

STATE OF NEW YORK

4009--B

IN SENATE

February 1, 2023

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

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, in relation to extending the authorization of any city having a population of one million or more to provide a biotechnology credit against the general corporation tax, unincorporated business tax, and banking corporation tax of such city (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 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

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

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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); and 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); intentionally omitted (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); intentionally omitted (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 for those operated by business enterprise program participants (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); intentionally omitted (Part U); intentionally omitted (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 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 (Part X); to amend the tax law, in relation to a keno style lottery game (Part Y); intentionally omitted (Part Z); to amend the racing, pari-mutuel wagering and breeding law, in relation to the utilization of funds in the Capital region off-track betting corporations' capital acquisition funds (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 tax law and the administrative code of the city of New York, in relation to treatment of gains from qualified opportunity zones in calculating taxable income (Part DD); to amend the racing, pari-mutuel wagering and breeding law, in relation to prohibiting regional off-track betting corporations from providing items of value exceeding fifteen dollars to certain associates of the corporation (Part EE); to amend the racing, pari-mutuel wagering and breeding law, in relation to prohibiting off-track betting corporation vehicles from being used as take-home vehicles (Part FF); to amend the racing, pari-mutuel wagering and breeding law, in relation to the membership of the board of directors of the western regional off-track betting corporation

(Part GG); to amend the tax law, in relation to residential solar tax credits (Part HH); to repeal article 20-B of the tax law relating to the excise tax on medical cannabis; and to repeal section 89-h of the state finance law relating to the medical cannabis trust fund (Part II); to amend the tax law, in relation to eligibility for the empire state child credit (Part JJ); 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 KK); to amend the tax law, in relation to adjusting certain income tax rates (Part LL); and to amend the tax law, in relation to eligibility for the earned income tax credit and the enhanced earned income tax credit (Part MM)

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 MM. 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 one thousand 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 one thousand 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 taxable years beginning 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

1 performance of services at a qualified film production facility in the
2 production of such qualified film equal or exceed seventy-five percent
3 of the production costs (excluding post production costs) paid or
4 incurred which are attributable to the use of tangible property or the
5 performance of services at any film production facility within and with-
6 out the state in the production of such qualified film, and (ii) except
7 with respect to a qualified independent film production company or
8 pilot, at least ten percent of the total principal photography shooting
9 days spent in the production of such qualified film must be spent at a
10 qualified film production facility. However, if the qualified production
11 costs (excluding post production costs) which are attributable to the
12 use of tangible property or the performance of services at a qualified
13 film production facility in the production of such qualified film is
14 less than three million dollars, then the portion of the qualified
15 production costs attributable to the use of tangible property or the
16 performance of services in the production of such qualified film outside
17 of a qualified film production facility shall be allowed only if the
18 shooting days spent in New York outside of a film production facility in
19 the production of such qualified film equal or exceed seventy-five
20 percent of the total shooting days spent within and without New York
21 outside of a film production facility in the production of such quali-
22 fied film. The credit shall be allowed for the taxable year in which the
23 production of such qualified film is completed. However, in the case of
24 a qualified film that receives funds from additional pool 2, no credit
25 shall be claimed before the later of (1) the taxable year the production
26 of the qualified film is complete, or (2) the ~~[first]~~ taxable year
27 ~~[beginning immediately after the]~~ that includes the last day of the
28 allocation year for which the film has been allocated credit by the
29 ~~[governor's office for motion picture and television]~~ department of
30 economic development. If the amount of the credit is at least one
31 million dollars but less than five million dollars, the credit shall be
32 claimed over a two year period beginning in the first taxable year in
33 which the credit may be claimed and in the next succeeding taxable year,
34 with one-half of the amount of credit allowed being claimed in each
35 year. If the amount of the credit is at least five million dollars, the
36 credit shall be claimed over a three year period beginning in the first
37 taxable year in which the credit may be claimed and in the next two
38 succeeding taxable years, with one-third of the amount of the credit
39 allowed being claimed in each year.

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

43 (5) For the period two thousand fifteen through two thousand ~~[twenty-~~
44 ~~nine]~~ thirty-four, in addition to the amount of credit established in
45 paragraph two of this subdivision, for taxable years on or before two
46 thousand twenty-three a taxpayer shall be allowed a credit equal to the
47 product (or pro rata share of the product, in the case of a member of a
48 partnership) of ten percent and the amount of wages or salaries paid to
49 individuals directly employed (excluding those employed as writers,
50 directors, ~~[music directors]~~ composers, producers and performers,
51 ~~[including]~~ other than background actors with no scripted lines) by a
52 qualified film production company or a qualified independent film
53 production company for services performed by those individuals, and for
54 taxable years two thousand twenty-four through two thousand thirty-four
55 a taxpayer shall be allowed a credit equal to the product (or pro rata
56 share of the product, in the case of a member of a partnership) of ten

percent and the qualified production costs paid or incurred in the production of the qualified film, in one of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars. For purposes of this additional credit, the services must be performed or the qualified production costs paid or incurred must be in the production of a qualified film 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~~ twenty-three and twenty million dollars each year during the period two thousand twenty-four through two thousand thirty-four 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]~~ department of economic 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 aggregate amount pursuant to the authority of this paragraph for the taxable year, 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~~ twenty-three and twenty million dollars in any year during the period two thousand twenty-four through two thousand thirty-four.

§ 2-a. Intentionally omitted.

§ 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). "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.

§ 4. Intentionally omitted.

§ 5. Intentionally omitted.

§ 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 millions 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

1 their tax return. In the case of a qualified film that receives funds
2 from additional pool 2, no empire state film production credit shall be
3 claimed before the later of (1) the taxable year the production of the
4 qualified film is complete, or (2) the taxable year ~~[immediately follow-~~
5 ~~ing]~~ that includes the last day of the allocation year for which the
6 film has been allocated credit by the ~~[governor's office for motion~~
7 ~~picture and television]~~ department of economic development.

8 § 7. Paragraph 4 of subdivision (e) of section 24 of the tax law, as
9 amended by section 4 of part M of chapter 59 of the laws of 2022, is
10 amended to read as follows:

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

1 each year a credit is claimed and include a copy of the certificate with
2 their tax return. In the case of a qualified film that receives funds
3 from additional pool 2, no empire state film production credit shall be
4 claimed before the later of (1) the taxable year the production of the
5 qualified film is complete, or (2) the taxable year ~~[immediately follow-~~
6 ~~ing]~~ that includes the last day of the allocation year for which the
7 film has been allocated credit by the ~~[governor's office for motion~~
8 ~~picture and television]~~ department of economic development.

9 § 8. Paragraph 2 of subdivision (a) of section 31 of the tax law, as
10 amended by section 5 of part M of chapter 59 of the laws of 2020, is
11 amended to read as follows:

12 (2) The amount of the credit shall be the product (or pro rata share
13 of the product, in the case of a member of a partnership) of ~~[twenty-~~
14 ~~five]~~ thirty percent and the qualified post production costs paid in the
15 production of a qualified film at a qualified post production facility
16 located within the metropolitan commuter transportation district as
17 defined in section twelve hundred sixty-two of the public authorities
18 law or ~~[thirty]~~ thirty-five percent and the qualified post production
19 costs paid in the production of a qualified film at a qualified post
20 production facility located elsewhere in the state.

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

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

1 available to the empire state film post production credit pursuant to
2 paragraph four of subdivision (e) of section twenty-four of this arti-
3 cle. Such aggregate amount of credits shall be allocated by the [~~gover-~~
4 ~~nor's office for motion picture and television~~] department of economic
5 development among taxpayers in order of priority based upon the date of
6 filing an application for allocation of post production credit with such
7 office. If the total amount of allocated credits applied for under this
8 paragraph in any year exceeds the aggregate amount of tax credits
9 allowed for such year under this paragraph, such excess shall be treated
10 as having been applied for on the first day of the next year. If the
11 total amount of allocated tax credits applied for under this paragraph
12 at the conclusion of any year is less than [~~five million dollars~~] the
13 aggregate amount pursuant to the authority of this paragraph for the
14 taxable year, the remainder shall be treated as part of the annual allo-
15 cation for two thousand seventeen made available to the empire state
16 film post production credit pursuant to paragraph four of subdivision
17 (e) of section twenty-four of this article. However, in no event may the
18 total of the credits allocated under this paragraph and the credits
19 allocated under paragraph five of subdivision (a) of section twenty-four
20 of this article exceed five million dollars in any year during the peri-
21 od two thousand fifteen through two thousand [~~twenty-nine~~] twenty-three
22 and twenty million dollars in any year during the period two thousand
23 twenty-four through two thousand thirty-four.

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

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

vision 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 the title of the series and/or the principal cast prior to March thirty-first, two thousand twenty-three, shall be considered to remain in continuous production for each season, notwithstanding a change in the title and/or principal cast of such series, 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 for initial applications received on or after such effective date; 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.

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

3 § 394-a. Definitions. For the purposes of this title:

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

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

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

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

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

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

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

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

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

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

48 § 394-b. Eligibility criteria. 1. To be eligible for a tax credit
49 under the child care creation and expansion tax credit program, a busi-
50 ness entity must:

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

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

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

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

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

9 (f) not owe past due state taxes or local property taxes unless the
10 business entity is making payments and complying with an approved bind-
11 ing payment agreement entered into with the taxing authority.

12 § 394-c. Application and approval process. 1. A business entity must
13 submit a complete application as prescribed by the commissioner by the
14 thirty-first of January after the end of the service year.

15 2. The commissioner shall establish procedures for a business entity
16 to submit applications. As part of the application, each business entity
17 must:

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

20 (b) provide the license or registration issued to the business entity,
21 directly or through a third party, by the office to operate a child care
22 program indicating the number of child care seats created or, in the
23 case of a child care program that has experienced an expansion of child
24 care seats, the license or registration issued by the office demonstrat-
25 ing such expansion;

26 (c) provide evidence in a form and manner prescribed by the commis-
27 sioner establishing:

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

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

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

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

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

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

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

49 3. After reviewing a business entity's completed final application and
50 determining that the business entity meets the eligibility criteria as
51 set forth in this title, the office may issue to that business entity a
52 certificate of tax credit, which shall set forth the amount of the cred-
53 it that may be claimed and the service year.

54 § 394-d. Child care creation and expansion tax credit. Allowance of
55 credit. 1. A business entity in the child care creation and expansion
56 tax credit program that meets the eligibility requirements of section

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

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

18 § 394-e. Allocation of credit. The aggregate amount of tax credits
19 allowed under this title, subdivision fifty-nine of section two hundred
20 ten-B, subsection (ooo) of section six hundred six and subdivision (ee)
21 of section fifteen eleven of the tax law shall be twenty-five million
22 dollars each year during the period two thousand twenty-three and two
23 thousand twenty-four. Such aggregate amount of credits shall be allo-
24 cated by the office on a pro rata basis to each business entity that
25 demonstrates eligibility pursuant to section three hundred ninety-four-b
26 of this title.

27 § 394-f. Powers and duties of the commissioner. 1. The commissioner
28 may promulgate regulations establishing an application process and
29 eligibility criteria, which will be applied consistent with the purposes
30 of this title so as not to exceed the annual cap on tax credits set
31 forth in this title, that, notwithstanding any provisions to the contra-
32 ry in the state administrative procedure act, may be adopted on an emer-
33 gency basis.

