly contained within a Part identified as Parts A through GG. 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. The opening paragraph of paragraph a of subdivision twenty-eighth of section 171 of the tax law, as amended by chapter 451 of the laws of 2022, is amended to read as follows:

[~~In the case of a taxpayer who is determined for federal tax purposes under the provisions of~~] **Have the authority to postpone certain deadlines for a period of up to ninety days, or longer when necessary to align with relief provided by the Internal Revenue Service pursuant to** section seven thousand five hundred eight-A of the internal revenue code [~~to be affected by a presidentially declared disaster, or who~~]**, for a taxpayer who** is determined [~~under regulations promulgated by the commissioner~~] to be affected by a presidentially declared disaster or by a disaster emergency declared by the governor[~~, have authority to provide that a period of up to ninety days, or a longer period when necessary to align with relief that has already been provided by the Internal Revenue Service under the authority to postpone certain deadlines in section seven thousand five hundred eight-A of the internal revenue code, may~~]**.** **Any extension period provided pursuant to the authority in this subdivision shall** be disregarded in determining under the tax law, or under a law enacted pursuant to the authority of the tax law or former article 2-E of the general city law where administered by the commissioner, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such taxpayer:

§ 2. Paragraph c of subdivision twenty-eighth of section 171 of the tax law, as added by chapter 8 of the laws of 1998, is amended to read as follows:

c. **Definitions. 1.** Presidentially declared disaster. For purposes of this subdivision, the term "presidentially declared disaster" means any disaster which, with respect to an area, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the disaster relief and emergency assistance act.

2. Taxpayer. For purposes of this subdivision, the term "taxpayer" means any person or entity required to file a return or remit any tax to the commissioner pursuant to this chapter.

§ 3. Subdivision twenty-eighth of section 171 of the tax law is amended by adding a new paragraph d to read as follows:

d. Where a taxpayer who, pursuant to section seven thousand five hundred eight-a of the internal revenue code, is determined for federal tax purposes to be affected by a presidentially declared disaster, or who is determined to be affected by a disaster emergency declared by the governor, but the commissioner has not postponed a tax deadline pursuant to the authority in paragraph a of this subdivision due to such disaster, the commissioner may abate any amount of interest from the underpayment of any tax administered by the commissioner under this chapter that accrued for the period during which the taxpayer was unable to meet such deadline due to direct impacts of the disaster.

§ 4. This act shall take effect immediately.

PART B

Section 1. Subsection (e) of section 800 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

(e) Net earnings from self-employment. Net earnings from self-employment has the same meaning as in section 1402 of the internal revenue code**, provided, however, that for purposes of determining whether the exclusion pursuant to paragraph 13 of subsection (a) of section 1402 of the internal revenue code applies, an individual shall not be considered a limited partner if the individual, directly or indirectly, takes part in the control, or participates in the management or operations of the partnership such that the individual is not a passive investor, regardless of the individual's title or characterization in a partnership or operating agreement**.

§ 2. This act shall take effect immediately.

PART C

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

(d) Except as otherwise provided in this paragraph, the credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the fixed dollar minimum amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowable under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit allowed for a taxable year commencing prior to

January first, nineteen hundred eighty-seven and not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years but in no event shall such credit be carried over to taxable years commencing on or after January first, two thousand two, and any amount of credit allowed for a taxable year commencing on or after January first, nineteen hundred eighty-seven and not deductible in such year may be carried over to the fifteen taxable years next following such taxable year and may be deducted from the taxpayer's tax for such year or years. In lieu of such carryover, **(i)** any such taxpayer which qualifies as a new business under paragraph (f) of this subdivision may elect to treat the amount of such carryover as an overpayment of tax to be credited or refunded in accordance with the provisions of section ten hundred eighty-six of this chapter, **and (ii) any such taxpayer that is an eligible farmer, as defined in subdivision eleven of this section, may for taxable years beginning before January first, two thousand twenty-eight, elect to treat the amount of such carryover as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter,** provided, however, the provisions of subsection (c) of section ten hundred eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

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

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

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

PART D

Section 1. Paragraph 2 of subdivision (a) of section 24 of the tax law, as separately amended by sections 1 and 2 of part M of chapter 59 of the laws of 2020, 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~~] **thirty** percent and the qualified production costs paid or incurred

in the production of a qualified film, provided that: (i) the qualified production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film equal or exceed seventy-five percent of the production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at any film production facility within and without the state in the production of such qualified film, and (ii) except with respect to a qualified independent film production company or pilot, at least ten percent of the total principal photography shooting days spent in the production of such qualified film must be spent at a qualified film production facility. However, if the qualified production costs (excluding post production costs) which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film is less than three million dollars, then the portion of the qualified production costs attributable to the use of tangible property or the performance of services in the production of such qualified film outside of a qualified film production facility shall be allowed only if the shooting days spent in New York outside of a film production facility in the production of such qualified film equal or exceed seventy-five percent of the total shooting days spent within and without New York outside of a film production facility in the production of such qualified film. The credit shall be allowed for the taxable year in which the production of such qualified film is completed. However, in the case of a qualified film that receives funds from additional pool 2, no credit shall be claimed before the later of (1) the taxable year the production of the qualified film is complete, or (2) the [~~first~~] taxable year [~~beginning immediately after the~~] **that includes the last day of the** allocation year for which the film has been allocated credit by the [~~governor's office for motion picture and television~~] **department of economic** development. If the amount of the credit is at least one million dollars but less than five million dollars, the credit shall be claimed over a two year period beginning in the first taxable year in which the credit may be claimed and in the next succeeding taxable year, with one-half of the amount of credit allowed being claimed in each year. If the amount of the credit is at least five million dollars, the credit shall be claimed over a three year period beginning in the first taxable year in which the credit may be claimed and in the next two succeeding taxable years, with one-third of the amount of the credit allowed being claimed in each year.

§ 2. Paragraph 5 of subdivision (a) of section 24 of the tax law, as amended by section 2 of part M of chapter 59 of the laws of 2022, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand [~~twenty-nine~~] **thirty-four**, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to **(i)** 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 **or other compensation constituting qualified production costs as defined in paragraph two of subdivision (b) of this section,** 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, and (ii) the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the qualified production costs (excluding wages, salaries or other compensation) paid or incurred in the production of a qualified film where the property constituting such qualified production costs was used, and the services constituting such qualified production costs were performed in any of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars where the majority of principal photography shooting days in the production of such film were shot in any of the counties specified in this paragraph. Provided, however, that the aggregate total eligible qualified production costs constituting wages, salaries or other compensation, for writers, directors, composers, producers, and performers shall not exceed forty percent of the aggregate sum total of all other qualified production costs. For purposes of [~~this additional~~] the credit, the services must be performed and the property must be used 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-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-nine.~~]

§ 2-a. Paragraph 1 of subdivision (b) of section 24 of the tax law, as amended by section 4 of part B of chapter 59 of the laws of 2013, is amended to read as follows:

(1) "Qualified production costs" means production costs only to the extent such costs are attributable to the use of tangible property or the performance of services within the state directly and predominantly in the production (including pre-production and post production) of a qualified film. In the case of an eligible relocated television series, the term "qualified production costs" shall include, in the first season

that the eligible relocated television series is produced in New York after relocation, qualified relocation costs. Provided, however, that the aggregate total eligible qualified production costs for producers, writers, directors, performers (other than background actors with no scripted lines), and composers shall not exceed forty percent of the aggregate sum total of all other qualified production costs.

§ 3. Paragraph 2 of subdivision (b) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(2) "Production costs" means any costs for tangible property used and services performed directly and predominantly in the production (including pre-production and post production) of a qualified film. "Production costs" shall not include (i) costs for a story, script or scenario to be used for a qualified film and (ii) wages or salaries or other compensation for writers, directors, [~~including music directors~~] composers, [~~producers~~] and performers (other than background actors with no scripted lines) to the extent those wages or salaries or other compensation exceed five hundred thousand dollars per individual. "Production costs" generally include technical and crew production costs, such as expenditures for film production facilities, or any part thereof, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing and meals, and shall include the wages, salaries or other compensation of no more than two producers per qualified film, not to exceed five hundred thousand dollars per producer, where only one of whom is the principal individual responsible for overseeing the creative and managerial process of production of the qualified film and only one of whom is the principal individual responsible for the day-to-day operational management of production of the qualified film; provided, however, that such producers are not compensated for any other position on the qualified film by a qualified film production company or a qualified independent film production company for services performed.

§ 4. Paragraph 8 of subdivision (b) of section 24 of the tax law, as added by section 2 of part B of chapter 59 of the laws of 2013, is amended to read as follows:

(8) "Relocated television production" shall mean, notwithstanding the limitations in subparagraph (i) of paragraph three of this subdivision, a television production that is a talk or variety program that filmed at least [~~five~~] two seasons outside the state prior to its first relocated season in New York, the episodes are filmed before a studio audience of two hundred or more, and the relocated television production incurs (i) at least thirty million dollars in annual production costs in the state, or (ii) at least ten million dollars in capital expenditures at a qualified production facility in the state.

§ 5. Subdivision (b) of section 24 of the tax law is amended by adding a new paragraph 9 to read as follows:

(9) "Eligible relocated television series" shall mean the first two years of a regularly occurring production intended to run in its initial broadcast, regardless of the medium or mode of its distribution, in a series of narrative and/or thematically related episodes, each of which has a running time of at least thirty minutes in length (inclusive of commercial advertisement and interstitial programming, if any), which had filmed a minimum of six episodes of the television series outside the state immediately prior to relocating to the state, where the television series had a total minimum budget of at least one million dollars per episode. For the purposes of this definition only, a television

series produced by and for media services providers described as streaming services and/or digital platforms (and excluding network/cable) shall mean a regularly occurring production intended to run in its initial release in a series of narrative and/or thematically related episodes, the aggregate length of which is at least seventy-five minutes, although the episodes themselves may vary in duration from the thirty minutes specified for network/cable production.

§ 5-a. Subdivision (b) of section 24 of the tax law is amended by adding a new paragraph 10 to read as follows:

(10) "Qualified relocation costs" means the costs incurred, excluding wages, salaries and other compensation, in the first season that an eligible relocated television series relocates to New York including such costs incurred to transport sets, props and wardrobe to New York and other costs as determined by the department of economic development to the extent such costs do not exceed six million dollars.

§ 6. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 3 of part M of chapter 59 of the laws of 2022, 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-nine~~] twenty-three and seven hundred million dollars each year starting in two thousand twenty-four through two thousand thirty-four, 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-nine and~~] twenty-three, and forty-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 twenty-four through two thousand thirty-four. Provided further, 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-nine~~] thirty-four. This amount shall be allocated by the [~~governor's office for motion picture and television~~] department of economic 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~~] department of economic 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 (1) the taxable year the production of the qualified film is complete, or (2) the taxable year [~~immediately following~~] that includes the last day of the allocation year for which the film has been allocated credit by the [~~governor's office for motion picture and television~~] department of economic development.

§ 7. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 4 of part M of chapter 59 of the laws of 2022, 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-nine~~] twenty-three and seven hundred million dollars in each year starting in two thousand twenty-four through two thousand thirty-four, 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-nine~~] twenty-three, and forty-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 twenty-four through two thousand thirty-four. This amount shall be allocated by the [~~governor's office for motion picture and television~~] department of economic 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~~] **department of economic** 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 **(1)** the taxable year the production of the qualified film is complete, or **(2)** the taxable year [~~immediately following~~] **that includes the last day of** the allocation year for which the film has been allocated credit by the [~~governor's office for motion picture and television~~] **department of economic** development.

§ 8. Paragraph 2 of subdivision (a) of section 31 of the tax law, as amended by section 5 of part M of chapter 59 of the laws of 2020, 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~~] **thirty** percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located within the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of the public authorities law or [~~thirty~~] **thirty-five** percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located elsewhere in the state.

§ 9. Paragraph 6 of subdivision (a) of section 31 of the tax law, as amended by section 6 of part M of chapter 59 of the laws of 2022, is amended to read as follows:

(6) For the period two thousand fifteen through two thousand [~~twenty-nine~~] **thirty-four**, 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~~] **composers**, producers and performers, [~~including~~] **other than** 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-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-nine.~~]

§ 9-a. Paragraph 3 of subdivision (b) of section 24 of the tax law, as amended by section 5 of part F of chapter 59 of the laws of 2021, is amended to read as follows:

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

economic development. However, a qualified film shall include a television series as described in subparagraph (iii) of this paragraph only if an application for such series has been deemed conditionally eligible for the tax credit under this section prior to April first, two thousand twenty, such series remains in continuous production for each season, and an annual application for each season of such series is continually submitted for such series after April first, two thousand twenty. **A series that changes either or both the title of the series or the principal cast prior to March thirty-first, two thousand twenty-three, shall be considered to remain in continuous production for each season, provided the series films at the same location as prior seasons, is produced by the same entity, and retains at least eighty percent of the staff from the prior season.**

§ 10. This act shall take effect immediately and shall apply to initial applications received on or after April 1, 2023; provided, however, that the amendments to paragraph 4 of subdivision (e) of section 24 of the tax law made by section six of this act shall take effect on the same date and in the same manner as section 6 of chapter 683 of the laws of 2019, as amended, takes effect.

PART E

Section 1. Section 1085 of the tax law is amended by adding a new subsection (e-1) to read as follows:

(e-1) Waiver of addition for underpayment of estimated tax. No addition to tax shall be imposed under subsection (c) of this section with respect to any underpayment to the extent the commissioner determines that by reason of casualty, disaster or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience.

§ 2. This act shall take effect immediately.

PART F

Section 1. Subdivision 4 of section 484 of the economic development law, as added by section 1 of part E of chapter 59 of the laws of 2022, is amended to read as follows:

4. The business entity must submit its application by [~~March thirty-first~~] **September thirtieth**, two thousand twenty-three.

§ 2. This act shall take effect immediately.

PART G

Section 1. Article 6 of the social services law is amended by adding a new title 1-A to read as follows:

TITLE 1-A

CHILD CARE CREATION AND EXPANSION TAX CREDIT PROGRAM

Section 394. Short title.
394-a. Definitions.
394-b. Eligibility criteria.
394-c. Application and approval process.
394-d. Child care creation and expansion tax credit.
394-e. Allocation of credit.
394-f. Powers and duties of the commissioner.
394-g. Maintenance of records.

§ 394. Short title. This title shall be known and may be cited as the "child care creation and expansion tax credit program act".