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

39 3. The commissioner shall solely determine the eligibility of any
40 business entity applying for entry into the program and shall remove any
41 business entity from the program for failing to meet any of the require-
42 ments set forth in section three hundred ninety-four-b of this title.

43 § 394-g. Maintenance of records. Each business entity participating in
44 the program shall keep all relevant records for the duration of their
45 participation in the program for at least three years.

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

48 § 48. Child care creation and expansion tax credit. (a) Allowance of
49 credit. A taxpayer subject to tax under article nine-A, twenty-two or
50 thirty-three of this chapter shall be allowed a credit against such tax,
51 pursuant to the provisions referenced in subdivision (f) of this
52 section. The amount of the credit is equal to the amount determined
53 pursuant to section three hundred ninety-four-d of the social services
54 law and shall be claimed in the taxable year that includes the last day
55 of the service year for which the credit is calculated. No cost or
56 expense paid or incurred by the taxpayer that is included as part of the

1 calculation of this credit shall be the basis of any other tax credit
2 allowed under this chapter.

3 (b) Eligibility. To be eligible for the child care creation and expan-
4 sion tax credit, the taxpayer shall have been issued a certificate of
5 tax credit by the office of children and family services pursuant to
6 section three hundred ninety-four-c of the social services law. A
7 taxpayer that is a partner in a partnership, member of a limited liabil-
8 ity company or shareholder in a subchapter S corporation that has
9 received a certificate of tax credit shall be allowed its pro rata share
10 of the credit earned by the partnership, limited liability company or
11 subchapter S corporation.

12 (c) Tax return requirement. The taxpayer shall be required to attach
13 to its tax return in the form prescribed by the commissioner, proof of
14 receipt of its certificate of tax credit issued by the commissioner of
15 the office of children and family services.

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

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

22 (2) information contained in or derived from credit claim forms
23 submitted to the department. Except as provided in paragraph one of this
24 subdivision, all information exchanged between the office of children
25 and family services and the department shall not be subject to disclo-
26 sure or inspection under the state's freedom of information law.

27 (e) Credit recapture. If a certificate of tax credit issued by the
28 office of children and family services under title 1-A of article six of
29 the social services law is revoked by such office, the amount of credit
30 described in this section and claimed by the taxpayer prior to that
31 revocation shall be added back to tax in the taxable year in which any
32 such revocation becomes final.

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

35 (1) article 9-A: section 210-B, subdivision 59;

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

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

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

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

44 (b) Application of credit. The credit allowed under this subdivision
45 for the taxable year shall not reduce the tax due for such year to less
46 than the amount prescribed in paragraph (d) of subdivision one of
47 section two hundred ten of this article. However, if the amount of cred-
48 it allowed under this subdivision for the taxable year reduces the tax
49 to such amount or if the taxpayer otherwise pays tax based on the fixed
50 dollar minimum amount, any amount of credit thus not deductible in such
51 taxable year shall be treated as an overpayment of tax to be credited or
52 refunded in accordance with the provisions of section one thousand
53 eighty-six of this chapter. Provided, however, the provisions of
54 subsection (c) of section one thousand eighty-eight of this chapter
55 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 (1) to read as follows:

<u>(1) Child care creation and</u>	<u>Amount of credit</u>
<u>expansion tax credit under</u>	<u>under subdivision 59</u>
<u>subsection (ooo)</u>	<u>of section two hundred</u>
	<u>ten-B</u>

§ 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. Paragraph 5 of subdivision (d) of section 1201-a of the tax law, as amended by chapter 260 of the laws of 2015, is amended to read as follows:

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 may not apply to taxable years beginning before January first, two thousand ~~[ten]~~ twenty-three or beginning on or after January first, two thousand ~~[nineteen]~~ twenty-six.

§ 2. This act shall take effect immediately.

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.

1 The effective date for each particular provision contained within such
2 Subpart is set forth in the last section of such Subpart. Any provision
3 in any section contained within a Subpart, including the effective date
4 of the Subpart, which makes reference to a section "of this act", when
5 used in connection with that particular component, shall be deemed to
6 mean and refer to the corresponding section of the Subpart in which it
7 is found. Section three of this Part sets forth the general effective
8 date of this Part.

9 SUBPART A

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

13 For taxable years beginning before January first, two thousand
14 sixteen, the amount prescribed by this paragraph shall be computed at
15 the rate of seven and one-tenth percent of the taxpayer's business
16 income base. For taxable years beginning on or after January first, two
17 thousand sixteen, the amount prescribed by this paragraph shall be six
18 and one-half percent of the taxpayer's business income base. For taxable
19 years beginning on or after January first, two thousand twenty-one and
20 before January first, two thousand [~~twenty-four~~] twenty-seven for any
21 taxpayer with a business income base for the taxable year of more than
22 five million dollars, the amount prescribed by this paragraph shall be
23 seven and one-quarter percent of the taxpayer's business income base.
24 The taxpayer's business income base shall mean the portion of the
25 taxpayer's business income apportioned within the state as hereinafter
26 provided. However, in the case of a small business taxpayer, as defined
27 in paragraph (f) of this subdivision, the amount prescribed by this
28 paragraph shall be computed pursuant to subparagraph (iv) of this para-
29 graph and in the case of a manufacturer, as defined in subparagraph (vi)
30 of this paragraph, the amount prescribed by this paragraph shall be
31 computed pursuant to subparagraph (vi) of this paragraph, and, in the
32 case of a qualified emerging technology company, as defined in subpara-
33 graph (vii) of this paragraph, the amount prescribed by this paragraph
34 shall be computed pursuant to subparagraph (vii) of this paragraph.

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

38 (1) (i) The amount prescribed by this paragraph shall be computed
39 at .15 percent for each dollar of the taxpayer's total business capital,
40 or the portion thereof apportioned within the state as hereinafter
41 provided for taxable years beginning before January first, two thousand
42 sixteen. However, in the case of a cooperative housing corporation as
43 defined in the internal revenue code, the applicable rate shall be .04
44 percent until taxable years beginning on or after January first, two
45 thousand twenty and zero percent for taxable years beginning on or after
46 January first, two thousand twenty-one. The rate of tax for subsequent
47 tax years shall be as follows: .125 percent for taxable years beginning
48 on or after January first, two thousand sixteen and before January
49 first, two thousand seventeen; .100 percent for taxable years beginning
50 on or after January first, two thousand seventeen and before January
51 first, two thousand eighteen; .075 percent for taxable years beginning
52 on or after January first, two thousand eighteen and before January
53 first, two thousand nineteen; .050 percent for taxable years beginning
54 on or after January first, two thousand nineteen and before January

1 first, two thousand twenty; .025 percent for taxable years beginning on
2 or after January first, two thousand twenty and before January first,
3 two thousand twenty-one; and .1875 percent for years beginning on or
4 after January first, two thousand twenty-one and before January first,
5 two thousand [~~twenty-four~~] twenty-seven, and zero percent for taxable
6 years beginning on or after January first, two thousand [~~twenty-four~~]
7 twenty-seven. Provided however, for taxable years beginning on or after
8 January first, two thousand twenty-one, the rate of tax for a small
9 business as defined in paragraph (f) of this subdivision shall be zero
10 percent. The rate of tax for a qualified New York manufacturer shall be
11 .132 percent for taxable years beginning on or after January first, two
12 thousand fifteen and before January first, two thousand sixteen, .106
13 percent for taxable years beginning on or after January first, two thou-
14 sand sixteen and before January first, two thousand seventeen, .085
15 percent for taxable years beginning on or after January first, two thou-
16 sand seventeen and before January first, two thousand eighteen; .056
17 percent for taxable years beginning on or after January first, two thou-
18 sand eighteen and before January first, two thousand nineteen; .038
19 percent for taxable years beginning on or after January first, two thou-
20 sand nineteen and before January first, two thousand twenty; .019
21 percent for taxable years beginning on or after January first, two thou-
22 sand twenty and before January first, two thousand twenty-one; and zero
23 percent for years beginning on or after January first, two thousand
24 twenty-one. (ii) In no event shall the amount prescribed by this para-
25 graph exceed three hundred fifty thousand dollars for qualified New York
26 manufacturers and for all other taxpayers five million dollars.
27 § 3. This act shall take effect immediately.

SUBPART B

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

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

~~ty-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 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]~~ twenty-five. ~~[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 no event shall a qualified New York city musical and theatrical production be eligible for more than one credit under this program.

§ 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

1 [~~twenty-three~~] twenty-five or the date the qualified musical and theat-
2 rical production closes.

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

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

11 § 5. Paragraphs 1 and 2 of subdivision (f) of section 24-c of the tax
12 law, paragraph 1 as amended by section 3 of part F of chapter 59 of the
13 laws of 2022, and paragraph 2 as amended by section 4 of part F of chap-
14 ter 59 of the laws of 2022, are amended to read as follows:

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

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

36 § 6. Paragraph 3 of subdivision (b) of section 24-c of the tax law, as
37 added by section 1 of subpart B of part PP of chapter 59 of the laws of
38 2021, is amended to read as follows:

39 (3) "Qualified New York city production facility" means a facility
40 located within the city of New York (i) in which live theatrical
41 productions are or are intended to be primarily presented, (ii) that
42 contains at least one stage, a seating capacity of [~~five~~] one hundred or
43 more seats, and dressing rooms, storage areas, and other ancillary amen-
44 ities necessary for the qualified musical and theatrical production, and
45 (iii) for which receipts attributable to ticket sales constitute seven-
46 ty-five percent or more of gross receipts of the facility.

47 § 7. This act shall take effect immediately; provided that the amend-
48 ments to section 24-c of the tax law made by sections two, three, four,
49 five and six of this act shall not affect the repeal of such section and
50 shall be deemed repealed therewith.

51 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
52 sion, section or part of this act shall be adjudged by any court of
53 competent jurisdiction to be invalid, such judgment shall not affect,
54 impair, or invalidate the remainder thereof, but shall be confined in
55 its operation to the clause, sentence, paragraph, subdivision, section
56 or part thereof directly involved in the controversy in which such judg-

1 ment shall have been rendered. It is hereby declared to be the intent of
2 the legislature that this act would have been enacted even if such
3 invalid provisions had not been included herein.

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

7 PART J

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

18 SUBPART A

19 Section 1. Paragraph (b) of subdivision 38 of section 210-B of the tax
20 law, as amended by section 2 of part L of chapter 59 of the laws of
21 2022, is amended to read as follows:

22 (b) Definitions. The term "accessible by individuals with disabili-
23 ties" shall, for the purposes of this subdivision, refer to a vehicle
24 that complies with federal regulations promulgated pursuant to the Amer-
25 icans with Disabilities Act applicable to vans under twenty-two feet in
26 length, by the federal Department of Transportation, in Code of Federal
27 Regulations, title 49, parts 37 and 38[~~, and by the federal Architecture~~
28 ~~and Transportation Barriers Compliance Board, in Code of Federal Regu-~~
29 ~~lations, title 36, section 1192.23,~~] and the Federal Motor Vehicle Safe-
30 ty Standards, Code of Federal Regulations, title 49, part [57] 571. The
31 term "electric vehicle" shall, for the purposes of this subdivision,
32 have the same meaning as in section sixty-six-s of the public service
33 law.