§ 394-a. Definitions. For the purposes of this title:

1. "Certificate of tax credit" shall mean the document issued to a business entity by the office after the office has verified that the business entity has met all applicable eligibility criteria in this title. The certificate shall specify the exact amount of the tax credit under this title that a business entity may claim, pursuant to section three hundred ninety-four-d of this title, and the service year.

2. "Child care program" shall mean a child day care for which a license or registration to operate such program has been issued by the office pursuant to section three hundred ninety of this article.

3. "Child care rate" shall mean the weekly child care subsidy market rates, based on the eightieth percentile of the 2021-22 New York state child care market rate survey, for infant and toddler care provided by a licensed or registered child care program, as reflected in the 2022 child care market rate survey report published by the office in compliance with section 98.45 of title forty-five of the code of federal regulations.

4. "Child care seats" shall mean the maximum number of children to be allowed on the premises of a child care program at any time that such program is in operation as specified on the license or registration issued for such program by the office.

5. "Creates child care" shall mean the making available of child care seats in a child care program by a business entity, directly or through a third-party, for employees of such business entity, where such child care program was not available prior to April first, two thousand twenty-three, provided that the costs imposed on such employees for such child care program do not exceed forty percent of the child care rate.

6. "Commissioner" shall mean commissioner of the office of children and family services.

7. "Expands child care" shall mean the increase in the number of child care seats in a child care program made available by a business entity, directly or through a third party, for employees of such business entity, provided that such increase requires a new or amended license or registration issued by the office pursuant to section three hundred ninety of this article on or after April first, two thousand twenty-three, and, provided further, that the costs imposed on such employees for such child care program do not exceed forty percent of the child care rate.

8. "Occupied" shall mean, for each service year in which a child care program is in operation, the average daily number of children in attendance on the premises of such child care program.

9. "Office" shall mean the office of children and family services.

10. "Service year" shall mean the twelve-month period, or portion thereof, commencing on January first and ending on December thirty-first.

§ 394-b. Eligibility criteria. 1. To be eligible for a tax credit under the child care creation and expansion tax credit program, a business entity must:

(a) be a business entity that is required to file a tax return pursuant to article nine-A, twenty-two or thirty-three of the tax law;

(b) be a child care program, or contract with such child care program, as defined in this title that is licensed or registered pursuant to section three hundred ninety of this article;

(c) create or expand child care seats, directly or through a third party, for the employees of such business entity on or after April first, two thousand twenty-three and before January first, two thousand twenty-five;

(d) operate a business location in New York state;

(e) be in substantial compliance with any child care licensing laws and regulations related to the entity's business sector or other laws and regulations as determined by the commissioner; and

(f) 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.

§ 394-c. Application and approval process. 1. A business entity must submit a complete application as prescribed by the commissioner by the thirty-first of January after the end of the service year.

2. The commissioner shall establish procedures for a business entity 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) provide the license or registration issued to the business entity, directly or through a third party, by the office to operate a child care program indicating the number of child care seats created or, in the case of a child care program that has experienced an expansion of child care seats, the license or registration issued by the office demonstrating such expansion;

(c) provide evidence in a form and manner prescribed by the commissioner establishing:

(i) the total number of child care seats that were occupied during the service year;

(ii) of such total number of child care seats that were occupied, the number of infant child care seats that were occupied and the number of toddler child care seats that were occupied;

(iii) that, to the extent the business entity, directly or through a third party, has expanded child care, the number of child care seats in existence before such expansion and the number of such child care seats that were occupied before such expansion; and

(iv) that the costs imposed on the business entity's employees for such child care program do not exceed forty percent of the child care rate;

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

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

(f) agree to provide any additional information required by the office relevant to this title.

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 title, the office may issue to that business entity a certificate of tax credit, which shall set forth the amount of the credit that may be claimed and the service year.

§ 394-d. Child care creation and expansion tax credit. 1. A business entity in the child care creation and expansion tax credit program that meets the eligibility requirements of section three hundred

ninety-four-b of this title may be eligible to claim a credit for the portion of the service year in which the child care program was in operation, equal to the sum of: (a) the product of the number of infant child care seats that have been created or expanded and twenty percent of the child care rate for such infant child care seats and (b) the product of the number of toddler child care seats that have been created or expanded and twenty percent of the child care rate for such toddler child care seats; provided that such infant and toddler child care seats are child care seats that are occupied. Notwithstanding the preceding sentence, a credit shall not be allowed for more than twenty-five child care seats that are occupied, and the amount of such credit may be reduced as a result of an allocation of available funds, as described in section three hundred ninety-four-e of this title.

2. The credit shall be allowed as provided in section forty-eight, subdivision fifty-nine of section two hundred ten-B, subsection (ooo) of section six hundred six and subdivision (ee) of section fifteen hundred eleven of the tax law.

§ 394-e. Allocation of credit. The aggregate amount of tax credits allowed under this title, subdivision fifty-nine of section two hundred ten-B, subsection (ooo) of section six hundred six and subdivision (ee) of section fifteen hundred eleven of the tax law shall be twenty-five million dollars each year during the period two thousand twenty-three and two thousand twenty-four. Such aggregate amount of credits shall be allocated by the office on a pro rata basis to each business entity that demonstrates eligibility pursuant to section three hundred ninety-four-b of this title.

§ 394-f. Powers and duties of the commissioner. 1. The commissioner may promulgate regulations establishing an application process and eligibility criteria, which will be applied consistent with the purposes of this title so as not to exceed the annual cap on tax credits set forth in this title, that, 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 business entity 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 three hundred ninety-four-b of this title.

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

§ 2. The tax law is amended by adding a new section 48 to read as follows:

§ 48. Child care creation and expansion tax credit. (a) Allowance of credit. A taxpayer subject to tax under article nine-A, twenty-two or thirty-three of this chapter shall be allowed a credit against such tax, 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 three hundred ninety-four-d of the social services law and shall be claimed in the taxable year that includes the last day of the service year for which the credit is calculated. 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. To be eligible for the child care creation and expansion tax credit, the taxpayer shall have been issued a certificate of tax credit by the office of children and family services pursuant to section three hundred ninety-four-c of the social services law. 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 office of children and family services.

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

(1) 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

(2) information contained in or derived from credit claim forms submitted to the department. Except as provided in paragraph one of this subdivision, all information exchanged between the office of children and family services 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 office of children and family services under title one-A of article six of the social services law is revoked by such office, 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 59;

(2) article 22: section 606, subsection (ooo);

(3) article 33: section 1511, subdivision (ee).

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 59 to read as follows:

59. Child care creation and expansion tax credit. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-eight 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 (ooo) to read as follows:

(ooo) Child care creation and expansion tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-eight 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 (l) to read as follows:

(l) Child care creation and expansion tax credit under subsection (ooo)	**Amount of credit under subdivision fifty-nine of section two hundred ten-B**

§ 6. Section 1511 of the tax law is amended by adding a new subdivision (ee) to read as follows:

(ee) Child care creation and expansion tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-eight of this chapter, against the tax imposed by this article.

(2) Application of credit. The credit allowed under this subdivision shall not reduce the tax due for such year to be less than the minimum fixed by paragraph four of subdivision (a) of section fifteen hundred two or section fifteen hundred two-a of this article, whichever is applicable. However, if the amount of the credit allowed under this subdivision for any taxable year reduces the taxpayer's tax to such amount, any amount of credit thus not deductible 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 one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

§ 7. This act shall take effect immediately.

PART H

Section 1. Subdivision (d) of section 1201-a of the tax law, as added by chapter 453 of the laws of 2009, paragraph 5 as amended by chapter 260 of the laws of 2015, is amended to read as follows:

(d) Biotechnology credit. 1. Any city in this state having a population of one million or more, acting through its local legislative body, is hereby authorized to adopt and amend local laws to allow a credit against the general corporation tax[~~,~~] **and the** unincorporated business tax [~~and the banking corporation tax~~] imposed pursuant to the authority of chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six which shall be substantially identical to the credit [~~allowed under subdivision twelve-G of section two hundred ten of this chapter, except that (A) whenever subdivision twelve-G of section two hundred ten of this chapter references the state, such words shall be read as referencing the city, (B) such credit shall be allowed only to a taxpayer that (1) is a qualified emerging technology company pursuant to the provisions of paragraph (c) of subdivision one of section thirty-one~~

~~hundred two-e of the public authorities law, except that such company shall mean a company located in such city, (2) engages in activities referenced in subparagraph five of paragraph (b) of subdivision one of section thirty-one hundred two-e of the public authorities law, and (3) meets the eligibility requirements in paragraph (b) of subdivision twelve-G of section two hundred ten of this chapter, and (C)~~] described in subdivision twenty-one of section 11-654 of the administrative code of the city of New York, against the business corporation tax imposed pursuant to chapter sixty of the laws of two thousand fifteen, except that the effective date of such credit against the general corporation tax and the unincorporated business tax shall be as provided in such local laws. [~~Subject to the limitations set forth in paragraph two of this subdivision, such~~]

2. The credit allowed by paragraph one of this subdivision shall be applied in a manner consistent with the credit [~~allowed under subdivision twelve-G of section two hundred ten of this chapter~~] described in subdivision twenty-one of section 11-654 of the administrative code of the city of New York except as may be necessary to take into account differences between [~~article nine-A of this chapter~~] such business corporation tax and [~~the~~] such general corporation tax[~~, the~~] and such unincorporated business tax [~~or the banking corporation tax~~].

[~~2. (A) The percentage of the credit allowed to a taxpayer under this subdivision in any calendar year shall be:~~

~~(1) If the average number of individuals employed full-time by a taxpayer in the city during the calendar year in which the credit is claimed is at least one hundred five percent of the taxpayer's base year employment, one hundred percent, except that in no case shall the credit allowed under this clause exceed two hundred fifty thousand dollars per calendar year. Provided, however, the increase in base year employment shall not apply to a taxpayer allowed a credit under this subdivision that was, (i) located outside of the city, (ii) not doing business, or (iii) did not have any employees, in the year preceding the first year that the credit was claimed.~~

~~(2) If the average number of individuals employed full-time by a taxpayer in the city during the calendar year in which the credit is claimed is less than one hundred five percent of the taxpayer's base year employment, fifty percent, except that in no case shall the credit allowed under this clause exceed one hundred twenty-five thousand dollars per calendar year. In the case of an entity located in the city of New York receiving space and business support services by an academic incubator facility, as defined in subparagraph (vi) of paragraph (e) of subdivision twelve-G of section two hundred ten of this chapter, if the average number of individuals employed full-time by such facility in the city during the calendar year in which the credit allowed under this subdivision is claimed is less than one hundred five percent of the taxpayer's base year employment, the credit shall be zero.~~

~~(B) For the purposes of this subdivision, "base year employment" means the average number of individuals employed full-time by the taxpayer in the city in the year preceding the first calendar year in which the credit is claimed.~~

~~(C) For the purposes of this subdivision, average number of individuals employed full-time shall be computed by adding the number of such individuals employed by the taxpayer at the end of each quarter during each calendar year or other applicable period and dividing the sum so obtained by the number of such quarters occurring within such calendar year or other applicable period.~~]

3. The aggregate amount of tax credits allowed under this subdivision in any calendar year shall be up to three million dollars. Such aggregate amount of credits shall be allocated by the New York city department of finance among eligible taxpayers on a pro rata basis. Taxpayers eligible for such pro rata allocation shall be determined by the New York city department of finance no later than February twenty-eighth of the succeeding calendar year in which [~~the~~] a credit provided [~~in~~] pursuant to this subdivision is applied.

4. The New York city department of finance shall establish by rule [~~by October thirty-first, two thousand nine,~~] procedures for the allocation of tax credits [~~as required by paragraph two of this subdivision~~] allowed by local laws adopted pursuant to this subdivision. Such rules shall include provisions describing the application process, the due dates for such applications, the standards that shall be used to evaluate the applications, the documentation that will be provided to taxpayers to substantiate the amount of tax credits allocated to such taxpayers, and such other provisions as deemed necessary and appropriate.

5. Any local law adopted pursuant to this subdivision may provide for a credit as authorized by this subdivision for a maximum of three consecutive calendar years, provided, however, that any such credit:

(A) may not apply to taxable years beginning before January first, two thousand ten or beginning on or after January first, two thousand nineteen; and

(B) may not apply to taxable years beginning before January first, two thousand twenty-three or beginning on or after January first, two thousand twenty-six.

6. Any city in this state having a population of one million or more, acting through its local legislative body, is authorized to provide the credit set forth in subdivision twenty-one of section 11-654 of the administrative code of the city of New York, against the business corporation tax imposed pursuant to chapter sixty of the laws of two thousand fifteen, for a maximum of three consecutive calendar years, provided, however, that such credit may not apply to taxable years beginning before January first, two thousand twenty-three or beginning on or after January first, two thousand twenty-six.

§ 2. Subparagraph 1 of paragraph (a) of subdivision 21 of section 11-654 of the administrative code of the city of New York, as added by section 1 of part D of chapter 60 of the laws of 2015, is amended to read as follows:

(1) A taxpayer that is a qualified emerging technology company, engages in biotechnologies, and meets the eligibility requirements of this subdivision, shall be allowed a credit against the tax imposed by this subchapter. The amount of credit shall be equal to the sum of the amounts specified in subparagraphs three, four and five of this paragraph, subject to the limitations in [~~subparagraph~~] subparagraphs six and seven of this paragraph [~~and~~], paragraph (b) of this subdivision, and paragraph three of subdivision (d) of section twelve hundred one-a of the tax law. For the purposes of this subdivision, "qualified emerging technology company" shall mean a company located in the city: (i) whose primary products or services are classified as emerging technologies and whose total annual product sales are ten million dollars or less; or (ii) a company that has research and development activities in the city and whose ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified as determined by the National Science Foundation in the most recent published results from its Survey of Industry Research and Development,

or any comparable successor survey as determined by the department of finance, and whose total annual product sales are ten million dollars or less. For the purposes of this subdivision, the definition of research and development funds shall be the same as that used by the National Science Foundation in the aforementioned survey. For the purposes of this subdivision, "biotechnologies" shall mean the technologies involving the scientific manipulation of living organisms, especially at the molecular and/or the sub-molecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research, pharmacological, mechanical, and computational applications and services connected with these improvements. Activities included with such applications and services shall include, but not be limited to, alternative mRNA splicing, DNA sequence amplification, antigenetic switching bioaugmentation, bioenrichment, bioremediation, chromosome walking, cytogenetic engineering, DNA diagnosis, fingerprinting, and sequencing, electroporation, gene translocation, genetic mapping, site-directed mutagenesis, bio-transduction, bio-mechanical and bio-electrical engineering, and bio-informatics.