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

37 (2) Definitions. The term "accessible by individuals with disabili-
38 ties" shall, for the purposes of this subsection, refer to a vehicle
39 that complies with federal regulations promulgated pursuant to the Amer-
40 icans with Disabilities Act applicable to vans under twenty-two feet in
41 length, by the federal Department of Transportation, in Code of Federal
42 Regulations, title 49, parts 37 and 38[~~, and by the federal Architecture~~
43 ~~and Transportation Barriers Compliance Board, in Code of Federal Regu-~~
44 ~~lations, title 36, section 1192.23,~~] and the Federal Motor Vehicle Safe-
45 ty Standards, Code of Federal Regulations, title [29] 49, part [57] 571.
46 The term "electric vehicle" shall, for the purposes of this subsection,
47 have the same meaning as in section sixty-six-s of the public service
48 law.

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

51 SUBPART B

1 Section 1. Paragraph 2 of subdivision (b) of section 21 of the tax
2 law, as amended by section 7 of part LL of chapter 58 of the laws of
3 2022, is amended to read as follows:

4 (2) Site preparation costs. The term "site preparation costs" shall
5 mean all amounts properly chargeable to a capital account, which are
6 paid or incurred which are necessary to implement a site's investi-
7 gation, remediation, or qualification for a certificate of completion,
8 and shall include costs of: excavation; demolition; activities undertak-
9 en under the oversight of the department of labor or in accordance with
10 standards established by the department of health to remediate and
11 dispose of regulated materials including asbestos, lead or polychlori-
12 nated biphenyls; environmental consulting; engineering; legal costs;
13 transportation, disposal, treatment or containment of contaminated soil;
14 remediation measures taken to address contaminated soil vapor; cover
15 systems consistent with applicable regulations; physical support of
16 excavation; dewatering and other work to facilitate or enable remedi-
17 ation activities; sheeting, shoring, and other engineering controls
18 required to prevent off-site migration of contamination from the quali-
19 fied site or migrating onto the qualified site; and the costs of fenc-
20 ing, temporary electric wiring, scaffolding, and security facilities
21 until such time as the certificate of completion has been issued. Site
22 preparation shall include all costs paid or incurred within sixty months
23 after the last day of the tax year in which the certificate of
24 completion is issued that are necessary for compliance with the certif-
25 icate of completion or subsequent modifications thereof, or the remedial
26 program defined in such certificate of completion including but not
27 limited to institutional controls, engineering controls, an approved
28 site management plan, and an environmental easement with respect to the
29 qualified site; provided, however, with respect to any qualified site
30 for which ~~[the department of environmental conservation has issued a~~
31 ~~notice to the taxpayer on or after July first, two thousand fifteen but~~
32 ~~on or before June twenty-fourth, two thousand twenty-one that its~~
33 ~~request for participation has been accepted under subdivision six of~~
34 ~~section 27-1407 of the environmental conservation law]~~ a certificate of
35 completion was issued on or after July first, two thousand fifteen but
36 on or before June twenty-fourth, two thousand twenty-one, site prepara-
37 tion shall include all costs paid or incurred within eighty-four months
38 after the last day of the tax year in which the certificate of
39 completion is issued that are necessary for compliance with the certif-
40 icate of completion or subsequent modifications thereof, or the remedial
41 program defined in such certificate of completion including but not
42 limited to institutional controls, engineering controls, an approved
43 site management plan, and an environmental easement with respect to the
44 qualified site, provided, however, with respect to any qualified site
45 located in cities with a population greater than two hundred five thou-
46 sand and less than two hundred fifteen thousand in counties with a popu-
47 lation greater than one million but less than one million ten thousand
48 based on the latest federal decennial census for which the department of
49 environmental conservation has issued a certificate of completion to the
50 taxpayer on or after March twentieth, two thousand ten and before Decem-
51 ber thirty-first, two thousand seventeen, this credit component shall be
52 allowed for up to one hundred eighty months after the date of the issu-
53 ance of such certificate of completion. Site preparation cost shall not
54 include the costs of foundation systems that exceed the cover system
55 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 twenty-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 March twentieth, two thousand ten 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.

§ 3. 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.

1 PART K

2 Intentionally Omitted

3 PART L

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

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

17 § 2. This act shall take effect immediately.

18 PART M

19 Intentionally Omitted

20 PART N

21 Intentionally Omitted

22 PART O

23 Intentionally Omitted

24 PART P

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

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

29 § 3. This act shall take effect immediately.

30 PART Q

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

33 4. Upon each sale of motor fuel, other than a sale that is otherwise
34 exempt under this article, the distributor must charge the tax imposed
35 by this article to the purchaser on each gallon sold. If the taxes
36 imposed by this article have not already been assumed or paid by a
37 distributor on any quantity of such fuel for any reason, including, but
38 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 operated by a participant in the "business enterprise program", as such term is defined in paragraph two of subdivision a of section eleven-a of chapter four hundred fifteen of the laws of nineteen hundred thirteen that accepts coin or currency only; or (ii) when sold for two dollars or less through any vending machine operated by such a participant 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

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

4 1. There is hereby imposed and shall be paid a tax on all cigarettes
5 possessed in the state by any person for sale, except that no tax shall
6 be imposed on cigarettes sold under such circumstances that this state
7 is without power to impose such tax, including sales to qualified Indi-
8 ans for their own use and consumption on their nations' or tribes' qual-
9 ified reservation, or sold to the United States or sold to or by a
10 voluntary unincorporated organization of the armed forces of the United
11 States operating a place for the sale of goods pursuant to regulations
12 promulgated by the appropriate executive agency of the United States, to
13 the extent provided in such regulations and policy statements of such an
14 agency applicable to such sales. The tax imposed by this section is
15 imposed on all cigarettes sold on an Indian reservation to non-members
16 of the Indian nation or tribe and to non-Indians and evidence of such
17 tax shall be by means of an affixed cigarette tax stamp. Indian nations
18 or tribes may elect to participate in the Indian tax exemption coupon
19 system established in section four hundred seventy-one-e of this article
20 which provides a mechanism for the collection of the tax imposed by this
21 section on cigarette sales on qualified reservations to such non-members
22 and non-Indians and for the delivery of quantities of tax-exempt ciga-
23 rettes to Indian nations or tribes for the personal use and consumption
24 of qualified members of the Indian nation or tribe. If an Indian nation
25 or tribe does not elect to participate in the Indian tax exemption
26 coupon system, the prior approval system shall be the mechanism for the
27 delivery of quantities of tax-exempt cigarettes to Indian nations or
28 tribes for the personal use and consumption of qualified members of the
29 Indian nation or tribe as provided for in paragraph (b) of subdivision
30 five of this section. Such tax on cigarettes shall be at the rate of
31 [~~four~~ five] dollars and thirty-five cents for each twenty cigarettes or
32 fraction thereof, provided, however, that if a package of cigarettes
33 contains more than twenty cigarettes, the rate of tax on the cigarettes
34 in such package in excess of twenty shall be one dollar and [~~eight~~
35 thirty-three] and three-quarters cents for each five cigarettes or frac-
36 tion thereof. Such tax is intended to be imposed upon only one sale of
37 the same package of cigarettes. It shall be presumed that all cigarettes
38 within the state are subject to tax until the contrary is established,
39 and the burden of proof that any cigarettes are not taxable hereunder
40 shall be upon the person in possession thereof.

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

43 § 471-a. Use tax on cigarettes. There is hereby imposed and shall be
44 paid a tax on all cigarettes used in the state by any person, except
45 that no tax shall be imposed (1) if the tax provided in section four
46 hundred seventy-one of this article is paid, (2) on the use of ciga-
47 rettes which are exempt from the tax imposed by said section, or (3) on
48 the use of four hundred or less cigarettes, brought into the state on,
49 or in the possession of, any person. Such tax on cigarettes shall be at
50 the rate of [~~four~~ five] dollars and thirty-five cents for each twenty
51 cigarettes or fraction thereof, provided, however, that if a package of
52 cigarettes contains more than twenty cigarettes, the rate of tax on the
53 cigarettes in such package in excess of twenty shall be one dollar and
54 [~~eight~~ thirty-three] and three-quarters cents for each five cigarettes
55 or fraction thereof. Within twenty-four hours after liability for the
56 tax accrues, each such person shall file with the commissioner a return

1 in such form as the commissioner may prescribe together with a remit-
2 tance of the tax shown to be due thereon. For purposes of this article,
3 the word "use" means the exercise of any right or power actual or
4 constructive and shall include but is not limited to the receipt, stor-
5 age or any keeping or retention for any length of time, but shall not
6 include possession for sale. All other provisions of this article if not
7 inconsistent shall apply to the administration and enforcement of the
8 tax imposed by this section in the same manner as if the language of
9 said provisions had been incorporated in full into this section.

10 § 3. Notwithstanding any other provision of law to the contrary, the
11 tax due on cigarettes possessed in New York state as of the close of
12 business on August 31, 2023, by any person for sale solely attributable
13 to the increase imposed by the amendments to section 471 of the tax law,
14 as amended by section one of this act, shall be paid by November 20,
15 2023, subject to such terms and conditions as the commissioner of taxa-
16 tion and finance shall prescribe.

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

20 PART T

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

23 4. (a) At the time of delivering cigarettes to any person each agent
24 or wholesale dealer, and at the time of delivering tobacco products to
25 any person each distributor or wholesale dealer of tobacco products,
26 shall make a true duplicate invoice showing the date of delivery, the
27 number of packages and number of cigarettes contained therein, in each
28 shipment of cigarettes delivered, and the items and quantity and whole-
29 sale price of each item in each shipment of tobacco products delivered,
30 and the name of the purchaser to whom delivery is made, and shall retain
31 the same for a period of three years subject to the use and inspection
32 of the commissioner [~~of taxation and finance~~]. Each dealer shall procure
33 and retain invoices showing the number of packages and number of ciga-
34 rettes contained therein, in each shipment of cigarettes received by him
35 or her, and the items and quantity and wholesale price of each item in
36 each shipment of tobacco products received by him or her, the date ther-
37 eof, and the name of the shipper, and shall retain the same for a period
38 of three years subject to the use and inspection of the commissioner [~~of~~
39 ~~taxation and finance~~]. The commissioner [~~of taxation and finance~~] by
40 regulation may provide that whenever cigarettes or tobacco products are
41 shipped into the state, the railroad company, express company, trucking
42 company or other public carrier transporting any shipment thereof shall
43 file with the commissioner [~~of taxation and finance~~] a copy of the
44 freight bill within ten days after the delivery in the state of each
45 shipment. All dealers shall maintain and keep for a period of three
46 years such other records of cigarettes or tobacco products received,
47 sold or delivered within the state as may be required by the commission-
48 er [~~of taxation and finance~~]. The commissioner [~~of taxation and finance~~]
49 is hereby authorized to examine the books, papers, invoices and other
50 records of any person in possession, control or occupancy of any prem-
51 ises where cigarettes or tobacco products are placed, stored, sold or
52 offered for sale, and the equipment of any such person pertaining to the
53 stamping of cigarettes or the sale and delivery of cigarettes or tobacco
54 products taxable under this article, as well as the stock of cigarettes

1 or tobacco products in any such premises or vehicle. To verify the accu-
2 racy of the tax imposed and assessed by this article, each such person
3 is hereby directed and required to give to the commissioner [~~of taxation~~
4 ~~and finance~~] or his or her duly authorized representatives, the means,
5 facilities and opportunity for such examinations as are herein provided
6 for and required.

7 (b) If a retail dealer, or its employees or agents, refuses to give
8 the commissioner or his or her duly authorized representatives, the
9 means, facilities and opportunity for such examinations as are required
10 and provided for by this section: (i) its registration to sell ciga-
11 rettes and tobacco products shall be revoked for a period of one year;
12 (ii) for a second such failure within a period of three years, its
13 registration shall be permanently revoked. If such retail dealer does
14 not possess a valid registration, either because it failed to obtain a
15 registration or its registration is suspended or revoked at the time of
16 such refusal, the retail dealer shall be subject to a penalty of up to
17 five thousand dollars for a first refusal and up to ten thousand dollars
18 for a second refusal within three years.

19 § 2. This act shall take effect immediately.

20 PART U

21 Intentionally Omitted

22 PART V

23 Intentionally Omitted

24 PART W

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

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

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

10 § 2. This act shall take effect immediately.

11 PART X

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

24 § 2. Prior to, and as a condition to the state initially providing
25 funds for the renovation of Belmont Park racetrack, the franchised
26 corporation shall enter into a repayment agreement with the state
27 authorizing and directing that a portion of the funds of the franchised
28 corporation dedicated for capital expenditures of the franchised corpo-
29 ration pursuant to paragraph 3 of subdivision f and paragraph 3 of
30 subdivision f-1 of section 1612 of the tax law shall be used to repay
31 the state for the funds provided by the state for the renovation of
32 Belmont Park racetrack, in accordance with the repayment agreement
33 between the state and the franchised corporation. Such agreement shall
34 further provide that:

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

42 (2) certain renovations shall be required by such agreement, including
43 but not limited to:

44 (i) a new grandstand consisting of at least two hundred fifty thousand
45 square feet;

46 (ii) at least forty acres of new, usable infield space;

47 (iii) at least one turf track and at least one synthetic track;
48 provided however, that at least one of such tracks shall be all-season
49 and capable of hosting races for the duration of the entire calendar
50 year;

51 (iv) at least four acres of green area for use by patrons;

52 (v) at least one commercial tunnel;

53 (vi) at least two pedestrian tunnels;

54 (vii) a minimum of one thousand five hundred parking spaces; and

(viii) new event and office facilities;

(3) subsequent to relinquishing to the state its leasehold interest in real property located in South Ozone Park, commonly known as Aqueduct Racetrack, the franchise corporation shall annually host a number of race days at Belmont Park racetrack that is equal to or exceeds the number of total race days hosted at Belmont Park racetrack and Aqueduct Racetrack in the year two thousand nineteen as determined by the gaming commission; provided however, that such threshold shall also require a minimum number of winter race days as determined by the gaming commission;

(4) the franchise oversight board established pursuant to section two hundred twelve of the racing, pari-mutuel wagering and breeding law shall require a project labor agreement for the renovations subject to the requirements of section two hundred thirteen of the racing, pari-mutuel wagering and breeding law;

(5) the gaming commission established pursuant to section one hundred two of the racing, pari-mutuel wagering and breeding law, in consultation with the division of minority and women business development in the department of economic development, shall establish goals substantially similar to articles fifteen-A and seventeen-B of the executive law for the utilization of minorities, women and service-disabled veterans in both construction jobs related to the renovations at Belmont Park racetrack and permanent and part-time jobs at Belmont Park racetrack. These goals may include, but shall not be limited to:

(i) a demonstration by the franchised corporation that it has made significant efforts to attract and retain minority, women, local, and service-disabled apprentices;

(ii) a demonstration by the franchised corporation that its contractors and subcontractors have committed to work with minority and women owned business enterprises pursuant to article fifteen-A of the executive law through joint ventures or subcontractor relationships;

(iii) estimates and specific goals provided by the franchised corporation for the utilization of minorities, women and service-disabled veterans on construction jobs and in permanent and part-time jobs at Belmont Park racetrack in substantial compliance with articles fifteen-A and seventeen-B of the executive law;

(iv) a commitment by the franchised corporation to establish an affirmative action program of equal opportunity by which it guarantees to provide equal opportunities to all employees in all employment categories, including minorities, women, and persons with disabilities;

(v) a commitment from the franchised corporation to partner with women, minority, and service-disabled veteran-owned businesses at Belmont Park racetrack in substantial compliance with articles fifteen-A and seventeen-B of the executive law; and

(vi) a plan of affirmative action established by the franchised corporation that shall promote diversity in its business model, financing, employment goals, and other social and economic equity roles at Belmont Park racetrack;

(6) the franchised corporation shall establish an affirmative action program of equal opportunity by which the applicant guarantees to provide equal employment opportunities to all employees, including minorities, women and persons with disabilities at the Belmont Park racetrack;

(7) the franchised corporation shall consult with the New York state energy research and development authority regarding the green energy infrastructure that is a component of the renovations at Belmont Park

1 racetrack, including without limitation the number of zero emissions
2 vehicle charging facilities that the authority finds sufficient, and the
3 franchised corporation shall strive to the extent practicable to ensure
4 the renovations result in a Belmont Park racetrack that is a net energy
5 producer;

6 (8) subsequent to relinquishing to the state its leasehold interest in
7 real property located in South Ozone Park, commonly known as Aqueduct
8 Racetrack, the franchised corporation shall maintain at Belmont Park
9 racetrack a number of full time equivalent jobs that is equal to or
10 greater than the total number of full time jobs existing at Aqueduct
11 Racetrack and Belmont Park racetrack in the year two thousand twenty-
12 three, as determined by the gaming commission;

13 (9) the franchise oversight board shall ensure that annual capital
14 expenditures at Saratoga racetrack and Belmont Park racetrack are
15 adequate to maintain their assets in a state of good repair, including
16 ensuring the continued health, safety and well-being of patrons, jock-
17 eys, backstretch personnel and the horses in their care; and

18 (10) such agreement shall be subject to approval of the gaming commis-
19 sion, the franchise oversight board and the director of the division of
20 budget; provided additionally, that the gaming commission shall publish
21 such agreement on the public-facing portion of its website. Such agree-
22 ment may be amended from time to time as agreed to by the state and the
23 franchised corporation; provided however, that such amendment must
24 comply with the provisions of this part. At any time prior to the
25 repayment of the state funds for the renovation of Belmont Park race-
26 track, the state may issue state personal income tax revenue bonds or
27 state sales tax revenue bonds. In the event of the issuance of such
28 bonds, the repayment agreement shall be revised to reflect the obli-
29 gation of the franchised corporation to fully repay the debt service
30 costs associated with such bonds.

31 § 3. Prior to, and as a condition of, the state initially providing
32 funds for the renovation of Belmont Park racetrack, the franchised
33 corporation shall also enter into an agreement with the state relin-
34 quishing to the state its leasehold interest in real property located in
35 South Ozone Park, commonly known as Aqueduct Racetrack, upon substantial
36 completion of the renovation of Belmont Park racetrack; provided howev-
37 er, that any subsequent transfer, disposal, sale or lease, hereinafter
38 "disposal", of such real property shall be subject to the following
39 restrictions and conditions:

40 1. such disposal shall be for the primary purpose of establishing a
41 mixed residential and non-residential use development or developments,
42 which shall include but not be limited to, creating affordable housing
43 developments whose compliance requirements meet or exceed those as
44 defined in article 2, chapter 3 section 23-154 of the zoning resolution
45 of the city of New York relating to the mandatory inclusionary housing
46 program as defined in article 2, chapter 3 section 23-90 of the zoning
47 resolution of the city of New York and section 3-119.7 of the adminis-
48 trative code of the city of New York;

49 2. such disposal shall be determined by a competitive bidding process
50 established by the commissioner of the division of housing and community
51 renewal in coordination with the New York city department of housing
52 preservation and development and housing and development corporation,
53 via a request for proposals issued no later than one year after the
54 franchised corporation relinquishes to the state its leasehold interest
55 in such real property;

1 3. the division of housing and community renewal shall hold at least
2 one public hearing prior to making a determination with regard to
3 disposal of such real property pursuant to the competitive bidding proc-
4 ess established by this act; provided however, that such public hearings
5 shall be subject to the provisions of article seven of the public offi-
6 cers law, and shall afford an opportunity for submission of public
7 comments;

8 4. (a) There shall be established a community advisory committee to
9 assess bids made in response to the request for proposals issued pursu-
10 ant to the competitive bidding process authorized by this section. The
11 committee shall consist of six members, one to be appointed by the
12 governor, one to be appointed by the senator representing the senate
13 district where the proposed affordable housing development is to be
14 located, one to be appointed by the assemblymember representing the
15 assembly district where the proposed affordable housing development is
16 to be located, one to be appointed by the borough president where the
17 affordable housing development is proposed to be located, one to be
18 appointed by the city councilmember representing the district where the
19 affordable housing development is proposed to be located, and one to be
20 appointed by the New York city mayor.

21 (b) The activities of the community advisory committee constituted
22 pursuant to this section shall be subject to the open meetings
23 provisions contained in article seven of the public officers law.

24 (c) The division of housing and community renewal may hire a consult-
25 ant to serve as a community consultant to assist and manage the communi-
26 ty advisory committee process. The division of housing and community
27 renewal or community consultant shall provide administrative support and
28 technical assistance for the establishment and activity of the community
29 advisory committee constituted pursuant to this subdivision.

30 (d) Prior to determination on any bid by the division of housing and
31 community renewal the following community advisory committee process
32 shall apply:

33 (i) upon issuance of the request for proposals, a community consultant
34 may be hired by the division of housing and community renewal to manage
35 the process and any other activities as determined by the division of
36 housing and community renewal;

37 (ii) entities interested in constructing affordable housing projects
38 pursuant to this section may submit a bid to the division of housing and
39 community renewal who shall provide such bid to the community consult-
40 ant;

41 (iii) the community consultant shall notify the division of housing
42 and community renewal of all bids and notify the appropriate appointing
43 authorities of their responsibility to submit appointments for the
44 community advisory committee established pursuant to this section;

45 (iv) the community consultant shall ensure the formation of the
46 committee, as necessary;

47 (v) upon notification, the appointing authority shall appoint their
48 respective appointees;

49 (vi) upon such committee's first meeting the respective appointees
50 shall elect by majority vote a committee chair;

51 (vii) the community consultant shall present the bids to the commit-
52 tee;

53 (viii) the committee shall review, solicit public comments and written
54 submissions of such comments, and hold public hearings;

55 (ix) upon a two-thirds vote, such committee shall issue a finding
56 either establishing public support approving or disapproving each bid;

1 (e) Following a two-thirds vote by such community advisory committee,
2 the following shall apply:

3 (i) upon notification of a finding of support in approval of a bid
4 following a two-thirds vote by such committee, the committee consultant
5 shall notify the applicant, board, and commission;

6 (ii) following such notification, the applicant must comply and
7 receive approval under the applicable state zoning requirements; and

8 (iii) the division of housing and community renewal shall not issue a
9 decision until the applicant presents evidence of compliance and
10 approval with all necessary state zoning requirements.