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

PART I

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

SUBPART A

Section 1. The opening paragraph of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 1 of part HHH of chapter 59 of the laws of 2021, is amended to read as follows:

For taxable years beginning before January first, two thousand sixteen, the amount prescribed by this paragraph shall be computed at the rate of seven and one-tenth percent of the taxpayer's business income base. For taxable years beginning on or after January first, two thousand sixteen, the amount prescribed by this paragraph shall be six and one-half percent of the taxpayer's business income base. For taxable years beginning on or after January first, two thousand twenty-one and before January first, two thousand [~~twenty-four~~] twenty-seven for any taxpayer with a business income base for the taxable year of more than five million dollars, the amount prescribed by this paragraph shall be seven and one-quarter percent of the taxpayer's business income base. The taxpayer's business income base shall mean the portion of the taxpayer's business income apportioned within the state as hereinafter provided. However, in the case of a small business taxpayer, as defined in paragraph (f) of this subdivision, the amount prescribed by this

paragraph shall be computed pursuant to subparagraph (iv) of this paragraph and in the case of a manufacturer, as defined in subparagraph (vi) of this paragraph, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (vi) of this paragraph, and, in the case of a qualified emerging technology company, as defined in subparagraph (vii) of this paragraph, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (vii) of this paragraph.

§ 2. Subparagraph 1 of paragraph (b) of subdivision 1 of section 210 of the tax law, as amended by section 2 of part HHH of chapter 59 of the laws of 2021, is amended to read as follows:

(1) (i) The amount prescribed by this paragraph shall be computed at .15 percent for each dollar of the taxpayer's total business capital, or the portion thereof apportioned within the state as hereinafter provided for taxable years beginning before January first, two thousand sixteen. However, in the case of a cooperative housing corporation as defined in the internal revenue code, the applicable rate shall be .04 percent until taxable years beginning on or after January first, two thousand twenty and zero percent for taxable years beginning on or after January first, two thousand twenty-one. The rate of tax for subsequent tax years shall be as follows: .125 percent for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen; .100 percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .075 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen; .050 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty; .025 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and .1875 percent for years beginning on or after January first, two thousand twenty-one and before January first, two thousand [~~twenty-four~~] **twenty-seven**, and zero percent for taxable years beginning on or after January first, two thousand [~~twenty-four~~] **twenty-seven**. Provided however, for taxable years beginning on or after January first, two thousand twenty-one, the rate of tax for a small business as defined in paragraph (f) of this subdivision shall be zero percent. The rate of tax for a qualified New York manufacturer shall be .132 percent for taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, .106 percent for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen, .085 percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .056 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen; .038 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty; .019 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and zero percent for years beginning on or after January first, two thousand twenty-one. (ii) In no event shall the amount prescribed by this paragraph exceed three hundred fifty thousand dollars for qualified New York manufacturers and for all other taxpayers five million dollars.

§ 3. This act shall take effect immediately.

SUBPART B

Section 1. Subparagraph (A) of paragraph 1 of subsection (oo) of section 606 of the tax law, as amended by section 1 of part CCC of chapter 59 of the laws of 2021, is amended to read as follows:

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

§ 2. Subparagraph (i) of paragraph (a) of subdivision 26 of section 210-B of the tax law, as amended by section 2 of part CCC of chapter 59 of the laws of 2021, is amended to read as follows:

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

§ 3. Clause (B) of subparagraph (ii) of paragraph (a) of subdivision 26 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is redesignated as paragraph (a-1) and is amended to read as follows:

(a-1) If the taxpayer is a partner in a partnership or a shareholder in a New York S corporation, then the credit caps imposed in [~~subparagraph (A)~~] **paragraph (a)** of this [~~paragraph~~] **subdivision** shall be applied at the entity level, so that the aggregate credit allowed to all the partners or shareholders of each such entity in the taxable year does not exceed the credit cap that is applicable in that taxable year.

§ 4. Subparagraph (ii) of paragraph (a) of subdivision 26 of section 210-B of the tax law, as amended by section 2 of part RR of chapter 59 of the laws of 2018, is amended to read as follows:

(ii) For taxable years beginning on or after January first, two thousand [~~twenty-five~~] **thirty**, a taxpayer shall be allowed a credit as here-

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

§ 5. Subparagraph (A) of paragraph 1 of subdivision (y) of section 1511 of the tax law, as amended by section 3 of part CCC of chapter 59 of the laws of 2021, is amended to read as follows:

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

§ 6. This act shall take effect immediately.

SUBPART C

Section 1. Paragraph 1 of subdivision (a) of section 28 of the tax law, as amended by section 1 of part AAA of chapter 59 of the laws of 2019, is amended to read as follows:

(1) A taxpayer which is a qualified commercial production company, or which is a sole proprietor of a qualified commercial production company, and which is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (c) of this section, to be computed as provided in this section. Provided, however, to be eligible for such credit, at least seventy-five percent of the production costs (excluding post production costs) paid or incurred directly and predominantly in the actual filming or recording of the qualified commercial must be costs incurred in New York state. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand [~~twenty-four~~] twenty-nine.

§ 2. Paragraph (c) of subdivision 23 of section 210-B of the tax law, as amended by chapter 518 of the laws of 2018, is amended to read as follows:

(c) Expiration of credit. The credit allowed under this subdivision shall not be applicable to taxable years beginning on or after January first, two thousand [~~twenty-four~~] twenty-nine.

§ 3. Paragraph 1 of subsection (jj) of section 606 of the tax law, as amended by chapter 518 of the laws of 2018, is amended to read as follows:

(1) Allowance of credit. A taxpayer that is eligible pursuant to the provisions of section twenty-eight of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand [~~twenty-four~~] twenty-nine.

§ 4. This act shall take effect immediately.

SUBPART D

Section 1. Paragraph 1 of subdivision (a) of section 47 of the tax law, as added by section 1 of part I of chapter 59 of the laws of 2022, is amended to read as follows:

(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 at a facility regulated pursuant to section 19-0302 or title ten of article seventeen of the environmental conservation law, paid by such taxpayer on or after January first, two thousand twenty-two and before [~~July~~] January first, two thousand [~~twenty-three~~] twenty-four. The credit cannot exceed five hundred thousand dollars per facility.

§ 2. This act shall take effect immediately.

SUBPART E

Section 1. 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, as amended by section 7 of part F of chapter 59 of the laws of 2022, is amended to read as follows:

§ 6. This act shall take effect immediately; provided however, that [~~section~~] sections 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~~] 2026 and shall expire and be deemed repealed January 1, [~~2024~~] 2026; provided further, however that the obligations under paragraph 3 of subdivision (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~~] 2027.

§ 2. Paragraph 2 of subdivision (a) of section 24-c of the tax law, as amended by section 1 of part F of chapter 59 of the laws of 2022, 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 hundred fifty thousand dollars per qualified New York city

musical and theatrical production in a level two qualified New York city production facility and three million dollars per qualified New York city musical and theatrical production [~~for productions whose first performance is prior to January first, two thousand twenty-three. For productions whose first performance is 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 a level one qualified New York city production facility**. In no event shall a qualified New York city musical and theatrical production be eligible for more than one credit under this program.

§ 2-a. Paragraphs 1, 2, 3 and 4 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, are amended to read as follows:

(1) "Qualified **New York city** musical and theatrical production" means a for-profit live, dramatic stage presentation that, in its original or adaptive version, is performed in a **level one or level two** qualified New York city production facility, whether or not such production was performed in a **level one or level two** qualified New York city production facility prior to the state disaster emergency pursuant to executive order two hundred two of two thousand twenty**, provided, however, that productions performing in a level two qualified New York city production facility shall have a production budget greater than or equal to seven hundred fifty thousand dollars and incur qualified production expenditures greater than or equal to seven hundred fifty thousand dollars**.

(2) "Qualified production expenditure" means any costs for tangible property used and services performed directly and predominantly in the production of a qualified musical and theatrical production within the state of New York, including: (i) expenditures for design, construction and operation, including sets, special and visual effects, costumes, wardrobes, make-up, accessories and costs associated with sound, lighting, and staging; (ii) all salaries, wages, fees, and other compensation including related benefits for services performed of which the total allowable expense shall not exceed two hundred thousand dollars per week; and (iii) technical and crew production costs, such as expenditures for a **level one or level two** qualified New York city production facility, or any part thereof, props, make-up, wardrobe, costumes, equipment used for special and visual effects, sound recording, set construction, and lighting. Qualified production expenditure does not include any costs incurred prior to the credit period of a qualified New York city musical and theatrical production company.

(3) **(i)** "[~~Qualified~~] **Level one qualified** New York city production facility" means a facility located within the [~~city of New York (i)~~] **(A) borough of Manhattan, bounded by and including forty-first street and fifty-fourth street and between sixth avenue and ninth avenue** in which live theatrical productions are or are intended to be primarily presented, [~~(ii)~~] **(B)** that contains at least one stage, a seating capac-

ity of five hundred or more seats, and dressing rooms, storage areas, and other ancillary amenities necessary for the qualified musical and theatrical production, and [~~(iii)~~] (C) for which receipts attributable to [~~ticket sales~~] live theatrical productions constitute seventy-five percent or more of gross receipts of the facility.

(ii) "Level two qualified New York city production facility" means a facility located within the borough of Manhattan (A) in which live theatrical productions are or are intended to be primarily presented, (B) that contains at least one stage, a seating capacity of one hundred or more seats, and dressing rooms, storage areas, and other ancillary amenities necessary for the qualified musical and theatrical production, and (C) for which receipts attributable to live theatrical productions constitute seventy-five percent or more of gross receipts of the facility.

(4) "Qualified New York city musical and theatrical production company" is a corporation, partnership, limited partnership, or other entity or individual which or who is principally engaged in the production of a qualified musical or theatrical production that is to be performed in a level one or level two qualified New York city production facility.

§ 3. Subparagraph (i) of paragraph 5 of subdivision (b) of section 24-c of the tax law, as amended by section 2 of part F of chapter 59 of the laws of 2022, 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, September thirtieth, two thousand [~~twenty-three~~] twenty-five or the date the qualified musical and theatrical production closes.

§ 3-a. Subdivision (b) of section 24-c of the tax law is amended by adding a new paragraph 6 to read as follows:

(6) "Production budget" means all estimated costs to be incurred or paid before the first public appearance.

§ 4. Subdivision (c) 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:

(c) The credit shall be allowed for the taxable year beginning on or after January first, two thousand twenty-one but before January first, two thousand [~~twenty-four~~] twenty-six. A qualified New York city musical and theatrical production company shall claim the credit in the year in which its credit period ends.

§ 5. Paragraphs 1 and 2 of subdivision (f) of section 24-c of the tax law, paragraph 1 as amended by section 3 of part F of chapter 59 of the laws of 2022, and paragraph 2 as amended by section 4 of part F of chapter 59 of the laws of 2022, are 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 [~~two~~] three 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.

(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 applica-

tion 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 June thirtieth, two thousand [~~twenty-three~~] **twenty-five**.

§ 5-a. Subdivision (g) of section 24-c of the tax law, as amended by section 5 of part F of chapter 59 of the laws of 2022, is amended to read as follows:

(g) Any qualified New York city musical and theatrical production company that performs in a **level one or level two** 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 grant programs of the New York state council on the arts as specified in subdivision five of section ninety-nine-ll of the state finance law.

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

§ 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 dates of Subparts A through E of this act shall be as specifically set forth in the last section of such Subparts.

PART J

Section 1. This act enacts into law major components of legislation relating to taxation. 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. Paragraph (b) of subdivision 38 of section 210-B of the tax law, as amended by section 2 of part L of chapter 59 of the laws of 2022, is amended to read as follows:

(b) Definitions. The term "accessible by individuals with disabilities" shall, for the purposes of this subdivision, refer to a vehicle that complies with federal regulations promulgated pursuant to the Americans with Disabilities Act applicable to vans under twenty-two feet in length, by the federal Department of Transportation, in Code of Federal Regulations, title 49, parts 37 and 38[~~, and by the federal Architecture and Transportation Barriers Compliance Board, in Code of Federal Regulations, title 36, section 1192.23,~~] and the Federal Motor Vehicle Safety Standards, Code of Federal Regulations, title 49, part [~~57~~] 571. The term "electric vehicle" shall, for the purposes of this subdivision, have the same meaning as in section sixty-six-s of the public service law.

§ 2. Paragraph 2 of subsection (tt) of section 606 of the tax law, as amended by section 4 of part L of chapter 59 of the laws of 2022, is amended to read as follows:

(2) Definitions. The term "accessible by individuals with disabilities" shall, for the purposes of this subsection, refer to a vehicle that complies with federal regulations promulgated pursuant to the Americans with Disabilities Act applicable to vans under twenty-two feet in length, by the federal Department of Transportation, in Code of Federal Regulations, title 49, parts 37 and 38[~~, and by the federal Architecture and Transportation Barriers Compliance Board, in Code of Federal Regulations, title 36, section 1192.23,~~] and the Federal Motor Vehicle Safety Standards, Code of Federal Regulations, title [~~20~~] 49, part [~~57~~] 571. The term "electric vehicle" shall, for the purposes of this subsection, have the same meaning as in section sixty-six-s of the public service law.

§ 3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2023; provided the amendments to paragraph (2) of subsection (tt) of section 606 of the tax law made by section two of this act shall not affect the repeal of such subsection and shall be deemed repealed therewith.

SUBPART B

Section 1. Paragraph 2 of subdivision (b) of section 21 of the tax law, as amended by section 7 of part LL of chapter 58 of the laws of 2022, is amended to read as follows:

(2) Site preparation costs. The term "site preparation costs" shall mean all amounts properly chargeable to a capital account, which are paid or incurred which are necessary to implement a site's investigation, remediation, or qualification for a certificate of completion, and shall include costs of: excavation; demolition; activities undertaken under the oversight of the department of labor or in accordance with standards established by the department of health to remediate and dispose of regulated materials including asbestos, lead or polychlorinated biphenyls; environmental consulting; engineering; legal costs;

transportation, disposal, treatment or containment of contaminated soil; remediation measures taken to address contaminated soil vapor; cover systems consistent with applicable regulations; physical support of excavation; dewatering and other work to facilitate or enable remediation activities; sheeting, shoring, and other engineering controls required to prevent off-site migration of contamination from the qualified site or migrating onto the qualified site; and the costs of fencing, temporary electric wiring, scaffolding, and security facilities until such time as the certificate of completion has been issued. Site preparation shall include all costs paid or incurred within sixty months after the last day of the tax year in which the certificate of completion is issued that are necessary for compliance with the certificate of completion or subsequent modifications thereof, or the remedial program defined in such certificate of completion including but not limited to institutional controls, engineering controls, an approved site management plan, and an environmental easement with respect to the qualified site; provided, however, with respect to any qualified site for which [~~the department of environmental conservation has issued a notice to the taxpayer on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law~~] **a certificate of completion was issued on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one**, site preparation shall include all costs paid or incurred within eighty-four months after the last day of the tax year in which the certificate of completion is issued that are necessary for compliance with the certificate of completion or subsequent modifications thereof, or the remedial program defined in such certificate of completion including but not limited to institutional controls, engineering controls, an approved site management plan, and an environmental easement with respect to the qualified site**, provided, however, with respect to any qualified site located in cities with a population greater than two hundred five thousand and less than two hundred fifteen thousand in counties with a population greater than one million but less than one million ten thousand based on the latest federal decennial census for which the department of environmental conservation has issued a certificate of completion to the taxpayer on or after January first, two thousand seventeen and before December thirty-first, two thousand seventeen, this credit component shall be allowed for up to one hundred eighty months after the date of the issuance of such certificate of completion**. Site preparation cost shall not include the costs of foundation systems that exceed the cover system requirements in the regulations applicable to the qualified site.

§ 2. Subparagraph (i) of paragraph 3 of subdivision (a) of section 21 of the tax law, as amended by section 9 of part LL of chapter 58 of the laws of 2022, is amended to read as follows:

(i) The tangible property credit component shall be equal to the applicable percentage of the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, which constitute qualified tangible property and may include any related party service fee paid; provided that in determining the cost or other basis of such property, the taxpayer shall exclude the acquisition cost of any item of property with respect to which a credit under this section was allowable to another taxpayer; and provided further that for the purposes of this section, starting with taxable year two thousand twen-

ty-two, on sites that comply with the track one remediation standards promulgated pursuant to subdivision four of section 27-1415 of the environmental conservation law, stadiums, baseball parks, basketball courts and other athletic facilities shall be considered buildings, and that components of stadiums, baseball parks, basketball courts, and other athletic facilities constructed on such sites, including sports field turf, site lighting, sidewalks, access and entry ways, and other improvements added to land, shall be considered structural components of buildings under the internal revenue code, and shall be included in the definition of tangible property for the purposes of this section. A related party service fee shall be allowed only in the calculation of the tangible property credit component and shall not be allowed in the calculation of the site preparation credit component or the on-site groundwater remediation credit component. The portion of the tangible property credit component which is attributable to related party service fees shall be allowed only as follows: (A) in the taxable year in which the qualified tangible property described in subparagraph (iii) of this paragraph is placed in service, for that portion of the related party service fees which have been earned and actually paid to the related party on or before the last day of such taxable year; and (B) with respect to any other taxable year for which the tangible property credit component may be claimed under this subparagraph and in which the amount of any additional related party service fees are actually paid by the taxpayer to the related party, the tangible property credit component for such amount shall be allowed in such taxable year. The credit component amount so determined shall be allowed for the taxable year in which such qualified tangible property is first placed in service on a qualified site with respect to which a certificate of completion has been issued to the taxpayer, or for the taxable year in which the certificate of completion is issued if the qualified tangible property is placed in service prior to the issuance of the certificate of completion. This credit component shall only be allowed for up to one hundred twenty months after the date of the issuance of such certificate of completion, provided, however, that for qualified sites to which a certificate of completion is issued on or after March twentieth, two thousand ten, but prior to January first, two thousand twelve, the commissioner may extend the credit component for up to one hundred forty-four months after the date of such issuance, if the commissioner, in consultation with the commissioner of environmental conservation, determines that the requirements for the credit would have been met if not for the restrictions related to the state disaster emergency declared pursuant to executive order 202 of 2020 or any extension thereof or subsequent executive order issued in response to the novel coronavirus (COVID-19) pandemic; provided, however, with respect to any qualified site for which the department of environmental conservation has issued a certificate of completion to the taxpayer on or after March twentieth, two thousand ten and before December thirty-first, two thousand fifteen, this credit component shall be allowed for up to one hundred eighty months after the date of the issuance of such certificate of completion**; and provided further, with respect to any qualified site located in cities with a population greater than two hundred five thousand and less than two hundred fifteen thousand in counties with a population greater than one million but less than one million ten thousand based on the latest federal decennial census for which the department of environmental conservation has issued a certificate of completion to the taxpayer on or after January first, two thousand seventeen and before December thir-**

ty-first, two thousand seventeen, this credit component shall be allowed for up to one hundred eighty months after the date of the issuance of such certificate of completion.

§ 3. Paragraph 2 of subdivision (a) of section 21 of the tax law, as amended by section 4 of part LL of chapter 58 of the laws of 2022, is amended to read as follows:

(2) Site preparation credit component. The site preparation credit component shall be equal to the applicable percentage of the site preparation costs paid or incurred by the taxpayer with respect to a qualified site. The credit component amount so determined with respect to a site's qualification for a certificate of completion shall be allowed for the taxable year in which the effective date of the certificate of completion occurs. The credit component amount determined other than with respect to such qualification shall be allowed for the taxable year in which the improvement to which the applicable costs apply is placed in service for up to five taxable years after the issuance of such certificate of completion; provided, however, that for any qualified site to which a certificate of completion is issued on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one, the site preparation credit component for such costs shall be allowed for up to seven taxable years after the issuance of such certificate of completion; and provided further, however, that for any qualified site located in cities with a population greater than two hundred five thousand and less than two hundred fifteen thousand in counties with a population greater than one million but less than one million ten thousand based on the latest federal decennial census for which the department of environmental conservation has issued a certificate of completion to the taxpayer on or after January first, two thousand seventeen and before December thirty-first, two thousand seventeen, the site preparation credit component for such costs shall be allowed for up to fifteen taxable years after the issuance of such certificate of completion.

§ 4. This act shall take effect immediately and shall be deemed to have been in effect on and after April 9, 2022.

SUBPART C

Section 1. Paragraphs 1, 2 and 3 of subsection (h) of section 860 of the tax law, paragraph 1 as added by section 1 of part C of chapter 59 of the laws of 2021, and paragraph 2 as amended and paragraph 3 as added by section 2 of subpart A of part MM of chapter 59 of the laws of 2022, are amended to read as follows:

(1) In the case of an electing partnership, the sum of (i) all items of income, gain, loss, or deduction derived from or connected with New York sources to the extent they are included in the taxable income of a nonresident partner subject to tax under article twenty-two, under paragraph one of subsection (a) of section six hundred thirty-two of this chapter; [~~and~~] (ii) all items of income, gain, loss, or deduction to the extent they are included in the taxable income of a resident partner subject to tax under article twenty-two of this chapter; and (iii) all pass-through entity taxes including taxes paid under this article to New York, taxes paid under article twenty-four-B of this chapter to the city of New York, and taxes paid to other jurisdictions that are substantially similar to the taxes paid under this article, to the extent that, for federal income tax purposes, the taxes are paid and deducted in the taxable year, and are included in the taxable income of the partners

subject to tax under article twenty-two of this chapter for the taxable year.

(2) In the case of an electing standard S corporation, the sum of (i) all items of income, gain, loss, or deduction derived from or connected with New York sources to the extent they would be included under paragraph two of subsection (a) of section six hundred thirty-two of this chapter in the taxable income of a shareholder subject to tax under article twenty-two of this chapter; and (ii) all pass-through entity taxes including taxes paid under this article to New York, taxes paid under article twenty-four-B of this chapter to the city of New York, and taxes paid to other jurisdictions that are substantially similar to the taxes paid under this article, to the extent that, for federal income tax purposes, the taxes are paid and deducted in the taxable year, and are included in the taxable income of the shareholders subject to tax under article twenty-two of this chapter for the taxable year.

(3) In the case of an electing resident S corporation, the sum of (i) all items of income, gain, loss, or deduction to the extent they are included in the taxable income of a shareholder subject to tax under article twenty-two of this chapter; and (ii) all pass-through entity taxes including taxes paid under this article to New York, taxes paid under article twenty-four-B of this chapter to the city of New York, and taxes paid to other jurisdictions that are substantially similar to taxes paid under this article, to the extent that, for federal income tax purposes, the taxes are paid and deducted in the taxable year, and are included in the taxable income of the shareholders subject to tax under article twenty-two of this chapter for the taxable year.

§ 2. Subsection (c) of section 861 of the tax law, as amended by section 3 of subpart A of part MM of chapter 59 of the laws of 2022, is amended to read as follows:

(c) The annual election must be made [~~by~~] on or before the due date of the first estimated payment under section eight hundred sixty-four of this article and will take effect for the current taxable year. Only one election may be made during each calendar year. An election made under this section is irrevocable [~~as of~~] after the due date.

§ 3. Paragraphs 1 and 2 of subsection (b) of section 867 of the tax law, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, are amended to read as follows:

(1) In the case of an electing city partnership, the sum of (i) all items of income, gain, loss, or deduction to the extent they are included in the city taxable income of a partner or member of the electing city partnership who is a city taxpayer; and (ii) all pass-through entity taxes including taxes paid under article twenty-four-A of this chapter to New York, taxes paid under this article to the city of New York, and taxes paid to other jurisdictions that are substantially similar to taxes paid under article twenty-four-A of this chapter, to the extent that, for federal income tax purposes, the taxes were paid and deducted in the taxable year, and they are included in the taxable income of the partners subject to tax under article twenty-two of this chapter for the taxable year.

(2) In the case of an electing city resident S corporation, the sum of (i) all items of income, gain, loss, or deduction to the extent they would be included in the city taxable income of a shareholder of the electing city resident S corporation who is a city taxpayer; and (ii) all pass-through entity taxes including taxes paid under article twenty-four-A of this chapter to New York, taxes paid under this article to the city of New York, and taxes paid to other jurisdictions that are

substantially similar to taxes paid under article twenty-four-A of this chapter, to the extent that, for federal income tax purposes, the taxes were paid and deducted in the taxable year, and they are included in the taxable income of the shareholders subject to tax under article twenty-two of this chapter for the taxable year.

§ 4. Subsection (e) of section 867 of the tax law, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended to read as follows:

(e) City taxpayer. A city taxpayer means [~~a city resident individual subject to the tax imposed pursuant to the authority of article thirty of this chapter~~]:

(1) a city resident individual, as defined in subsection (a) of section thirteen hundred five of this chapter; and

(2) a city resident trust or estate, as defined in subsection (c) of section thirteen hundred five of this chapter.

§ 5. Subsection (i) of section 867 of the tax law, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended to read as follows:

(i) Eligible city partnership. Eligible city partnership means any partnership as provided for in section 7701(a)(2) of the Internal Revenue Code that has a filing requirement under paragraph one of subsection (c) of section six hundred fifty-eight of this chapter other than a publicly traded partnership as defined in section 7704 of the Internal Revenue Code, where at least one partner or member is a city [~~resident individual~~] taxpayer. An eligible city partnership includes any entity, including a limited liability company, treated as a partnership for federal income tax purposes that otherwise meets the requirements of this subsection.

§ 6. Subsection (j) of section 867 of the tax law, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended to read as follows:

(j) Eligible city resident S corporation. Eligible city resident S corporation means any New York S corporation as defined pursuant to subdivision one-A of section two hundred eight of this chapter that is subject to tax under section two hundred nine of this chapter that has only city [~~resident individual~~] taxpayer shareholders. An eligible city resident S corporation includes any entity, including a limited liability company, treated as an S corporation for federal income tax purposes that otherwise meets the requirements of this subsection.

§ 7. Subsection (c) of section 868 of the tax law, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended to read as follows:

(c) The annual election to be taxed pursuant to this article must be made [~~by~~] on or before the due date of the first estimated payment under section eight hundred sixty-four of this chapter and will take effect for the current taxable year. Only one election to be taxed pursuant to this article may be made during each calendar year. An election made under this section is irrevocable [~~as of~~] after such due date. To the extent an election made under section eight hundred sixty-one of this chapter is revoked or otherwise invalidated an election made under this section is automatically invalidated.

§ 8. This act shall take effect immediately, provided, however, that: (i) sections one and two of this act shall be deemed to have been in full force and effect on and after the effective date of part C of chapter 59 of the laws of 2021; (ii) sections three and seven of this act shall be deemed to have been in full force and effect on and after the

effective date of section 1 of subpart B of part MM of chapter 59 of the laws of 2022; and (iii) sections four, five and six of this act shall apply to taxable years beginning on or after January 1, 2023.

§ 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 dates of Subparts A through C of this act shall be as specifically set forth in the last section of such Subparts.

PART K

Section 1. Paragraphs (a) and (d) of subdivision 1 of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, are amended to read as follows:

(a) Real property owned by one or more persons, each of whom is sixty-five years of age or over, or real property owned by [~~husband and wife~~] **a married couple** or by siblings, one of whom is sixty-five years of age or over, or real property owned by one or more persons, some of whom qualify under this section and the others of whom qualify under section four hundred fifty-nine-c of this title, shall be exempt from payments in lieu of taxes (PILOT) to the battery park city authority or from taxation by any municipal corporation in which located to the extent of fifty per centum of the assessed valuation thereof, provided the governing board of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor. For the purposes of this section, [~~sibling shall mean a brother or a sister, whether related~~] **the term "sibling" shall include persons whose relationship as siblings has been established** through **either** half blood, whole blood or adoption.

(d) The real property tax or PILOT exemption on real property owned by [~~husband and wife~~] **a married couple**, one of whom is sixty-five years of age or over, once granted, shall not be rescinded by any municipal corporation solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age.

§ 2. Subdivision 3 of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, paragraph (a) as separately amended by chapter 488 of the laws of 2022, is amended to read as follows:

3. No exemption shall be granted:

(a)**(i)** if the income of the owner or the combined income of the owners of the property for the **applicable** income tax year [~~immediately preceding the date of making application for exemption~~] exceeds the sum of three thousand dollars, or such other sum not less than three thousand dollars nor more than [~~twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, twenty-nine thousand dollars beginning July first, two thousand nine, fifty thousand dollars beginning July first, two thousand twenty-two, and in a city with a population of one million or~~

~~more fifty thousand dollars beginning July first, two thousand seventeen,~~] fifty thousand dollars, as may be provided by the local law, ordinance or resolution adopted pursuant to this section.