11 (f) After providing an adequate time period for applicants to submit
12 bids, and after the community advisory council has adequate time to
13 approve or disapprove all bids, the division of housing and community
14 renewal shall consider such bids and approve or disapprove such bids.

15 5. Notwithstanding the provisions of subdivisions one through four of
16 this section, any bid which proposes to establish a commercial gaming
17 facility on such real property shall be exclusively governed by the
18 provisions of part RR of chapter 56 of the laws of 2022; provided howev-
19 er, that in addition to the requirements set forth in part RR of chapter
20 56 of the laws of 2022, any such commercial gaming facility bid shall
21 include a mandatory inclusionary housing program affordable housing
22 component as established in this section; and provided further, that for
23 any such commercial gaming facility bid, the gaming facility location
24 board shall consult with the division of housing and community renewal
25 to ensure that the affordable housing requirements of this section are
26 adhered to by any such bid.

27 6. Such disposal shall be subject to legislative approval.

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

36 § 5. The opening paragraph of paragraph 3 of subdivision f of section
37 1612 of the tax law is designated subparagraph (i) and a new subpara-
38 graph (ii) is added to read as follows:

39 (ii) Notwithstanding subparagraph (i) of this paragraph, in the event
40 the state provides funds to the franchised corporation for the reno-
41 vation of Belmont Park racetrack, out of the amount payable to the fran-
42 chised corporation for capital expenditures pursuant to subparagraph (i)
43 of this paragraph during any state fiscal year, an amount pursuant to
44 the repayment agreement between the state and the franchised corporation
45 shall instead be deposited into the miscellaneous capital projects fund,
46 New York racing capital improvement fund as required to repay the state
47 for funds provided for the renovation of Belmont Park racetrack. Any
48 amount payable to the franchised corporation in any state fiscal year
49 for capital expenditures pursuant to subparagraph (i) of this paragraph
50 in excess of the amount pursuant to the repayment agreement between
51 the state and the franchised corporation shall be deposited pursuant to
52 subparagraph (i) of this paragraph. Once the state has been fully reim-
53 bursed for the costs related to the renovation of Belmont Park race-
54 track, this subparagraph shall no longer apply and subparagraph (i) of
55 this paragraph shall apply.

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

4 (ii) Notwithstanding subparagraph (i) of this paragraph, in the event
5 the state provides funds to the franchised corporation for the reno-
6 vation of Belmont Park racetrack, and in the event the amount deposited
7 pursuant to subparagraph (ii) of paragraph three of subdivision f of
8 this section is insufficient to make the required repayment pursuant to
9 such subparagraph during any state fiscal year, an amount payable to the
10 franchised corporation for capital expenditures pursuant to subparagraph
11 (i) of this paragraph shall instead be deposited into the miscellaneous
12 capital projects fund, New York racing capital improvement fund to the
13 extent necessary, when combined with the amount set forth in subpara-
14 graph (ii) of paragraph three of subdivision f of this section, to make
15 any required repayment of funds provided by the state related to the
16 renovation of Belmont Park racetrack during such fiscal year. Any amount
17 payable to the franchised corporation in any state fiscal year for capi-
18 tal expenditures pursuant to subparagraph (i) of this paragraph in
19 excess of the amount pursuant to the repayment agreement between the
20 state and the franchised corporation shall be deposited pursuant to
21 subparagraph (i) of this paragraph. Once the state has been fully reim-
22 bursed for such costs related to the renovation of Belmont Park race-
23 track, this subparagraph shall no longer apply and subparagraph (i) of
24 this paragraph shall apply.

25 § 7. The state comptroller is hereby authorized and directed to loan
26 money in accordance with the provisions set forth in subdivision 5 of
27 section 4 of the state finance law and the provisions of section two of
28 this act to the miscellaneous capital projects fund, New York racing
29 capital improvement fund.

30 § 8. 1. Notwithstanding any other provisions of law to the contrary,
31 the dormitory authority, the urban development corporation, and the New
32 York state thruway authority are hereby authorized to issue personal
33 income tax revenue bonds or notes or state sales tax revenue bonds or
34 notes in one or more series in an aggregate principal amount not to
35 exceed four hundred fifty-five million dollars (\$455,000,000) excluding
36 bonds or notes issued to pay costs of issuance of such bonds or notes
37 and bonds or notes issued to refund or otherwise repay such bonds or
38 notes previously issued, for the purpose of financing the renovation of
39 Belmont Park racetrack in accordance with the provisions of section two
40 of this act.

41 2. Notwithstanding any other provision of law to the contrary, in
42 order to assist the dormitory authority, urban development corporation,
43 and the New York state thruway authority in undertaking the financing
44 for the renovation of Belmont Park racetrack, the director of the budget
45 is hereby authorized to enter into one or more financing agreements with
46 the dormitory authority, the urban development corporation, and the New
47 York state thruway authority, upon such terms and conditions as the
48 director of the budget and the dormitory authority, the urban develop-
49 ment corporation and the New York state thruway authority agree, so as
50 to annually provide to the dormitory authority, the urban development
51 corporation, and the New York state thruway authority, in the aggregate,
52 a sum not to exceed the principal, interest, and related expenses
53 required for such bonds and notes. Any financing agreement entered into
54 pursuant to this section shall provide that the obligation of the state
55 to pay the amount therein provided shall not constitute a debt of the
56 state within the meaning of any constitutional or statutory provision

1 and shall be deemed executory only to the extent of monies available and
2 that no liability shall be incurred by the state beyond the monies
3 available for such purpose, subject to annual appropriation by the
4 legislature. Any such contract or any payments made or to be made there-
5 under may be assigned and pledged by the dormitory authority, the urban
6 development corporation, and the New York state thruway authority as
7 security for such bonds and notes, as authorized by this section.

8 § 9. Notwithstanding any law to the contrary, and in accordance with
9 section 4 of the state finance law and the provisions of section two of
10 this act, the comptroller is hereby authorized and directed in each
11 state fiscal year to transfer, upon request of the director of the budg-
12 et, up to the unencumbered balance or an amount up to twenty-five
13 million eight hundred thousand dollars (\$25,800,000) from the miscella-
14 neous capital projects fund, New York racing capital improvement fund to
15 the general fund.

16 § 10. This act shall take effect immediately.

17 PART Y

18 Section 1. Paragraph 1 of subdivision a of section 1612 of the tax
19 law, as amended by chapter 174 of the laws of 2013, is amended to read
20 as follows:

21 (1) sixty percent of the total amount for which tickets have been sold
22 for [~~a lawful lottery~~] the Quick Draw game [~~introduced on or after the~~
23 ~~effective date of this paragraph,~~] subject to [~~the following provisions:~~

24 ~~(A) such game shall be available only on premises occupied by licensed~~
25 ~~lottery sales agents, subject to the following provisions:~~

26 ~~(i) if the licensee does not hold a license issued pursuant to the~~
27 ~~alcoholic beverage control law to sell alcoholic beverages for consump-~~
28 ~~tion on the premises, then the premises must have a minimum square~~
29 ~~footage greater than two thousand five hundred square feet;~~

30 ~~(ii) notwithstanding the foregoing provisions, television equipment~~
31 ~~that automatically displays the results of such drawings may be~~
32 ~~installed and used without regard to the square footage if such premises~~
33 ~~are used as:~~

34 ~~(I) a commercial bowling establishment, or~~

35 ~~(II) a facility authorized under the racing, pari mutuel wagering and~~
36 ~~breeding law to accept pari mutuel wagers;~~

37 ~~(B) the~~] rules for the operation of such game [~~shall be~~] as prescribed
38 by regulations promulgated and adopted by the division, provided howev-
39 er, that such rules shall provide that no person under the age of twen-
40 ty-one may participate in such games on the premises of a licensee who
41 holds a license issued pursuant to the alcoholic beverage control law to
42 sell alcoholic beverages for consumption on the premises; and, provided,
43 further, that such regulations may be revised on an emergency basis not
44 later than ninety days after the enactment of this paragraph in order to
45 conform such regulations to the requirements of this paragraph; or

46 § 2. This act shall take effect immediately.

47 PART Z

48 Intentionally Omitted

49 PART AA

1 Section 1. Subdivision 2 of section 509-a of the racing, pari-mutuel
2 wagering and breeding law, as amended by section 1 of part DD of chapter
3 59 of the laws of 2022, is amended to read as follows:

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

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

25 c. Notwithstanding any other provision of law, rule or regulation to
26 the contrary, from April first, two thousand twenty-three to March thir-
27 ty-first, two thousand twenty-four, twenty-three percent of the funds,
28 not to exceed two and one-half million dollars, in the Catskill off-
29 track betting corporation's capital acquisition fund established pursu-
30 ant to this section, and twenty-three percent of the funds, not to
31 exceed four hundred forty thousand dollars, in the Capital off-track
32 betting corporation's capital acquisition fund established pursuant to
33 this section, shall be available to such off-track betting corporations
34 for the purposes of statutory obligations, payroll, and expenditures
35 necessary to accept authorized wagers.

36 d. Prior to a corporation being able to utilize the funds authorized
37 by ~~[paragraph]~~ paragraphs b and c of this subdivision, the corporation
38 must submit an expenditure plan to the gaming commission for review.
39 Such plan shall include the corporation's outstanding liabilities,
40 projected revenue for the upcoming year, a detailed explanation of how
41 the funds will be used, and any other information determined necessary
42 by the commission. Upon review, the commission will make a determination
43 as to whether access to the funds is needed and warranted.

44 § 2. This act shall take effect immediately.

45 PART BB

46 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the
47 racing, pari-mutuel wagering and breeding law, as amended by section 1
48 of part EE of chapter 59 of the laws of 2022, is amended to read as
49 follows:

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

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

50 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
51 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
52 section 2 of part EE of chapter 59 of the laws of 2022, is amended to
53 read as follows:

54 (iii) Of the sums retained by a receiving track located in Westchester
55 county on races received from a franchised corporation, for the period
56 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)

1 located in another state or foreign country, subject to the following
2 provisions; provided, however, no such written agreement shall be
3 required of a franchised corporation licensed in accordance with section
4 one thousand seven of this article:

5 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel
6 wagering and breeding law, as amended by section 6 of part EE of chapter
7 59 of the laws of 2022, is amended to read as follows:

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

24 § 7. Section 32 of chapter 281 of the laws of 1994, amending the
25 racing, pari-mutuel wagering and breeding law and other laws relating to
26 simulcasting, as amended by section 7 of part EE of chapter 59 of the
27 laws of 2022, is amended to read as follows:

28 § 32. This act shall take effect immediately and the pari-mutuel tax
29 reductions in section six of this act shall expire and be deemed
30 repealed on July 1, [~~2023~~] 2024; provided, however, that nothing
31 contained herein shall be deemed to affect the application, qualifica-
32 tion, expiration, or repeal of any provision of law amended by any
33 section of this act, and such provisions shall be applied or qualified
34 or shall expire or be deemed repealed in the same manner, to the same
35 extent and on the same date as the case may be as otherwise provided by
36 law; provided further, however, that sections twenty-three and twenty-
37 five of this act shall remain in full force and effect only until May 1,
38 1997 and at such time shall be deemed to be repealed.