(ii) Where the taxable status date is on or before April fourteenth, the applicable income tax year shall [~~mean~~] be the [~~twelve-month period for which the owner or owners filed a federal personal income tax return for the year before the income tax year immediately preceding the date of application and where~~] second most recent calendar year. Where the taxable status date is on or after April fifteenth, the applicable income tax year shall [~~mean~~] be the [~~twelve-month period for which the owner or owners filed a federal personal income tax return for the income tax year immediately preceding the date of application~~] most recent calendar year. Provided, however, that for taxpayers whose income tax returns are filed on the basis of a fiscal year rather than a calendar year, the applicable income tax year shall be the most recent fiscal year for which an income tax return has been filed.

(iii) Where title is vested in [~~either the husband or the wife, their~~] a married person, the combined income of such person and such person's spouse may not exceed such sum, except where [~~the husband or wife, or ex-husband or ex-wife~~] one spouse or ex-spouse is absent from the property as provided in subparagraph (ii) of paragraph (d) of this subdivision, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. [~~Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286 or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance, if the governing board of a municipality, after a public hearing, adopts a local law, ordinance or resolution providing therefor. In addition, an exchange of an annuity for an annuity contract, which resulted in non-taxable gain, as determined in section one thousand thirty-five of the internal revenue code, shall be excluded from such income. Provided that such exclusion shall be based on satisfactory proof that such an exchange was solely an exchange of an annuity for an annuity contract that resulted in a non-taxable transfer determined by such section of the internal revenue code. Furthermore, such income shall not include the proceeds of a reverse mortgage, as authorized by section six-h of the banking law, and sections two hundred eighty and two hundred eighty-a of the real property law; provided, however, that monies used to repay a reverse mortgage may not be deducted from income, and provided additionally that any interest or dividends realized from the investment of reverse mortgage proceeds shall be considered income. The provisions of this paragraph notwithstanding, such income shall not include veterans disability compensation, as defined in Title 38 of the United States Code provided the governing board of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;~~]

(iv) The term "income" as used herein shall mean the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, plus any social security benefits not included in such federal adjusted gross income; provided that if no such return was filed for the applicable income tax year, the applicant's income shall be determined based on the amounts that would have so been reported if such a return had been filed; and provided further, that when determining income for purposes of this section, the following conditions shall be applicable:

(1) the governing body of a municipal corporation, after a public hearing, may adopt a local law, ordinance or resolution providing that any social security benefits that were not included in the applicant's federal adjusted gross income shall not be considered income;

(2) distributions received from an individual retirement account or individual retirement annuity that were included in the applicant's federal adjusted gross income shall not be considered income unless the governing body of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing otherwise;

(3) the applicant's income shall be offset by all medical and prescription drug expenses actually paid that were not reimbursed or paid for by insurance, if the governing board of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing therefor;

(4) any tax-exempt interest or dividends that were excluded from the applicant's federal adjusted gross income shall be considered income; and

(5) any losses that were applied to reduce the applicant's federal adjusted gross income shall be subject to the following limitations:

(A) the net amount of loss reported on federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule,

(B) the net amount of any other separate category of loss shall not exceed three thousand dollars, and

(C) the aggregate amount of all losses shall not exceed fifteen thousand dollars;

(b) unless the owner shall have held an exemption under this section for [~~his~~] the owner's previous residence or unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twelve consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of [~~either a husband or wife~~] a married person in whose name title of the property shall have been vested at the time of death and then becomes vested solely in [~~the survivor~~] such person's surviving spouse by virtue of devise by or descent from the deceased [~~husband or wife~~] spouse, the time of ownership of the property by the deceased [~~husband or wife~~] spouse shall be deemed also a time of ownership by the [~~survivor~~] surviving spouse and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months. In the event of a transfer by [~~either a husband or wife to the other~~] a married person to such person's spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or

other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation by a municipality within the state granting such exemption. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation or PILOT under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation or PILOT under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months shall be deemed satisfied;

(c) unless the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation or PILOT and the remaining portion only shall be entitled to the exemption provided by this section;

(d) unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property: except where, (i) an owner is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall only be income only to the extent that it exceeds the amount paid by such owner, spouse, or co-owner for care in the facility, and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or, (ii) the real property is owned by a [~~husband and/or wife, or an ex-husband and/or an ex-wife, and either~~] **married person or a married couple, or by a formerly married person or a formerly married couple, and one spouse or ex-spouse** is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be sixty-two years of age or over.

§ 3. Paragraph (a) of subdivision 3-a of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, is amended to read as follows:

(a) For the purposes of this section, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides and which is represented by [~~his~~] **the tenant-stockholder's** share or shares of stock in such corporation as determined by its or their proportional relationship to

the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

§ 4. Subdivisions 5 and 5-a of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, are amended to read as follows:

5. Application for such exemption must be made by the owner, or all of the owners of the property, on forms prescribed by the commissioner to be furnished by the appropriate assessing authority and shall furnish the information and be executed in the manner required or prescribed in such forms, and shall be filed in such assessor's office on or before the appropriate taxable status date. Notwithstanding any other provision of law, at the option of the municipal corporation, any person otherwise qualifying under this section shall not be denied the exemption under this section if [~~he~~] **such person** becomes sixty-five years of age after the appropriate taxable status date and on or before December thirty-first of the same year.

5-a. Any local law or ordinance adopted pursuant to paragraph (a) of subdivision one of this section may be amended, or a local law or ordinance may be adopted to provide, notwithstanding subdivision five of this section, that an application for such exemption may be filed with the assessor after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from: (a) a death of the applicant's spouse, child, parent[~~, brother or sister~~] **or sibling**; or (b) an illness of the applicant or of the applicant's spouse, child, parent[~~, brother or sister~~] **or sibling**, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician. The assessor shall approve or deny such application as if it had been filed on or before the taxable status date.

§ 5. Subdivision 6 of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, is amended to read as follows:

6. (a) At least sixty days prior to the appropriate taxable status date, the assessing authority shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before the taxable status date and be approved in order for the exemption to be granted. The assessing authority shall, within three days of the completion and filing of the tentative assessment roll, notify by mail any applicant [~~who has included with his~~] **whose** application **includes** at least one self-addressed, pre-paid envelope, of the approval or denial of the application; provided, however, that the assessing authority shall, upon the receipt and filing of the application, send by mail notification of receipt to any applicant who has included two of such envelopes with the application. Where an applicant is entitled to a notice of denial pursuant to this subdivision, such notice shall be on a form prescribed by the commissioner and shall state the reasons for such denial and shall further state that the applicant may have such determination reviewed in the manner provided by law. Failure to mail any such application form or notices or the failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes or PILOT on property owned by such person.

(b) Except in cities of one million or more, any person who has been granted exemption pursuant to this section on five (5) consecutive completed assessment rolls, including any years when the exemption was granted to a property owned by [~~a husband and/or wife~~] a married person or a married couple while both spouses resided in such property, shall not be subject to the requirements set forth in paragraph (a) of this subdivision provided the governing board of the municipality in which said property is situated after public hearing adopts a local law, ordinance or resolution providing therefor however said person shall be mailed an application form and a notice [~~informing him of his~~] setting forth such person's rights. Such exemption shall be automatically granted on each subsequent assessment roll. Provided, however, that when tax payment is made by such person a sworn affidavit must be included with such payment which shall state that such person continues to be eligible for such exemption. Such affidavit shall be on a form prescribed by the commissioner. If such affidavit is not included with the tax payment, the collecting officer shall proceed pursuant to section five hundred fifty-one-a of this chapter.

(c) In cities of one million or more, any person who has been granted exemption pursuant to this section shall file the completed application with the appropriate assessing authority every twenty-four months from the date such exemption was granted without the necessity of having been granted exemption pursuant to this section on five (5) consecutive completed assessment rolls including any years when the exemption was granted to a property owned by [~~a husband and/or wife~~] a married person or a married couple while both spouses resided in such property.

§ 6. Subdivision 8-a of section 467 of the real property tax law, as amended by section 1 of part B of chapter 686 of the laws of 2022, is amended to read as follows:

8-a. Notwithstanding any provision of law to the contrary, the local governing body of a municipal corporation that is authorized to adopt a local law pursuant to subdivision eight of this section is further authorized to adopt a local law providing that where a renewal application for the exemption authorized by 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 renewal application by that date, the owner may, no later than the last day for paying taxes or PILOT without incurring interest or penalty, submit a written request to the assessor asking [~~him or her~~] the assessor 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 a renewal application, reflecting the facts and circumstances as they existed on the taxable status date. The assessor may extend the filing deadline and grant the exemption if [~~he or she~~] the assessor is satisfied that (i) good cause existed for the failure to file the renewal application by the taxable status date, and that (ii) the applicant is otherwise entitled to the exemption. The assessor shall make a determination and mail notice [~~of his or her determination~~] thereof to the owner. If the determination states that the assessor has granted the exemption, [~~he or she~~] 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 taxes are levied, the failure to take the exemption into account in the computation of the tax shall be deemed a "clerical error" for purposes of title

three of article five of this chapter, and shall be corrected accordingly.

§ 7. Paragraph (a) of subdivision 1 and paragraph (a) of subdivision 2 of section 459-c of the real property tax law, as amended by section 2 of part B of chapter 686 of the laws of 2022, are amended to read as follows:

(a) Real property owned by one or more persons with disabilities, or real property owned by a [~~husband, wife, or both~~] **married person or a married couple**, or by siblings, at least one of whom has a disability, or real property owned by one or more persons, some of whom qualify under this section and the others of whom qualify under section four hundred sixty-seven of this title, and whose income, as hereafter defined, is limited by reason of such disability, shall be exempt from payments in lieu of taxes (PILOT) to the battery city park authority or from taxation by any municipal corporation in which located to the extent of fifty per centum of the assessed valuation thereof as hereinafter provided. After a public hearing, the governing board of a county, city, town or village may adopt a local law and a school district, other than a school district subject to article fifty-two of the education law, may adopt a resolution to grant the exemption authorized pursuant to this section.

(a) [~~"sibling" shall mean a brother or a sister, whether related~~] **the term "sibling" shall include persons whose relationship as siblings has been established** through **either** half blood, whole blood or adoption.

§ 8. Paragraph (a) of subdivision 5 of section 459-c of the real property tax law, as separately amended by section 2 of part B of chapter 686 and chapter 488 of the laws of 2022, is amended to read as follows:

(a) **(i)** if the income of the owner or the combined income of the owners of the property for the **applicable** income tax year [~~immediately preceding the date of making application for exemption~~] exceeds the sum of three thousand dollars, or such other sum not less than three thousand dollars nor more than [~~twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, twenty-nine thousand dollars beginning July first, two thousand nine, and fifty thousand dollars beginning July first, two thousand twenty-two, and in a city with a population of one million or more fifty thousand dollars beginning July first, two thousand seventeen~~] **fifty thousand dollars**, as may be provided by the local law or resolution adopted pursuant to this section. [~~Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year.~~]

(ii) Where the taxable status date is on or before April fourteenth, the applicable income tax year shall be the second most recent calendar year. Where the taxable status date is on or after April fifteenth, the applicable income tax year shall be the most recent calendar year. Provided, however, that for taxpayers whose income tax returns are filed on the basis of a fiscal year rather than a calendar year, the applicable income tax year shall be the most recent fiscal year for which an income tax return has been filed.

(iii) Where title is vested in [~~either the husband or the wife, their~~] **a married person, the** combined income **of such person and such person's spouse** may not exceed such sum, except where [~~the husband or wife, or ex-husband or ex-wife~~] **one spouse or ex-spouse** is absent from the property due to divorce, legal separation or abandonment, then only the

income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. [~~Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance, if the governing board of a municipality, after a public hearing, adopts a local law or resolution providing therefor. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income~~]

(iv) The term "income" as used herein shall mean the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, plus any social security benefits not included in such federal adjusted gross income; provided that if no such return was filed for the applicable income tax year, the applicant's income shall be determined based on the amounts that would have so been reported if such a return had been filed; and provided further, that when determining income for purposes of this section, the following conditions shall be applicable:

(1) the governing body of a municipal corporation, after a public hearing, may adopt a local law, ordinance or resolution providing that any social security benefits that were not included in the applicant's federal adjusted gross income shall not be considered income;

(2) distributions received from an individual retirement account or individual retirement annuity that were included in the applicant's federal adjusted gross income shall not be considered income unless the governing body of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing otherwise;

(3) the applicant's income shall be offset by all medical and prescription drug expenses actually paid that were not reimbursed or paid for by insurance, if the governing body of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing therefor;

(4) any tax-exempt interest or dividends that were excluded from the applicant's federal adjusted gross income shall be considered income; and

(5) any losses that were applied to reduce the applicant's federal adjusted gross income shall be subject to the following limitations:

(A) the net amount of loss reported on federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule,

(B) the net amount of any other separate category of loss shall not exceed three thousand dollars, and

(C) the aggregate amount of all losses shall not exceed fifteen thousand dollars;

§ 9. Paragraph (a) of subdivision 6 of section 459-c of the real property tax law, as amended by section 2 of part B of chapter 686 of the laws of 2022, is amended to read as follows:

(a) If so provided in the local law or resolution adopted pursuant to this section, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corpo-

ration resides, and which is represented by [~~his~~] the tenant-stockholder's share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

§ 10. Paragraph c of subdivision 1 of section 467-b of the real property tax law, as amended by chapter 500 of the laws of 2001, is amended to read as follows:

c. "Income" means [~~income from all sources after deduction of all income and social security taxes and includes social security and retirement benefits, supplemental security income and additional state payments, public assistance benefits, interest, dividends, net rental income, salary or earnings, and net income from self-employment, but shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or increases in benefits accorded pursuant to the social security act or a public or private pension paid to any member of the household which increase, in any given year, does not exceed the consumer price index (all items United States city average) for such year which take effect after the date of eligibility of head of the household receiving benefits hereunder whether received by the head of the household or any other member of the household~~] the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, plus any social security benefits not included in such federal adjusted gross income; provided that if no such return was filed for the applicable income tax year, the applicant's income shall be determined based on the amounts that would have so been reported if such a return had been filed; and provided further, that when determining income for purposes of this section, the following conditions shall be applicable:

(i) the governing body of a municipal corporation, after a public hearing, may adopt a local law, ordinance or resolution providing that any social security benefits that were not included in the applicant's federal adjusted gross income shall not be considered income;

(ii) distributions received from an individual retirement account or individual retirement annuity that were included in the applicant's federal adjusted gross income shall not be considered income unless the governing body of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing otherwise;

(iii) the applicant's income shall be offset by all medical and prescription drug expenses actually paid that were not reimbursed or paid for by insurance, if the governing body of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing therefor;

(iv) any tax-exempt interest or dividends that were excluded from the applicant's federal adjusted gross income shall be considered income; and

(v) any losses that were applied to reduce the applicant's federal adjusted gross income shall be subject to the following limitations:

(A) the net amount of loss reported on federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule,

(B) the net amount of any other separate category of loss shall not exceed three thousand dollars, and

(C) the aggregate amount of all losses shall not exceed fifteen thousand dollars;

§ 11. Paragraph f of subdivision 1 of section 467-c of the real property tax law, as amended by chapter 500 of the laws of 2001, is amended to read as follows:

f. "Income" means [~~income received by the eligible head of the household combined with the income of all other members of the household from all sources after deduction of all income and social security taxes and includes without limitation, social security and retirement benefits, supplemental security income and additional state payments, public assistance benefits, interest, dividends, net rental income, salary and earnings, and net income from self employment, but shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution as defined in P.L. 103-286, nor increases in benefits accorded pursuant to the social security act or a public or private pension paid to any member of the household which increase, in any given year, does not exceed the consumer price index (all items United States city average) for such year which take effect after the eligibility date of an eligible head of the household receiving benefits hereunder whether received by the eligible head of the household or any other member of the household.~~] the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, plus any social security benefits not included in such federal adjusted gross income; provided that if no such return was filed for the applicable income tax year, the applicant's income shall be determined based on the amounts that would have so been reported if such a return had been filed; and provided further, that when determining income for purposes of this section, the following conditions shall be applicable:

(1) the governing body of a municipal corporation, after a public hearing, may adopt a local law, ordinance or resolution providing that any social security benefits that were not included in the applicant's adjusted gross income shall not be considered income;

(2) distributions received from an individual retirement account or individual retirement annuity that were included in the applicant's federal adjusted gross income shall not be considered income unless the governing body of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing otherwise;

(3) the applicant's income shall be offset by all medical and prescription drug expenses actually paid that were not reimbursed or paid for by insurance, if the governing body of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing therefor;

(4) any tax-exempt interest or dividends that were excluded from the applicant's federal adjusted gross income shall be considered income; and

(5) any losses that were applied to reduce the applicant's federal adjusted gross income shall be subject to the following limitations:

(i) the net amount of loss reported on federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule,

(ii) the net amount of any other separate category of loss shall not exceed three thousand dollars, and

(iii) the aggregate amount of all losses shall not exceed fifteen thousand dollars.

(6) When the eligible head of the household has retired on or after the commencement of the taxable period and prior to the date of making

an application for a rent increase exemption order/tax abatement certificate pursuant to this section, such person's income shall be adjusted by excluding salary or earnings and projecting such person's retirement income over the entire taxable period.

§ 12. This act shall take effect immediately and shall apply to all applications for exemptions pursuant to sections 467, 459-c, 467-b and 467-c of the real property tax law on assessment rolls that are based on taxable status dates occurring on and after October 1, 2023.

PART L

Section 1. Section 2 of chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, as amended by section 1 of part C of chapter 59 of the laws of 2020, is amended to read as follows:

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 1992; provided, however that any charges imposed by section 593 of the real property tax law as added by section one of this act shall first be due for values for assessment rolls with tentative completion dates after July 1, 1992, and provided further, that this act shall remain in full force and effect until March 31, [~~2024~~] **2027**, at which time section 593 of the real property tax law as added by section one of this act shall be repealed.

§ 2. This act shall take effect immediately.

PART M

Intentionally Omitted

PART N

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

1-a. Notwithstanding any provision of law to the contrary, the solar or wind energy system appraisal model authorized by this section shall be identified, formulated, adopted, published, and updated periodically in the manner provided in this section without regard to the provisions of article two of the state administrative procedure act.

§ 2. Subparagraph (viii) of paragraph (b) of subdivision 2 of section 102 of the state administrative procedure act, as amended by chapter 74 of the laws of 1987, is amended to read as follows:

(viii) **appraisal models, discount rates,** state equalization rates, class ratios, special equalization rates and special equalization ratios established pursuant to the real property tax law;

§ 3. No assessing unit that failed to use the appraisal model pursuant to section 575-b of the real property tax law in 2022 shall be held liable for failing to use such model in 2022. Within fifteen days from the effective date of this act, the commissioner of taxation and finance may readopt the 2022 appraisal model or models and discount rates for use in 2023, without additional consultation with the New York state energy research and development authority or the New York state assessors association, and without soliciting or considering additional public comments.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after the effective date of part X of chapter 59 of the laws of 2021.

PART O

Intentionally Omitted

PART P

Section 1. Section 1299-C of the tax law is REPEALED.

§ 2. Notwithstanding any provision of law to the contrary, there shall be no refund of any registration fees paid prior to the effective date of this act.

§ 3. This act shall take effect immediately.

PART Q

Section 1. Section 285-a of the tax law is amended by adding a new subdivision 4 to read as follows:

4. Upon each sale of motor fuel, other than a sale that is otherwise exempt under this article, the distributor must charge the tax imposed by this article to the purchaser on each gallon sold. If the taxes imposed by this article have not already been assumed or paid by a distributor on any quantity of such fuel for any reason, including, but not limited to, the expansion of such fuel as a result of temperature fluctuation, the distributor must remit such taxes to the commissioner on the return for the period in which such sale was made.

§ 2. Section 285-b of the tax law is amended by adding a new subdivision 5 to read as follows:

5. Upon each sale of Diesel motor fuel, other than a sale that is otherwise exempt under this article, the distributor must charge the tax imposed by this article to the purchaser on each gallon sold. If the taxes imposed by this article have not already been assumed or paid by a distributor on any quantity of such fuel for any reason, including, but not limited to, the expansion of such fuel as a result of temperature fluctuation, the distributor must remit such taxes to the commissioner on the return for the period in which such sale was made.

§ 3. Section 308 of the tax law is amended by adding a new subdivision (j) to read as follows:

(j) Every petroleum business subject to tax under this article that is also a distributor, as defined in section two hundred eighty-two of this chapter, must charge the tax imposed by this article to the purchaser on each gallon sold, unless otherwise exempt. If the taxes imposed by this article have not already been assumed or paid by such petroleum business on any quantity of such fuel for any reason, including, but not limited to, the expansion of such fuel as a result of temperature fluctuation, such petroleum business must remit such taxes to the commissioner on the return for the period in which such sale was made.

§ 4. Section 1102 of the tax law is amended by adding a new subdivision (g) to read as follows:

(g) The tax imposed by this section must be charged on the sale, other than a retail sale or a sale that is otherwise exempt under this article, of each gallon of motor fuel or Diesel motor fuel. If the taxes imposed by this section have not already been assumed or paid by the

distributor on any quantity of such fuel for any reason, including, but not limited to, the expansion of such fuel as a result of temperature fluctuation, the distributor must remit such taxes to the commissioner on the return for the period in which such sale was made.

§ 5. This act shall take effect on September 1, 2023 and shall apply to sales of motor fuel and Diesel motor fuel on or after such date.

PART R

Section 1. Subparagraph (B) of paragraph 1 of subdivision (a) of section 1115 of the tax law, as amended by section 1 of part GG of chapter 59 of the laws of 2022, is amended to read as follows:

(B) Until May [~~thirty-first~~] thirty-first, two thousand [~~twenty-three~~] twenty-four, the food and drink excluded from the exemption provided by clauses (i), (ii) and (iii) of subparagraph (A) of this paragraph, and bottled water, shall be exempt under this subparagraph: (i) when sold for one dollar and fifty cents or less through any vending machine that accepts coin or currency only; or (ii) when sold for two dollars or less through any vending machine that accepts any form of payment other than coin or currency, whether or not it also accepts coin or currency.

§ 2. This act shall take effect June 1, 2023.

PART S

Section 1. Subdivision 1 of section 471 of the tax law, as amended by section 1 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

1. There is hereby imposed and shall be paid a tax on all cigarettes possessed in the state by any person for sale, except that no tax shall be imposed on cigarettes sold under such circumstances that this state is without power to impose such tax, including sales to qualified Indians for their own use and consumption on their nations' or tribes' qualified reservation, or sold to the United States or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States, to the extent provided in such regulations and policy statements of such an agency applicable to such sales. The tax imposed by this section is imposed on all cigarettes sold on an Indian reservation to non-members of the Indian nation or tribe and to non-Indians and evidence of such tax shall be by means of an affixed cigarette tax stamp. Indian nations or tribes may elect to participate in the Indian tax exemption coupon system established in section four hundred seventy-one-e of this article which provides a mechanism for the collection of the tax imposed by this section on cigarette sales on qualified reservations to such non-members and non-Indians and for the delivery of quantities of tax-exempt cigarettes to Indian nations or tribes for the personal use and consumption of qualified members of the Indian nation or tribe. If an Indian nation or tribe does not elect to participate in the Indian tax exemption coupon system, the prior approval system shall be the mechanism for the delivery of quantities of tax-exempt cigarettes to Indian nations or tribes for the personal use and consumption of qualified members of the Indian nation or tribe as provided for in paragraph (b) of subdivision five of this section. Such tax on cigarettes shall be at the rate of [~~four~~] five dollars and thirty-five cents for each twenty cigarettes or fraction thereof, provided, however, that if a package of cigarettes

contains more than twenty cigarettes, the rate of tax on the cigarettes in such package in excess of twenty shall be one dollar and [~~eight~~] **thirty-three** and three-quarters cents for each five cigarettes or fraction thereof. Such tax is intended to be imposed upon only one sale of the same package of cigarettes. It shall be presumed that all cigarettes within the state are subject to tax until the contrary is established, and the burden of proof that any cigarettes are not taxable hereunder shall be upon the person in possession thereof.

§ 2. Section 471-a of the tax law, as amended by section 5 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

§ 471-a. Use tax on cigarettes. There is hereby imposed and shall be paid a tax on all cigarettes used in the state by any person, except that no tax shall be imposed (1) if the tax provided in section four hundred seventy-one of this article is paid, (2) on the use of cigarettes which are exempt from the tax imposed by said section, or (3) on the use of four hundred or less cigarettes, brought into the state on, or in the possession of, any person. Such tax on cigarettes shall be at the rate of [~~four~~] **five** dollars and thirty-five cents for each twenty cigarettes or fraction thereof, provided, however, that if a package of cigarettes contains more than twenty cigarettes, the rate of tax on the cigarettes in such package in excess of twenty shall be one dollar and [~~eight~~] **thirty-three** and three-quarters cents for each five cigarettes or fraction thereof. Within twenty-four hours after liability for the tax accrues, each such person shall file with the commissioner a return in such form as the commissioner may prescribe together with a remittance of the tax shown to be due thereon. For purposes of this article, the word "use" means the exercise of any right or power actual or constructive and shall include but is not limited to the receipt, storage or any keeping or retention for any length of time, but shall not include possession for sale. All other provisions of this article if not inconsistent shall apply to the administration and enforcement of the tax imposed by this section in the same manner as if the language of said provisions had been incorporated in full into this section.

§ 3. Notwithstanding any other provision of law to the contrary, the tax due on cigarettes possessed in New York state as of the close of business on August 31, 2023, by any person for sale solely attributable to the increase imposed by the amendments to section 471 of the tax law, as amended by section one of this act, shall be paid by November 20, 2023, subject to such terms and conditions as the commissioner of taxation and finance shall prescribe.

§ 4. This act shall take effect on September 1, 2023, and shall apply to all cigarettes possessed in this state by any person for sale and all cigarettes used in this state by any person on or after such date.

PART T

Section 1. Subdivision 4 of section 474 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

4. At the time of delivering cigarettes to any person each agent or wholesale dealer, and at the time of delivering tobacco products to any person each distributor or wholesale dealer of tobacco products, shall make a true duplicate invoice showing the date of delivery, the number of packages and number of cigarettes contained therein, in each shipment of cigarettes delivered, and the items and quantity and wholesale price of each item in each shipment of tobacco products delivered, and the name of the purchaser to whom delivery is made, and shall retain the

same for a period of three years subject to the use and inspection of the commissioner [~~of taxation and finance~~]. Each dealer shall procure and retain invoices showing the number of packages and number of cigarettes contained therein, in each shipment of cigarettes received by him **or her**, and the items and quantity and wholesale price of each item in each shipment of tobacco products received by him **or her**, the date thereof, and the name of the shipper, and shall retain the same for a period of three years subject to the use and inspection of the commissioner [~~of taxation and finance~~]. The commissioner [~~of taxation and finance~~] by regulation may provide that whenever cigarettes or tobacco products are shipped into the state, the railroad company, express company, trucking company or other public carrier transporting any shipment thereof shall file with the commissioner [~~of taxation and finance~~] a copy of the freight bill within ten days after the delivery in the state of each shipment. All dealers shall maintain and keep for a period of three years such other records of cigarettes or tobacco products received, sold or delivered within the state as may be required by the commissioner [~~of taxation and finance~~]. The commissioner [~~of taxation and finance~~] is hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes or tobacco products are placed, stored, sold or offered for sale, and the equipment of any such person pertaining to the stamping of cigarettes or the sale and delivery of cigarettes or tobacco products taxable under this article, as well as the stock of cigarettes or tobacco products in any such premises or vehicle. To verify the accuracy of the tax imposed and assessed by this article, each such person is hereby directed and required to give to the commissioner [~~of taxation and finance~~] or his **or her** duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.

§ 2. Paragraphs (b) and (d) of subdivision 4 of section 480-a of the tax law, as amended by section 4 of part I of chapter 59 of the laws of 2020, are amended and a new paragraph (a-1) is added to read as follows:

(a-1) If a retail dealer, including an agent thereof, refuses to comply with the requirements of subdivision four of section four hundred seventy-four of this article its registration may be revoked (i) for a period of one year, or (ii) for a second such violation within a period of five years for up to three years, or (iii) for a third or subsequent violation within a period of seven years for a period up to ten years. A retail dealer registration shall be considered to be revoked pursuant to this subdivision immediately upon such dealer's receipt of written notice of revocation from the commissioner.