39 § 8. Section 54 of chapter 346 of the laws of 1990, amending the
40 racing, pari-mutuel wagering and breeding law and other laws relating to
41 simulcasting and the imposition of certain taxes, as amended by section
42 8 of part EE of chapter 59 of the laws of 2022, is amended to read as
43 follows:

44 § 54. This act shall take effect immediately; provided, however,
45 sections three through twelve of this act shall take effect on January
46 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
47 ing law, as added by section thirty-eight of this act, shall expire and
48 be deemed repealed on July 1, [~~2023~~] 2024; and section eighteen of this
49 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
50 two of this act shall take effect as of the same date as chapter 772 of
51 the laws of 1989 took effect.

52 § 9. Paragraph (a) of subdivision 1 of section 238 of the racing,
53 pari-mutuel wagering and breeding law, as amended by section 9 of part
54 EE of chapter 59 of the laws of 2022, is amended to read as follows:

55 (a) The franchised corporation authorized under this chapter to
56 conduct pari-mutuel betting at a race meeting or races run thereat shall

1 distribute all sums deposited in any pari-mutuel pool to the holders of
2 winning tickets therein, provided such tickets are presented for payment
3 before April first of the year following the year of their purchase,
4 less an amount that shall be established and retained by such franchised
5 corporation of between twelve to seventeen percent of the total deposits
6 in pools resulting from on-track regular bets, and fourteen to twenty-
7 one percent of the total deposits in pools resulting from on-track
8 multiple bets and fifteen to twenty-five percent of the total deposits
9 in pools resulting from on-track exotic bets and fifteen to thirty-six
10 percent of the total deposits in pools resulting from on-track super
11 exotic bets, plus the breaks. The retention rate to be established is
12 subject to the prior approval of the commission.

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

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

46 § 10. This act shall take effect immediately.

47 PART CC

48 Intentionally Omitted

49 PART DD

50 Section 1. Paragraph (b) of subdivision 9 of section 208 of the tax
51 law is amended by adding a new subparagraph 28 to read as follows:

1 (28) the amount of gain excluded from federal gross income for the
2 taxable year by subparagraph (c) of paragraph (1) of subsection (a) of
3 section 1400Z-2 of the internal revenue code.

4 § 2. Subdivision 9 of section 208 of the tax law is amended by adding
5 a new paragraph (u) to read as follows:

6 (u) For tax years beginning on or after January first, two thousand
7 twenty-three, upon the sale or exchange of property with respect to
8 which the taxpayer has made the election under subparagraph (c) of para-
9 graph (1) of subsection (a) of section 1400Z-2 of the internal revenue
10 code, the basis of such property under this article shall be determined
11 as if the taxpayer had not made such election.

12 § 3. Subsection (b) of section 612 of the tax law is amended by adding
13 a new paragraph 44 to read as follows:

14 (44) the amount of gain excluded from federal gross income for the
15 taxable year by subparagraph (c) of paragraph (1) of subsection (a) of
16 section 1400Z-2 of the internal revenue code.

17 § 4. Section 612 of the tax law is amended by adding a new subsection
18 (y) to read as follows:

19 (y) Qualified opportunity zones. For tax years beginning on or after
20 January first, two thousand twenty-three, upon the sale or exchange of
21 property with respect to which the taxpayer has made the election under
22 subparagraph (c) of paragraph (1) of subsection (a) of section 1400Z-2
23 of the internal revenue code, the basis of such property under this
24 article shall be determined as if the taxpayer had not made such
25 election.

26 § 5. Paragraph 2 of subdivision (b) of section 1503 of the tax law is
27 amended by adding a new subparagraph (AA) to read as follows:

28 (AA) the amount of gain excluded from federal gross income for the
29 taxable year by subparagraph (c) of paragraph (1) of subsection (a) of
30 section 1400Z-2 of the internal revenue code.

31 § 6. Section 1503 of the tax law is amended by adding a new subdivi-
32 sion (d) to read as follows:

33 (d) For tax years beginning on or after January first, two thousand
34 twenty-three, upon the sale or exchange of property with respect to
35 which the taxpayer has made the election under subparagraph (c) of para-
36 graph (1) of subsection (a) of section 1400Z-2 of the internal revenue
37 code, the basis of such property under this article shall be determined
38 as if the taxpayer had not made such election.

39 § 7. Paragraph (a) of subdivision 8 of section 11-602 of the adminis-
40 trative code of the city of New York is amended by adding a new subpara-
41 graph 17 to read as follows:

42 (17) the amount of gain excluded from federal gross income for the
43 taxable year by subparagraph (c) of paragraph (1) of subsection (a) of
44 section 1400Z-2 of the internal revenue code.

45 § 8. Section 11-602 of the administrative code of the city of New York
46 is amended by adding a new subdivision 11 to read as follows:

47 11. For tax years beginning on or after January first, two thousand
48 twenty-three, upon the sale or exchange of property with respect to
49 which the taxpayer has made the election under subparagraph (c) of para-
50 graph (1) of subsection (a) of section 1400Z-2 of the internal revenue
51 code, the basis of such property under this article shall be determined
52 as if the taxpayer had not made such election.

53 § 9. Paragraph (a) of subdivision 8 of section 11-652 of the adminis-
54 trative code of the city of New York is amended by adding a new subpara-
55 graph 18 to read as follows:

(18) the amount of gain excluded from federal gross income for the taxable year by subparagraph (c) of paragraph (1) of subsection (a) of section 1400Z-2 of the internal revenue code.

§ 10. Subdivision 8 of section 11-652 of the administrative code of the city of New York is amended by adding a new paragraph (u) to read as follows:

(u) For tax years beginning on or after January first, two thousand twenty-three, upon the sale or exchange of property with respect to which the taxpayer has made the election under subparagraph (c) of paragraph (1) of subsection (a) of section 1400Z-2 of the internal revenue code, the basis of such property under this article shall be determined as if the taxpayer had not made such election.

§ 11. Subdivision (b) of section 11-1712 of the administrative code of the city of New York is amended by adding a new paragraph 40 to read as follows:

(40) the amount of gain excluded from federal gross income for the taxable year by subparagraph (c) of paragraph (1) of subsection (a) of section 1400Z-2 of the internal revenue code.

§ 12. Section 11-1712 of the administrative code of the city of New York is amended by adding a new subdivision (w) to read as follows:

(w) For tax years beginning on or after January first, two thousand twenty-three, upon the sale or exchange of property with respect to which the taxpayer has made the election under subparagraph (c) of paragraph (1) of subsection (a) of section 1400Z-2 of the internal revenue code, the basis of such property under this article shall be determined as if the taxpayer had not made such election.

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

PART EE

Section 1. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 503-b to read as follows:

§ 503-b. Promotional spending restricted from corporation associates. No regional off-track betting corporation or any subsidiary wholly or partially controlled by such regional off-track betting corporation, including but not limited to video lottery terminal facilities, shall make available to any board member, officer, or employee of the corporation, any contractor, subcontractor, consultant, or other agent of the corporation, or any spouse, child, sibling or parent residing in the principal place of abode of any of the foregoing persons, or any business, professional, or personal associates of any of the foregoing persons, any event tickets, beverages, food, or other thing of value that exceeds a value of fifteen dollars, except as otherwise explicitly provided in this chapter. This limitation shall apply, but not be limited to, the marketing plan and promotional activities of the corporation. All promotional and marketing activities of the corporation shall be subject to approval and oversight by the gaming commission, which shall ensure that such marketing plan and activities of the corporation prohibit self-dealing.

§ 2. Section 517 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:

§ 517. Annual reports. In addition to the reports required by article five-a of this chapter, within one hundred twenty days after the end of the fiscal year of the corporation, the directors thereof shall submit

1 to the participating counties, the commission, the temporary president
2 of the senate, the speaker of the assembly, and the state comptroller a
3 complete and detailed audited report setting forth:

4 1. its operations and accomplishments during such fiscal year;

5 2. its receipts and expenditures during such fiscal year in accordance
6 with categories or classifications established by the corporation for
7 its own operating and capital outlay purposes;

8 3. its assets and liabilities at the end of such fiscal year including
9 a schedule of its bonds, notes or other obligations and the status of
10 reserves, depreciations, special, sinking or other funds;

11 4. details of branch offices being planned or in the process of being
12 constructed or otherwise established and branch offices that have been
13 constructed or established;

14 5. details of its marketing and promotional plans, the structure of
15 such plans, any spending pursuant to such plans, and how such plans have
16 or are anticipated to benefit the operations and financial position of
17 the corporation, as well as any measures taken to prohibit self-dealing
18 in conflict of section five hundred three-b of this article; and

19 [5] 6. such other information relating to the operations of the corpo-
20 ration as shall be deemed pertinent by the directors, the participating
21 counties, the commission, and the state comptroller.

22 § 3. This act shall take effect on the sixtieth day after it shall
23 have become a law.

24 PART FF

25 Section 1. The racing, pari-mutuel wagering and breeding law is
26 amended by adding a new section 503-c to read as follows:

27 § 503-c. Prohibition on take-home vehicles. 1. No regional off-track
28 betting corporation shall issue to any board member, officer, or employ-
29 ee of such corporation, any contractor, subcontractor, consultant, or
30 other agent of such corporation, or any spouse, child, sibling or parent
31 residing in the principal place of abode of any of such foregoing
32 persons a motor vehicle. All motor vehicles leased, owned or otherwise
33 controlled by such corporation shall be returned to corporation property
34 when not being used for official business of such corporation.

35 2. Notwithstanding subdivision one of this section, a regional off-
36 track betting corporation shall be allowed to issue take-home vehicles
37 to employees and officers provided such corporation has a written policy
38 on take-home vehicles that is compliant with the office of the state
39 comptroller rules and regulations, that such written policy has been
40 approved by the gaming commission, and such policy and records related
41 to such written policy are subject to random audits conducted by the
42 gaming commission.

43 § 2. This act shall take effect on the sixtieth day after it shall
44 have become a law.

45 PART GG

46 Section 1. The racing, pari-mutuel wagering and breeding law is
47 amended by adding a new section 502-a to read as follows:

48 § 502-a. Special provisions with regard to the western regional off-
49 track betting corporation. Notwithstanding any inconsistent provision of
50 this article, on the effective date of this section the term of each
51 board member of the western regional off-track betting corporation, or
52 any vacant position, shall be deemed expired, and each such board member

or vacant position shall be replaced with the new appointments made pursuant to this section. The western off-track betting corporation board of directors shall be composed of fifteen members to be appointed as follows: three members to represent the counties of Monroe, Wyoming, and Orleans; one member to represent the counties of Chautauqua, Cayuga, Genesee, Livingston, Schuyler, and Seneca; four members to represent Erie county; one member to represent Niagara county; one member to represent the counties of Oswego, Cattaraugus, and Wayne; one member to represent the city of Buffalo; one member to represent the city of Rochester; one member appointed by the governor; one member appointed by the temporary president of the senate; and one member appointed by the speaker of the assembly. In the case of counties making joint appointments, such counties shall collaborate to select board members and shall appoint such members through joint resolutions passed by such counties' county legislature or board of supervisors.

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law, provided, however, that effective immediately municipalities may take any action necessary to begin the selection and appointment process for new board member terms pursuant to this act.

PART HH

Section 1. Subsection (g-1) of section 606 of the tax law, as amended by chapter 378 of the laws of 2005, paragraphs 1 and 2 as amended by chapter 375 of the laws of 2012, paragraph 3 as amended, paragraph 5 as added, and paragraphs 6, 7 and 8 as renumbered by chapter 128 of the laws of 2007, is amended to read as follows:

(g-1) Solar energy system equipment credit. (1) General. An individual taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty-five percent of qualified solar energy system equipment expenditures, except as provided in subparagraph (D) of paragraph two of this subsection. This credit shall not exceed three thousand seven hundred fifty dollars for qualified solar energy equipment placed in service before September first, two thousand six, ~~and~~ five thousand dollars for qualified solar energy equipment placed in service on or after September first, two thousand six and before April first, two thousand twenty-three, and ten thousand dollars for qualified solar energy equipment placed in service on or after April first, two thousand twenty-three.

(2) Qualified solar energy system equipment expenditures. (A) The term "qualified solar energy system equipment expenditures" means expenditures for:

(i) the purchase of solar energy system equipment which is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as his or her principal residence at the time the solar energy system equipment is placed in service;

(ii) the lease of solar energy system equipment under a written agreement that spans at least ten years where such equipment owned by a person other than the taxpayer is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as his or her principal residence at the time the solar energy system equipment is placed in service; or

(iii) the purchase of power under a written agreement that spans at least ten years whereunder the power purchased is generated by solar energy system equipment owned by a person other than the taxpayer which

1 is installed in connection with residential property which is (I)
2 located in this state and (II) which is used by the taxpayer as his or
3 her principal residence at the time the solar energy system equipment is
4 placed in service.

5 (B) Such qualified expenditures shall include expenditures for materi-
6 als, labor costs properly allocable to on-site preparation, assembly and
7 original installation, architectural and engineering services, and
8 designs and plans directly related to the construction or installation
9 of the solar energy system equipment.

10 (C) Such qualified expenditures for the purchase of solar energy
11 system equipment shall not include interest or other finance charges.

12 (D) Such qualified expenditures for the lease of solar energy system
13 equipment or the purchase of power under an agreement described in
14 clauses (ii) or (iii) of subparagraph (A) of this paragraph shall
15 include an amount equal to all payments made during the taxable year
16 under such agreement. Provided, however, such credits shall only be
17 allowed for fourteen years after the first taxable year in which such
18 credit is allowed. Provided further, however, the twenty-five percent
19 limitation in paragraph one of this subsection shall only apply to the
20 total aggregate amount of all payments to be made pursuant to an agree-
21 ment referenced in clauses (ii) or (iii) of subparagraph (A) of this
22 paragraph, and shall not apply to individual payments made during a
23 taxable year under such agreement except to the extent such limitation
24 on an aggregate basis has been reached.

25 (3) Solar energy system equipment. The term "solar energy system
26 equipment" shall mean an arrangement or combination of components
27 utilizing solar radiation, which, when installed in a residence, produc-
28 es and stores energy designed to provide heating, cooling, hot water or
29 electricity for use in such residence. Such arrangement or components
30 shall not include equipment connected to solar energy system equipment
31 that is a component of part or parts of a non-solar energy system or
32 which uses any sort of recreational facility or equipment as a storage
33 medium. Solar energy system equipment that generates and stores elec-
34 tricity for use in a residence must conform to applicable requirements
35 set forth in section sixty-six-j of the public service law. Provided,
36 however, where solar energy system equipment is purchased and installed
37 by a condominium management association or a cooperative housing corpo-
38 ration, for purposes of this subsection only, the term "ten kilowatts"
39 in such section sixty-six-j shall be read as [~~"fifty"~~] "ten kilowatts
40 multiplied by the number of owner-occupied units in the cooperative or
41 condominium management association."

42 (4) Multiple taxpayers. Where solar energy system equipment is
43 purchased and installed in a principal residence shared by two or more
44 taxpayers, the amount of the credit allowable under this subsection for
45 each such taxpayer shall be prorated according to the percentage of the
46 total expenditure for such solar energy system equipment contributed by
47 each taxpayer.

48 (5) Proportionate share. Where solar energy system equipment is
49 purchased and installed by a condominium management association or a
50 cooperative housing corporation, a taxpayer who is a member of the
51 condominium management association or who is a tenant-stockholder in the
52 cooperative housing corporation may for the purpose of this subsection
53 claim a proportionate share of the total expense as the expenditure for
54 the purposes of the credit attributable to [~~his~~] their principal resi-
55 dence.

(6) Grants. For purposes of determining the amount of the expenditure incurred in purchasing and installing solar energy system equipment, the amount of any federal, state or local grant received by the taxpayer, which was used for the purchase and/or installation of such equipment and which was not included in the federal gross income of the taxpayer, shall not be included in the amount of such expenditures.

(7) When credit allowed. The credit provided for herein shall be allowed with respect to the taxable year, commencing after nineteen hundred ninety-seven, in which the solar energy system equipment is placed in service.

(8) Carryover of credit. If the amount of the credit, and carryovers of such credit, allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, such excess amount may be carried over to the five taxable years next following the taxable year with respect to which the credit is allowed and may be deducted from the taxpayer's tax for such year or years. In lieu of carrying over any such excess, a taxpayer who qualifies as an owner of a new business as defined in paragraph ten of subsection (a) of this section may, at their option, 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.

§ 2. Paragraph 1 of subsection (g-4) of section 606 of the tax law, as added by section 1 of part FF of chapter 59 of the laws of 2022, is amended to read as follows:

(1) General. An individual taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty-five percent of qualified geothermal energy system expenditures, except as provided in subparagraph (D) of paragraph two of this subsection, not to exceed five thousand dollars for taxable years beginning on or before January first, two thousand twenty-two and not to exceed ten thousand dollars for taxable years beginning on and after January first, two thousand twenty-three.

§ 3. Paragraph 9 of subsection (g-4) of section 606 of the tax law, as added by section 1 of part FF of chapter 59 of the laws of 2022, is amended to read as follows:

(9) Carryover of credit. If the amount of the credit, and carryovers of such credit, allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, such excess amount may be carried over to the five taxable years next following the taxable year with respect to which the credit is allowed and may be deducted from the taxpayer's tax for such year or years. For taxable years beginning on or after January first, two thousand twenty-three, in lieu of carrying over any such excess, a taxpayer who qualifies as an owner of a new business as defined in paragraph ten of subsection (a) of this section may, at their option, 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.

§ 4. This act shall take effect immediately.

PART II

Section 1. Article 20-B of the tax law is REPEALED.

§ 2. Section 89-h of the state finance law is REPEALED.

§ 3. This act shall take effect May 1, 2023.

1

PART JJ

2 Section 1. Paragraph 1 of subsection (c-1) of section 606 of the tax
3 law, as amended by section 1 of part P of chapter 59 of the laws of
4 2018, is amended to read as follows:

5 (1) A resident taxpayer shall be allowed a credit as provided herein
6 equal to the greater of one hundred dollars times the number of qualify-
7 ing children of the taxpayer or the applicable percentage of the child
8 tax credit allowed the taxpayer under section twenty-four of the inter-
9 nal revenue code for the same taxable year for each qualifying child.
10 Provided, however, in the case of a taxpayer whose federal adjusted
11 gross income exceeds the applicable threshold amount set forth by
12 section 24(b)(2) of the Internal Revenue Code, the credit shall only be
13 equal to the applicable percentage of the child tax credit allowed the
14 taxpayer under section 24 of the Internal Revenue Code for each qualify-
15 ing child. For the purposes of this subsection, a qualifying child shall
16 be a child who meets the definition of qualified child under section
17 24(c) of the internal revenue code [~~and is at least four years of age~~].
18 The applicable percentage shall be thirty-three percent. For purposes of
19 this subsection, any reference to section 24 of the Internal Revenue
20 Code shall be a reference to such section as it existed immediately
21 prior to the enactment of Public Law 115-97.

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

24

PART KK

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

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

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

51 § 2. Nothing in this act shall be deemed to modify or restrict the
52 application of paragraph (a), (b), (c), (d), (e), (f) or (g) of subdivi-

sion 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.

PART LL

Section 1. Clause (vi) of subparagraph (B) of paragraph 1 of subsection (a) of section 601 of the tax law, as amended by section 1 of subpart A of part A of chapter 59 of the laws of 2022, is amended to read as follows:

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

If the New York taxable income is:	The tax is:
Not over \$17,150	4% of the New York taxable income
Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over \$17,150
Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over \$23,600
Over \$27,900 but not over \$161,550	\$1,202 plus 5.5% of excess over \$27,900
Over \$161,550 but not over \$323,200	\$8,553 plus 6.00% of excess over \$161,550
Over \$323,200 but not over \$2,155,350	\$18,252 plus 6.85% of excess over \$323,200
Over \$2,155,350 but not over \$5,000,000	\$143,754 plus 9.65% of excess over \$2,155,350
Over \$5,000,000 but not over \$25,000,000	\$418,263 plus 10.30 <u>10.80</u> % of excess over \$5,000,000
Over \$25,000,000	\$ 2,478,263 <u>2,578,263</u> plus 10.90 <u>11.40</u> % of excess over \$25,000,000

§ 2. Clause (vi) of subparagraph (B) of paragraph 1 of subsection (b) of section 601 of the tax law, as amended by section 2 of subpart A of part A of chapter 59 of the laws of 2022, is amended to read as follows:

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

If the New York taxable income is:	The tax is:
Not over \$12,800	4% of the New York taxable income
Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over \$12,800
Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over \$17,650
Over \$20,900 but not over \$107,650	\$901 plus 5.5% of excess over \$20,900
Over \$107,650 but not over \$269,300	\$5,672 plus 6.00% of excess over \$107,650
Over \$269,300 but not over \$1,616,450	\$15,371 plus 6.85% of excess over \$269,300
Over \$1,616,450 but not over \$5,000,000	\$107,651 plus 9.65% of excess over \$1,616,450
Over \$5,000,000 but not over	\$434,163 plus 10.30 <u>10.80</u> % of excess over \$5,000,000

1 of excess over \$5,000,000
 2 \$25,000,000
 3 Over \$25,000,000 \$[~~2,494,163~~] 2,594,163 plus
 4 [~~10.90~~] 11.40% of excess
 5 over \$25,000,000

6 § 3. Clause (vi) of subparagraph (B) of paragraph 1 of subsection (c)
 7 of section 601 of the tax law, as amended by section 3 of subpart A of
 8 part A of chapter 59 of the laws of 2022, is amended to read as follows:

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

11 If the New York taxable income is:	The tax is:
12 Not over \$8,500	4% of the New York taxable income
13 Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
14	\$8,500
15 Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
16	\$11,700
17 Over \$13,900 but not over \$80,650	\$600 plus 5.50% of excess over
18	\$13,900
19 Over \$80,650 but not over \$215,400	\$4,271 plus 6.00% of excess over
20	\$80,650
21 Over \$215,400 but not over	\$12,356 plus 6.85% of excess over
22 \$1,077,550	\$215,400
23 Over \$1,077,550 but not over	\$71,413 plus 9.65% of excess over
24 \$5,000,000	\$1,077,550
25 Over \$5,000,000 but not over	\$449,929 plus [10.30] <u>10.80</u> %
26	of excess over
27 \$25,000,000	\$5,000,000
28 Over \$25,000,000	\$[2,509,929] <u>2,609,929</u> plus
29	[10.90] <u>11.40</u> % of excess over
30	\$25,000,000

31 § 4. Subsection (d-4) of section 601 of the tax law, as added by
 32 section 3 of subpart B of part A of chapter 59 of the laws of 2022, is
 33 amended to read as follows:

34 (d-4) Alternative tax table benefit recapture. Notwithstanding the
 35 provisions of subsection (d), (d-1), (d-2) or (d-3) of this section, for
 36 taxable years beginning on or after two thousand twenty-three and before
 37 two thousand twenty-eight, there is hereby imposed a supplemental tax in
 38 addition to the tax imposed under subsections (a), (b) and (c) of this
 39 section for the purpose of recapturing the benefit of the tax tables
 40 contained in such subsections. During these taxable years, any reference
 41 in this chapter to subsection (d), (d-1), (d-2) or (d-3) of this section
 42 shall be read as a reference to this subsection.