(b) A retail dealer who is notified of a revocation of its registration pursuant to this subdivision shall have the right to have the revocation reviewed by the commissioner or his or her designee by contacting the department at a telephone number or an address to be disclosed in the notice of revocation within ten days of such dealer's receipt of such notification. The retail dealer may present written evidence or argument in support of its defense to the revocation, or may appear at a scheduled conference with the commissioner or his or her designee to present oral arguments and written and oral evidence in support of such defense. The commissioner or his or her designee is authorized to delay the effective date of the revocation to enable the retail dealer to present further evidence or arguments in connection with the revocation. The commissioner or his or her designee shall cancel the revocation of registration if the commissioner or his or her designee is not satisfied

by a preponderance of the evidence that the retail dealer [~~possessed or sold unstamped or unlawfully stamped packages of cigarettes~~] violated paragraph (a) or (a-1) of this subdivision, as may be applicable.

(d) After review of the revocation of registration by the commissioner or his or her designee is complete, or the time within which a retail dealer may request such review has expired without such a request having been made, notice of the revocation of a retail dealer registration pursuant to paragraph (a) of this subdivision shall be given by the commissioner to the head of the division of the lottery for the purpose of enforcement of section sixteen hundred seven of this chapter and such division may suspend or revoke any license issued with respect to a lottery agent's specific location pursuant to article thirty-four of this chapter if such lottery agent is a retail dealer of cigarettes whose registration for such location is suspended or revoked pursuant to this section. In addition, notice of such revocation shall also be given to the state liquor authority and such revocation shall constitute cause, for purposes of section one hundred eighteen of the alcoholic beverage control law, for revocation, cancellation or suspension of any license or permit issued pursuant to such law.

§ 3. Subdivision 3 of section 480-a of the tax law is amended by adding a new paragraph (c) to read as follows:

(c) If a retail dealer does not possess a valid registration, either because it failed to obtain a registration or its registration is suspended or revoked and the commissioner or their designee, pursuant to their authority under this article, attempts to inspect such premises for a violation of this section and such retail dealer, including an agent thereof, is found, after notice and opportunity to be heard, to have refused such inspection, such retail dealer shall be subject to a penalty of up to four thousand dollars for a first refusal and up to eight thousand dollars for a second or subsequent refusal within three years of a prior refusal.

§ 4. This act shall take effect immediately.

PART U

Section 1. The opening paragraph of subparagraph (B) of paragraph 2 of subdivision (b) of section 1402 of the tax law, as amended by section 1 of item UUU of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

For purposes of this subdivision, the phrase "real estate investment trust transfer" shall mean any conveyance of real property or an interest therein to a REIT, or to a partnership or corporation in which a REIT owns a controlling interest immediately following the conveyance, which conveyance (I) occurs in connection with the initial formation of the REIT, provided that the conditions set forth in clauses (i) and (ii) of this subparagraph are satisfied, or (II) in the case of any real estate investment trust transfer occurring on or after July thirteenth, nineteen hundred ninety-six and before September first, two thousand [~~twenty-three~~] twenty-six, is described in the last sentence of this subparagraph.

§ 2. Subparagraph 2 of paragraph (xi) of subdivision (b) of section 1201 of the tax law, as amended by section 2 of item UUU of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

(2) any issuance or transfer of an interest in a REIT, or in a partnership or corporation in which a REIT owns a controlling interest imme-

diately following the issuance or transfer, in connection with a transaction described in subparagraph one of this paragraph. Notwithstanding the foregoing, a transaction described in the preceding sentence shall not constitute a real estate investment trust transfer unless (A) it occurs in connection with the initial formation of the REIT and the conditions described in subparagraphs three and four of this paragraph are satisfied, or (B) in the case of any real estate investment trust transfer occurring on or after July thirteenth, nineteen hundred ninety-six and before September first, two thousand [~~twenty-three~~] twenty-six, the transaction is described in subparagraph five of this paragraph in which case the provisions of such subparagraph shall apply.

§ 3. Subparagraph (B) of paragraph 2 of subdivision e of section 11-2102 of the administrative code of the city of New York, as amended by section 3 of item UUU of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

(B) any issuance or transfer of an interest in a REIT, or in a partnership or corporation in which a REIT owns a controlling interest immediately following the issuance or transfer in connection with a transaction described in subparagraph (A) of this paragraph. Notwithstanding the foregoing, a transaction described in the preceding sentence shall not constitute a real estate investment trust transfer unless (i) it occurs in connection with the initial formation of the REIT and the conditions described in subparagraphs (C) and (D) of this paragraph are satisfied, or (ii) in the case of any real estate investment trust transfer occurring on or after July thirteenth, nineteen hundred ninety-six and before September first, two thousand [~~twenty-three~~] twenty-six, the transaction is described in subparagraph (E) of this paragraph in which case the provision of such subparagraph shall apply.

§ 4. This act shall take effect immediately.

PART V

Section 1. Section 2016 of the tax law, as amended by chapter 401 of the laws of 1987, is amended to read as follows:

§ 2016. Judicial review. 1. A decision of the tax appeals tribunal, which is not subject to any further administrative review, shall finally and irrevocably decide all the issues which were raised in proceedings before the division of tax appeals upon which such decision is based unless the petitioner or the commissioner, or both, petitions for judicial review in the manner provided by article seventy-eight of the civil practice law and rules, except as otherwise provided in this section, within four months after notice of such decision is served by the tax appeals tribunal upon every party to the proceeding before such tribunal by certified mail or personal service[~~, the petitioner who commenced the proceeding petitions for judicial review in the manner provided by article seventy-eight of the civil practice law and rules, except as otherwise provided in this section~~]. Such service by certified mail shall be complete upon deposit of such notice, enclosed in a post-paid properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the United States postal service. [~~The~~]

2. When the petitioner who commenced the proceeding before the division of tax appeals files a petition for judicial review, such petition shall designate the tax appeals tribunal and the commissioner [~~of taxation and finance~~] as respondents in the proceeding for judicial review.

3. The commissioner, in consultation with the attorney general, may petition for judicial review of a decision of the tax appeals tribunal

that is premised on interpretation of the state or federal constitution, international law, federal law, the law of other states, or other legal matters that are beyond the purview of the state legislature. When the commissioner files a petition for judicial review, such petition shall designate the tax appeals tribunal and the petitioner who commenced the proceeding before the division of tax appeals as respondents.

4. The tax appeals tribunal shall not participate in proceedings for judicial review of its decisions and such proceedings for judicial review shall be commenced in the appellate division of the supreme court, third department. In all other respects the provisions and standards of article seventy-eight of the civil practice law and rules shall apply. The record to be reviewed in such proceedings for judicial review shall include the determination of the administrative law judge, the decision of the tax appeals tribunal, the stenographic transcript of the hearing before the administrative law judge, the transcript of any oral proceedings before the tax appeals tribunal and any exhibit or document submitted into evidence at any proceeding in the division of tax appeals upon which such decision is based.

5. Whenever the commissioner petitions for judicial review as provided in subdivision three of this section, any interest and penalty that, under the provisions of this chapter, would otherwise continue to accrue on the underlying tax liability that is the subject of the decision shall be stayed until fifteen days after the issuance of a judicial decision where no further appeals of such decision are allowed. For provisions regarding the awarding of costs, see section three thousand thirty of this chapter.

§ 2. This act shall take effect immediately and shall apply to decisions and orders issued by the tax appeals tribunal on or after such date.

PART W

Section 1. Subdivision 1 of section 105 of the state finance law, as amended by chapter 204 of the laws of 2002, is amended to read as follows:

1. All moneys received by the commissioner of taxation and finance on account of the state, excepting such moneys as are required by law to be deposited to the credit of the comptroller, but including such moneys as are thereafter paid into the state treasury by the comptroller, shall be deposited by the commissioner of taxation and finance within three business days after the receipt thereof, either as a demand deposit or an interest-bearing time deposit (other than a time certificate of deposit), as [~~he~~] the commissioner and the comptroller may determine, in such banks, trust companies and industrial banks as in [~~his~~] the opinion of the commissioner and the opinion of the comptroller are secure. The moneys so deposited shall be placed to the account of the commissioner of taxation and finance. [~~He~~] The commissioner shall keep a bankbook in which shall be entered [~~his~~] their account of deposit in and moneys drawn from the banks and trust companies and industrial banks in which deposits are made by [~~him~~] the commissioner, which [~~he~~] they shall exhibit to the comptroller for [~~his~~] inspection on the first Tuesday of every month and oftener if required. [~~He~~] The commissioner shall not draw any moneys from such banks, trust companies or industrial banks unless by checks signed and countersigned in the manner prescribed by section one hundred one, unless otherwise provided by law. No moneys shall be paid by any such bank, trust company or industrial bank out of

any such deposit except upon such checks. Moneys may be paid through electronic transfer in accordance with procedures developed by the commissioner of taxation and finance and the comptroller and consistent with the requirements of this section for recording payments. Such payments through electronic transfer shall be considered, for purposes of this chapter, to be moneys drawn by check. Every such bank, trust company or industrial bank shall transmit to the comptroller monthly statements of all moneys received and paid by it on account of the commissioner of taxation and finance.

§ 2. This act shall take effect immediately.

PART X

Section 1. Legislative findings. The legislature finds that it is in the interests of the state to assist The New York Racing Association, Inc., which is the franchised corporation pursuant to section two hundred six of the racing, pari-mutuel wagering and breeding law, to renovate Belmont Park racetrack and repurpose the Aqueduct property. The legislature further finds and determines that the anticipated cost of renovating Belmont Park racetrack is four hundred fifty-five million dollars and that the renovation of Belmont Park racetrack shall initially be financed by the state subject to the provisions of the repayment agreement of the franchised corporation required by section two of this act. The franchised corporation will be responsible for repayment of the state funds in accordance with the terms of such repayment agreement.

§ 2. Prior to, and as a condition to the state initially providing funds for the renovation of Belmont Park racetrack, the franchised corporation shall enter into a repayment agreement with the state acting through the budget director authorizing and directing that a portion of the funds of the franchised corporation dedicated for capital expenditures of the franchised corporation pursuant to paragraph 3 of subdivision f and paragraph 3 of subdivision f-1 of section 1612 of the tax law shall be used to repay the state for the funds provided by the state for the renovation of Belmont Park racetrack, in accordance with the repayment agreement between the state and the franchised corporation. For the purposes of this act, the terms "renovate", "renovation", and "renovating" are limited to any and all construction funded by and subject to the repayment agreement required by subparagraph (ii) of the opening paragraph of paragraph 3 of subdivision f of section 1612 of the tax law. Such agreement shall further provide that:

(1) in the event the franchised corporation receives future statutory payments enacted for the specific purpose of holding the franchised corporation harmless for any loss of payments pursuant to paragraph 3 of subdivision f and paragraph 3 of subdivision f-1 of section 1612 of the tax law, such statutory payments shall also be used to repay the state for the funds provided by the state for the renovation of Belmont Park racetrack;

(2) the franchised corporation shall provide to the franchise oversight board, as an exhibit to the agreement, descriptions of the construction work to be paid for with the loan provided by the state to the franchised corporation, which may include but shall not be limited to renderings, reports, and construction goals; provided however, that the franchise oversight board shall make such exhibit available on its website at least thirty days prior to execution of such agreement; and provided further, that the franchise oversight board shall receive such exhibit at least sixty days prior to execution of such agreement;

(3) the franchise oversight board shall include a requirement in any request for proposals for such renovation that any projects in connection with such work shall only be undertaken pursuant to a project labor agreement in accordance with section 222 of the labor law. For the purposes of this section, "project labor agreement" shall have the meaning set forth in subdivision 1 of section 213 of the racing, pari-mutuel wagering and breeding law;

(4) for purposes of article 15-A of the executive law and article 3 of the veterans' services law, the franchised corporation and any person entering into a contract for any project authorized pursuant to this act shall be deemed a state agency as such term is defined in such articles and such contracts shall be deemed state contracts within the meaning of such term as set forth in such articles. Additionally it must be demonstrated that:

(i) the franchised corporation and its contractors and subcontractors have made significant efforts to attract and retain minority, women, local, and veteran apprentices; and (ii) the franchised corporation and its contractors and subcontractors have committed to work with minority and women owned business enterprises pursuant to article 15-A of the executive law through joint ventures or subcontractor relationships;

(5) the franchised corporation shall establish affirmative action goals to provide equal employment opportunities to all employees, including minorities, women and persons with disabilities, at the Belmont Park racetrack;

(6) the franchise oversight board shall consult with the New York state energy research and development authority to determine what energy efficiencies may be realized with the Belmont project, which may include, but not be limited to, the number of zero emissions vehicle charging facilities, use of geothermal networks, mini-split systems, solar photovoltaic technologies, energy storage, and other renewable energy opportunities that the authority finds sufficient;

(7) the franchise oversight board shall ensure that, subsequent to the franchised corporation relinquishing to the state its leasehold interest in real property located in South Ozone Park, commonly known as Aqueduct Racetrack, the franchised corporation shall, in good faith, take all commercially reasonable steps to ensure that, upon closure of Aqueduct Racetrack, any individual who was employed by the franchised corporation and held a full time equivalent job at Aqueduct Racetrack or Belmont Park racetrack during the year two thousand twenty-three and has a full time equivalent job at the time the franchised corporation terminates all races at Aqueduct and moves all operations to Belmont, shall be offered an opportunity to continue to work at the Belmont Park racetrack in a comparable position with access to the same or greater number of work hours and at the same or greater rate of pay; and

(8) such agreement shall be subject to approval of the franchise oversight board; provided, further, that the gaming commission shall publish such agreement on its website. Such agreement may also be amended from time to time as agreed to by the state and the franchised corporation; provided however, that such amendment must comply with the provisions of this act. At any time prior to the repayment of the state funds for the renovation of Belmont Park racetrack, the state may issue state personal income tax revenue bonds or state sales tax revenue bonds. In the event of the issuance of such bonds, the repayment agreement shall be revised to reflect the obligation of the franchised corporation to fully repay the debt service costs associated with such bonds.