43 (1) For resident married individuals filing joint returns and resident
 44 surviving spouses:

45 (A) If New York adjusted gross income is greater than \$107,650, but
 46 not over \$25,000,000:

47 (i) the recapture base and incremental benefit shall be determined by
 48 New York taxable income as follows:

49 Greater than	Not over	Recapture Base	Incremental Benefit
50 \$27,900	\$161,550	\$0	\$333
51 \$161,550	\$323,200	\$333	\$807
52 \$323,200	\$2,155,350	\$1,140	\$2,747
53 \$2,155,350	\$5,000,000	\$3,887	\$60,350
54 \$5,000,000	\$25,000,000	\$64,237	\$32,500

(ii) the applicable amount shall be determined by New York taxable income as follows:

Greater than	Not over	Applicable Amount
\$27,900	\$161,550	New York adjusted gross income minus \$107,650
\$161,550	\$323,200	New York adjusted gross income minus \$161,550
\$323,200	\$2,155,350	New York adjusted gross income minus \$323,200
\$2,155,350	\$5,000,000	New York adjusted gross income minus \$2,155,350
\$5,000,000	\$25,000,000	New York adjusted gross income minus \$5,000,000

(iii) the phase-in fraction shall be a fraction, the numerator of which shall be the lesser of fifty thousand dollars or the applicable amount and the denominator of which shall be fifty thousand dollars; and

(iv) the supplemental tax due shall equal the sum of the recapture base and the product of (i) the incremental benefit and (ii) the phase-in fraction. Provided, however, that if the New York taxable income of the taxpayer is less than twenty-seven thousand nine hundred dollars, the supplemental tax shall equal the difference between the product of 5.50 percent and New York taxable income and the tax table computation on the New York taxable income set forth in paragraph one of subsection (a) of this section, multiplied by a fraction, the numerator of which is the lesser of fifty thousand dollars or New York adjusted gross income minus one hundred seven thousand six hundred fifty dollars, and the denominator of which is fifty thousand dollars.

(B) If New York adjusted gross income is greater than twenty-five million dollars, the supplemental tax due shall equal the difference between the product of ~~10.90~~ 11.40 percent and New York taxable income and the tax table computation on the New York taxable income set forth in paragraph one of subsection (a) of this section.

(2) For resident heads of households:

(A) If New York adjusted gross income is greater than \$107,650, but not over \$25,000,000:

(i) the recapture base and incremental benefit shall be determined by New York taxable income as follows:

Greater than	Not over	Recapture Base	Incremental Benefit
\$107,650	\$269,300	\$0	\$787
\$269,300	\$1,616,450	\$787	\$2,289
\$1,616,450	\$5,000,000	\$3,076	\$45,261
\$5,000,000	\$25,000,000	\$48,337	\$32,500

(ii) the applicable amount shall be determined by New York taxable income as follows:

Greater than	Not over	Applicable Amount
\$107,650	\$269,300	New York adjusted gross income minus \$107,650
\$269,300	\$1,616,450	New York adjusted gross income minus \$269,300
\$1,616,450	\$5,000,000	New York adjusted gross income minus \$1,616,450
\$5,000,000	\$25,000,000	New York adjusted gross income minus \$5,000,000

(iii) the phase-in fraction shall be a fraction, the numerator of which shall be the lesser of fifty thousand dollars or the applicable amount and the denominator of which shall be fifty thousand dollars; and

(iv) the supplemental tax due shall equal the sum of the recapture base and the product of (i) the incremental benefit and (ii) the phase-in fraction. Provided, however, that if the New York taxable income of the taxpayer is less than one hundred seven thousand six hundred fifty dollars, the supplemental tax shall equal the difference between the product of 6.00 percent and New York taxable income and the tax table computation on the New York taxable income set forth in paragraph one of subsection (b) of this section, multiplied by a fraction, the numerator of which is the lesser of fifty thousand dollars or New York adjusted

gross income minus one hundred seven thousand six hundred fifty dollars, and the denominator of which is fifty thousand dollars.

(B) If New York adjusted gross income is greater than twenty-five million dollars, the supplemental tax due shall equal the difference between the product of ~~10.90~~ 11.40 percent and New York taxable income and the tax table computation on the New York taxable income set forth in paragraph one of subsection (b) of this section.

(3) For resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts:

(A) If New York adjusted gross income is greater than \$107,650, but not over \$25,000,000:

(i) the recapture base and incremental benefit shall be determined by New York taxable income as follows:

Greater than	Not over	Recapture Base	Incremental Benefit
\$80,650	\$215,400	\$0	\$568
\$215,400	\$1,077,550	\$568	\$1,831
\$1,077,550	\$5,000,000	\$2,399	\$30,172
\$5,000,000	\$25,000,000	\$32,571	\$32,500

(ii) the applicable amount shall be determined by New York taxable income as follows:

Greater than	Not over	Applicable Amount
\$80,650	\$215,400	New York adjusted gross income minus \$107,650
\$215,400	\$1,077,550	New York adjusted gross income minus \$215,400
\$1,077,550	\$5,000,000	New York adjusted gross income minus \$1,077,550
\$5,000,000	\$25,000,000	New York adjusted gross income minus \$5,000,000

(iii) the phase-in fraction shall be a fraction, the numerator of which shall be the lesser of fifty thousand dollars or the applicable amount and the denominator of which shall be fifty thousand dollars; and

(iv) the supplemental tax due shall equal the sum of the recapture base and the product of (i) the incremental benefit and (ii) the phase-in fraction. Provided, however, that if the New York taxable income of the taxpayer is less than eighty thousand six hundred fifty dollars, the supplemental tax shall equal the difference between the product of 6.00 percent and New York taxable income and the tax table computation on the New York taxable income set forth in paragraph one of subsection (c) of this section, multiplied by a fraction, the numerator of which is the lesser of fifty thousand dollars or New York adjusted gross income minus one hundred seven thousand six hundred fifty dollars, and the denominator of which is fifty thousand dollars.

(B) If New York adjusted gross income is greater than twenty-five million dollars, the supplemental tax due shall equal the difference between the product of ~~10.90~~ 11.40 percent and New York taxable income and the tax table computation on the New York taxable income set forth in paragraph one of subsection (c) of this section.

§ 5. This act shall take effect immediately.

PART MM

Section 1. Subsection (d) of section 606 of the tax law is amended by adding two new paragraphs 9 and 10 to read as follows:

(9) Taxpayers utilizing a federal individual taxpayer identification number. For taxable years beginning on or after January first, two thousand twenty-three, a taxpayer filing using a federal individual taxpayer identification number who otherwise meets all other eligibility requirements established for the earned income credit allowed under section thirty-two of the internal revenue code shall be allowed a credit

provided herein equal to (A) the applicable percentage of the earned income credit allowed under section thirty-two of the internal revenue code for the same taxable year, (B) reduced by the credit permitted under subsection (b) of this section. The credit for taxpayers utilizing a federal individual taxpayer identification number shall be allocated in the same manner as the credit for comparable taxpayers utilizing a social security number. A federal individual taxpayer identification number or a social security number must be provided for each spouse in the case of a couple filing jointly or separately and for each child in order to be eligible for the credit. A taxpayer utilizing a federal individual taxpayer identification number is required, upon the request from the department, to provide (i) identifying documents acceptable for purposes of obtaining a New York driver's license as authorized by subdivisions one and seven of section five hundred two of the vehicle and traffic law and related regulations adopted for purposes of establishing documents acceptable to prove identity and (ii) identifying documents used to report earned income for the taxable year. Upon receiving a valid social security number issued to that taxpayer by the Social Security Administration, the taxpayer shall notify the department, in the time and manner prescribed by the department.

(10) For tax year two thousand twenty-two, the commissioner shall issue a payment of a supplemental earned income tax credit to resident taxpayers in the amount of twenty-five percent of the earned income tax credit calculated and allowed pursuant to this subsection. Such payment shall be allowed to resident taxpayers who timely filed returns pursuant to section six hundred fifty-one of this article, determined with regard to extensions pursuant to section six hundred fifty-seven of this article. Provided, however, that no payment shall be issued if it is less than twenty-five dollars.

§ 2. Subsection (d-1) of section 606 of the tax law is amended by adding two new paragraphs 10 and 11 to read as follows:

(10) Taxpayers utilizing a federal individual taxpayer identification number. For taxable years beginning on or after January first, two thousand twenty-three, a taxpayer described in paragraph two of this subsection filing using a federal individual taxpayer identification number who otherwise meets all other eligibility requirements established for the earned income credit allowed under section thirty-two of the internal revenue code shall be allowed a credit provided herein equal to (A) the applicable percentage of the earned income credit allowed under section thirty-two of the internal revenue code for the same taxable year, (B) reduced by the credit permitted under subsection (b) of this section. The credit for taxpayers utilizing a federal individual taxpayer identification number shall be allocated in the same manner as the credit for comparable taxpayers utilizing a social security number. A federal individual taxpayer identification number or a social security number must be provided for each spouse in the case of a couple filing jointly or separately and for each child in order to be eligible for the credit. A taxpayer utilizing a federal individual taxpayer identification number is required, upon the request from the department, to provide (i) identifying documents acceptable for purposes of obtaining a New York driver's license as authorized by subdivisions one and seven of section five hundred two of the vehicle and traffic law and related regulations adopted for purposes of establishing documents acceptable to prove identity and (ii) identifying documents used to report earned income for the taxable year. Upon receiving a valid social security number issued to that taxpayer by the Social Security Adminis-

1 tration, the taxpayer shall notify the department, in the time and
2 manner prescribed by the department.

3 (11) For tax year two thousand twenty-two, the commissioner shall
4 issue a payment of a supplemental enhanced earned income tax credit in
5 the amount of twenty-five percent of the enhanced earned income tax
6 credit calculated and allowed pursuant to this subsection. Such payment
7 shall be allowed to taxpayers who timely filed returns pursuant to
8 section six hundred fifty-one of this article, determined with regard to
9 extensions pursuant to section six hundred fifty-seven of this article.
10 Provided, however, that no payment shall be issued if it is less than
11 twenty-five dollars.

12 § 3. This act shall take effect immediately.

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

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