§ 3. Prior to, and as a condition of, the state initially providing funds for the renovation of Belmont Park racetrack, the franchised corporation shall also enter into an agreement with the state relinquishing to the state its leasehold interest in real property located in South Ozone Park, commonly known as Aqueduct Racetrack, upon substantial completion of the renovation of Belmont Park racetrack; provided however, that upon such relinquishment, such lands shall fall under the jurisdiction of the franchise oversight board and the provisions of section 212 of the racing, pari-mutuel wagering and breeding law shall govern the disposition and future real estate development of such lands. It is the intention of the legislature for race dates presently conducted at Aqueduct racetrack to be transferred to and conducted at Belmont Park racetrack, when the commission determines the franchise corporation is capable of hosting such dates. The number of race days at Belmont Park racetrack shall be agreed to in writing by the franchised corporation, New York Thoroughbred Breeders Inc., the New York Thoroughbred Horsemen's Association (or such other entity as is certified and approved pursuant to section 228 of the racing, pari-mutuel wagering and breeding law) and approved by the gaming commission. If such agreement cannot be made, the gaming commission shall determine the number of race days at Belmont Park racetrack.

§ 4. The New York State Gaming Commission shall ensure that to the extent that the law allows for a franchise agreement for the operation of Belmont Park racetrack with a franchisee other than the franchised corporation, the term of any such franchise agreement awarded after funding provided by the state for the renovation of Belmont Park racetrack described by section one of this act shall include a provision obligating such franchisee to assume the payments of the franchised corporation required by section two of this act.

§ 5. Subdivision 1 of section 212 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

1. There is hereby created a franchise oversight board which shall consist of five members [~~appointed by the governor~~]. Of the five members, **three shall be appointed by the governor,** one shall be appointed [~~upon the recommendation of~~] **by** the temporary president of the senate and one shall be appointed [~~upon the recommendation of~~] **by** the speaker of the assembly. Of the initially appointed board, one member appointed by the governor shall serve for a one year term, one member appointed by the governor shall serve for a two year term, **and** one member appointed by the governor shall serve for a three year term[~~, while each of the members appointed by the governor upon the recommendation of~~]**. The members appointed by** the temporary president of the senate and [~~upon the recommendation of~~] the speaker of the assembly shall serve for a four year term. All successors shall serve for a term of four years. All members shall continue in office until their successors have been appointed and qualified. The governor shall designate the chair from among the sitting members who shall serve as such at the pleasure of the governor.

§ 6. Paragraph b of subdivision 6 of section 212 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 243 of the laws of 2020, is amended to read as follows:

b. **(i)** The local advisory board for the Aqueduct racetrack facility shall comprise **of** fifteen members, nine of whom shall be designees of New York City Queens Community Board Ten, three designees of the franchised corporation and three designees of the video lottery gaming oper-

ator. At substantial completion of the Belmont project, as determined by the gaming commission, this board shall be dissolved.

(ii) (A) Notwithstanding subparagraph (i) of this paragraph, within thirty days after the substantial completion of the Belmont project, as determined by the gaming commission, an Aqueduct Redevelopment Community Advisory Board shall be formed to assess all bids made in response to the request for proposals on developing the Aqueduct property and is required to hold a public hearing and adopt and submit a written recommendation on each bid to the franchise oversight board within sixty days of receiving such bid. The adoption of such recommendation shall be by a public vote which results in approval by a majority of the appointed members present during the presence of a quorum. The board recommendation shall be in writing via a form provided by the franchise oversight board and shall include a description of the application, the time and place of the public hearing on the application, the time and place of the meeting at which the recommendation was adopted and the vote by which the recommendation was adopted. The community board may include in its submission the reasons for the vote and any conditions attached to its vote.

(B) The Aqueduct Redevelopment Community Advisory Board shall consist of six members, one to be appointed by the governor, one to be appointed by the mayor of the city of New York, one to be appointed by the senator representing the senate district where the Aqueduct property is located, one to be appointed by the assemblymember representing the assembly district where the Aqueduct property is located, one to be appointed by the city councilmember representing the district where the Aqueduct property is located, and one to be appointed by the borough president where the Aqueduct property is located.

§ 7. For the avoidance of doubt, all lands vacated by the franchised corporation at Aqueduct racetrack shall be considered real estate development parcels, subject to the restrictions set forth in subparagraph (i) of paragraph a of subdivision 8 of section 212 of the racing, pari-mutuel wagering and breeding law.

§ 8. The opening paragraph of paragraph 3 of subdivision f of section 1612 of the tax law is designated subparagraph (i) and a new subparagraph (ii) is added to read as follows:

(ii) Notwithstanding subparagraph (i) of this paragraph, in the event the state provides funds to the franchised corporation for the renovation of Belmont Park racetrack, out of the amount payable to the franchised corporation for capital expenditures pursuant to subparagraph (i) of this paragraph during any state fiscal year, an amount pursuant to the repayment agreement between the state and the franchised corporation shall instead be deposited into the miscellaneous capital projects fund, New York racing capital improvement fund as required to repay the state for funds provided for the renovation of Belmont Park racetrack. Any amount payable to the franchised corporation in any state fiscal year for capital expenditures pursuant to subparagraph (i) of this paragraph in excess of the amount pursuant to the repayment agreement between the state and the franchised corporation shall be deposited pursuant to subparagraph (i) of this paragraph. Once the state has been fully reimbursed for the costs related to the renovation of Belmont Park racetrack, this subparagraph shall no longer apply and subparagraph (i) of this paragraph shall apply.

§ 9. The opening paragraph of paragraph 3 of subdivision f-1 of section 1612 of the tax law is designated subparagraph (i) and a new subparagraph (ii) is added to read as follows:

(ii) Notwithstanding subparagraph (i) of this paragraph, in the event the state provides funds to the franchised corporation for the renovation of Belmont Park racetrack, and in the event the amount deposited pursuant to subparagraph (ii) of paragraph three of subdivision f of this section is insufficient to make the required repayment pursuant to such subparagraph during any state fiscal year, an amount payable to the franchised corporation for capital expenditures pursuant to subparagraph (i) of this paragraph shall instead be deposited into the miscellaneous capital projects fund, New York racing capital improvement fund to the extent necessary, when combined with the amount set forth in subparagraph (ii) of paragraph three of subdivision f of this section, to make any required repayment of funds provided by the state related to the renovation of Belmont Park racetrack during such fiscal year. Any amount payable to the franchised corporation in any state fiscal year for capital expenditures pursuant to subparagraph (i) of this paragraph in excess of the amount pursuant to the repayment agreement between the state and the franchised corporation shall be deposited pursuant to subparagraph (i) of this paragraph. Once the state has been fully reimbursed for such costs related to the renovation of Belmont Park racetrack, this subparagraph shall no longer apply and subparagraph (i) of this paragraph shall apply.

§ 10. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to the miscellaneous capital projects fund, New York racing capital improvement fund.

§ 11. 1. Notwithstanding any other provisions of law to the contrary, the dormitory authority, the urban development corporation, and the New York state thruway authority are hereby authorized to issue personal income tax revenue bonds or notes or state sales tax revenue bonds or notes in one or more series in an aggregate principal amount not to exceed four hundred fifty-five million dollars ($455,000,000) excluding bonds or notes issued to pay costs of issuance of such bonds or notes and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing the renovation of Belmont Park racetrack.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority, urban development corporation, and the New York state thruway authority in undertaking the financing for the renovation of Belmont Park racetrack, the director of the budget is hereby authorized to enter into one or more financing agreements with the dormitory authority, the urban development corporation, and the New York state thruway authority, upon such terms and conditions as the director of the budget and the dormitory authority, the urban development corporation and the New York state thruway authority agree, so as to annually provide to the dormitory authority, the urban development corporation, and the New York state thruway authority, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any financing agreement entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority, the urban

development corporation, and the New York state thruway authority as security for such bonds and notes, as authorized by this section.

§ 12. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed in each state fiscal year to transfer, upon request of the director of the budget, up to the unencumbered balance or an amount up to twenty-five million eight hundred thousand dollars ($25,800,000) from the miscellaneous capital projects fund, New York racing capital improvement fund to the general fund.

§ 13. Subparagraph (i) of paragraph a of subdivision 8 of section 212 of the racing, pari-mutuel wagering and breeding law, as added by chapter 18 of the laws of 2008, is amended to read as follows:

(i) represent the interests of the state in all real estate development proposed for Aqueduct racetrack or real estate development at Belmont Park racetrack. Any such real estate development shall only be undertaken pursuant to a competitive process approved by the board, after consultation with the applicable local advisory boards and consideration of local zoning and planning regulation, and in a manner that will not adversely impact any historic structure that is included in or eligible for inclusion in the National or the State Register of Historic Places, be consistent with any plan approved for such community, and shall be subject to unanimous approval of the franchise oversight board and all statutory and regulatory requirements; provided, however, that, subject to approval of the franchise oversight board and subject to all statutory and regulatory requirements, the franchised corporation shall have full powers and rights to develop, redevelop, refurbish, renovate or make such other improvements, capital expenditures or otherwise, to the racetracks and the fixtures and improvements thereon consistent with projects specifically identified in the franchised corporation's approved track facility improvement plan.

The franchise oversight board shall be guided by the goals of ensuring the continuation of high quality thoroughbred racing at the thoroughbred racing facilities located within the state, raising revenue for or in aid or support of education in this state from video lottery gaming at facilities of the state racing franchise, and maximizing revenue for governments from pari-mutuel wagering on racing at facilities of the state racing franchise. **In consideration of capital expenditure approval, the board shall ensure adequate funds are dedicated for maintenance and repair of existing structures at Saratoga racetrack and Belmont Park racetrack and for the improvement of onsite backstretch personnel housing and quality of life.**

§ 14. This act shall take effect immediately; provided, that the amendments to section 212 of the racing, pari-mutuel wagering and breeding law made by sections five, six and thirteen of this act shall be deemed repealed as provided by chapter 354 of the laws of 2005, as amended.

PART Y

Intentionally Omitted

PART Z

Intentionally Omitted

PART AA

Intentionally Omitted

PART BB

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 EE of chapter 59 of the laws of 2022, 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-three~~] twenty-four; 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-three~~] twenty-four; 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 EE of chapter 59 of the laws of 2022, 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-three~~] twenty-four, 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 EE of chapter 59 of the laws of 2022, 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-three~~] twenty-four 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-three~~] twenty-four. 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 EE of chapter 59 of the laws of 2022, 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-three~~] twenty-four. 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 EE of chapter 59 of the laws of 2022, 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-three~~] twenty-four. 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 EE of chapter 59 of the laws of 2022, 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-two~~] twenty-three, 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 EE of chapter 59 of the laws of 2022, 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, [~~2023~~] 2024; 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 EE of chapter 59 of the laws of 2022, 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, [~~2023~~] **2024**; 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 EE of chapter 59 of the laws of 2022, 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-three~~] **twenty-four**, 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 breed-

ing 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-three~~] twenty-four, such payment shall be seven-tenths of one percent of regular, multiple and exotic pools.

§ 10. This act shall take effect immediately.

PART CC

Intentionally Omitted

PART DD

Section 1. Paragraphs (a) and (b) of subdivision 4 of section 189 of the state finance law, as amended by section 8 of part A of chapter 56 of the laws of 2013, are amended to read as follows:

(a) This section shall apply to [~~claims, records, or statements made under the~~] tax law violations only if: (i) the net income or sales of the person against whom the action is brought equals or exceeds one million dollars for any taxable year subject to any action brought pursuant to this article; and (ii) the damages pleaded in such action exceed three hundred and fifty thousand dollars; [~~and (iii) the person is alleged to have violated paragraph (a), (b), (c), (d), (e), (f) or (g) of subdivision one of this section; provided, however, that nothing in this subparagraph shall be deemed to modify or restrict the application of such paragraphs to any act alleged that relates to a violation of the tax law~~] provided that for purposes of applying paragraph (h) of subdivision one of this section to a tax law violation, the person is alleged to have knowingly concealed or knowingly and improperly avoided an obligation to pay taxes to the state or a local government.

(b) The attorney general shall consult with the commissioner of the department of taxation and finance prior to filing or intervening in any action under this article that is based on [~~the filing of false claims, records or statements made under the tax law~~] a violation of the tax law. If the state declines to participate or to authorize participation by a local government in such an action pursuant to subdivision two of section one hundred ninety of this article, the qui tam plaintiff must obtain approval from the attorney general before making any motion to compel the department of taxation and finance to disclose tax records.

§ 2. Nothing in this act shall be deemed to modify or restrict the application of paragraph (a), (b), (c), (d), (e), (f) or (g) of subdivision 1 of section 189 of the state finance law to any act alleged that relates to a violation of the tax law.

§ 3. This act shall take effect immediately and in any pending case shall apply to any tax obligation knowingly concealed or knowingly avoided before, on, or after such effective date; provided however, that in any action filed after such effective date, this act shall only apply to tax obligations knowingly concealed or knowingly avoided on or after May 1, 2020.

PART EE

Section 1. Subparagraph 9 of paragraph (e) of subdivision 1 of section 210-B of the tax law is REPEALED.

§ 2. This act shall take effect immediately and apply to credit claims filed on or after the effective date of this act.

PART FF

Section 1. Paragraph 1 of subdivision (b) of section 37 of the tax law, as amended by section 1 of part V of chapter 60 of the laws of 2016, is amended to read as follows:

(1) for the first five hundred thousand gallons of**:**

i. beer[~~**, cider, wine or liquor**~~] produced in this state in the taxable year, the credit shall equal fourteen cents per gallon; [~~**and**~~]

ii. cider, artificially carbonated sparkling cider, and natural sparkling cider, containing more than three and two-tenths per centum of alcohol by volume produced in this state in the taxable year, the credit shall equal fourteen cents per gallon;

iii. still wine, artificially carbonated sparkling wine, and natural sparkling wine produced in this state in the taxable year, the credit shall equal thirty cents per gallon;

iv. liquors containing not more than twenty-four per centum of alcohol by volume, but more than two per centum of alcohol per volume, produced in this state in the taxable year, the credit shall equal two dollars and fifty-four cents per gallon;

v. liquors containing more than zero per centum of alcohol by volume, but not more than two per centum of alcohol by volume, produced in this state in the taxable year, the credit shall equal zero;

vi. all other liquors produced in this state in the taxable year, the credit shall equal six dollars and forty-four cents per gallon; and

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

PART GG

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 otherwise 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-four** 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-four 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-four** 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~~] **part A of** chapter **fifty-nine** 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**, for taxable years beginning before January first, two thousand twenty-four,** 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.

§ 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 GG of this act shall be as specifically set forth in the last section of such Parts.