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.

LBD12574-03-3

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

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

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

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

percent and the 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

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

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

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

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

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

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

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

(6) For the period two thousand fifteen through two thousand [~~twenty-nine~~] **thirty-four**, in addition to the amount of credit established in paragraph two of this subdivision, **for taxable years on or before two thousand twenty-three** a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, [~~music directors~~] **composers**, producers and performers, including background actors with no scripted lines) for services performed by those individuals**, and for taxable years two thousand twenty-four through two thousand thirty-four a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the 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 the post production work on a qualified film with a minimum budget of five hundred thousand dollars at a qualified post production facility in one of the counties listed in this paragraph. For purposes of this additional credit, the services must be performed **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 empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. Such aggregate amount of credits shall be allocated by the [~~governor's office for motion picture and television~~] department of economic development among taxpayers in order of priority based upon the date of filing an application for allocation of post production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than [~~five million dollars~~] the aggregate amount pursuant to the authority of this paragraph for the taxable year, the remainder shall be treated as part of the annual allocation for two thousand seventeen made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section twenty-four of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand [~~twenty-nine~~] twenty-three and twenty million dollars in any year during the period two thousand twenty-four through two thousand thirty-four.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) provide the license or registration issued to the business entity, directly or through a third party, by the office to operate a child care program indicating the number of child care seats created or, in the case of a child care program that has experienced an expansion of child care seats, the license or registration issued by the office demonstrating such expansion;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) Child care creation and expansion tax credit under subsection (ooo)	**Amount of credit under subdivision 59 of section two hundred ten-B**

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

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

(2) Application of credit. The credit allowed under this subdivision shall not reduce the tax due for such year to be less than the minimum fixed by paragraph four of subdivision (a) of section fifteen hundred two or section fifteen hundred two-a of this article, whichever is applicable. However, if the amount of the credit allowed under this subdivision for any taxable year reduces the taxpayer's tax to such amount, any amount of credit thus not deductible will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

§ 7. This act shall take effect immediately.

PART H

Section 1. 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.

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

SUBPART A

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

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

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

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

first, two thousand twenty; .025 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and .1875 percent for years beginning on or after January first, two thousand twenty-one and before January first, two thousand [~~twenty-four~~] twenty-seven, and zero percent for taxable years beginning on or after January first, two thousand [~~twenty-four~~] twenty-seven. Provided however, for taxable years beginning on or after January first, two thousand twenty-one, the rate of tax for a small business as defined in paragraph (f) of this subdivision shall be zero percent. The rate of tax for a qualified New York manufacturer shall be .132 percent for taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, .106 percent for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen, .085 percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .056 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen; .038 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty; .019 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and zero percent for years beginning on or after January first, two thousand twenty-one. (ii) In no event shall the amount prescribed by this paragraph exceed three hundred fifty thousand dollars for qualified New York manufacturers and for all other taxpayers five million dollars.

§ 3. This act shall take effect immediately.

SUBPART B

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

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

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

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

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

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

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

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

~~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

[~~twenty-three~~] twenty-five or the date the qualified musical and theatrical production closes.

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

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

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

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

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

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

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

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

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

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

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

PART J

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

SUBPART A

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

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

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

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

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

SUBPART B

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

(2) Site preparation costs. The term "site preparation costs" shall mean all amounts properly chargeable to a capital account, which are paid or incurred which are necessary to implement a site's investigation, remediation, or qualification for a certificate of completion, and shall include costs of: excavation; demolition; activities undertaken under the oversight of the department of labor or in accordance with standards established by the department of health to remediate and dispose of regulated materials including asbestos, lead or polychlorinated biphenyls; environmental consulting; engineering; legal costs; transportation, disposal, treatment or containment of contaminated soil; remediation measures taken to address contaminated soil vapor; cover systems consistent with applicable regulations; physical support of excavation; dewatering and other work to facilitate or enable remediation activities; sheeting, shoring, and other engineering controls required to prevent off-site migration of contamination from the qualified site or migrating onto the qualified site; and the costs of fencing, temporary electric wiring, scaffolding, and security facilities until such time as the certificate of completion has been issued. Site preparation shall include all costs paid or incurred within sixty months after the last day of the tax year in which the certificate of completion is issued that are necessary for compliance with the certificate of completion or subsequent modifications thereof, or the remedial program defined in such certificate of completion including but not limited to institutional controls, engineering controls, an approved site management plan, and an environmental easement with respect to the qualified site; provided, however, with respect to any qualified site for which [~~the department of environmental conservation has issued a notice to the taxpayer on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law~~] **a certificate of completion was issued on or after July first, two thousand fifteen but on or before June twenty-fourth, two thousand twenty-one**, site preparation shall include all costs paid or incurred within eighty-four months after the last day of the tax year in which the certificate of completion is issued that are necessary for compliance with the certificate of completion or subsequent modifications thereof, or the remedial program defined in such certificate of completion including but not limited to institutional controls, engineering controls, an approved site management plan, and an environmental easement with respect to the qualified site**, provided, however, with respect to any qualified site located in cities with a population greater than two hundred five thousand and less than two hundred fifteen thousand in counties with a population greater than one million but less than one million ten thousand based on the latest federal decennial census for which the department of environmental conservation has issued a certificate of completion to the taxpayer on or after 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**. Site preparation cost shall not include the costs of foundation systems that exceed the cover system requirements in the regulations applicable to the qualified site.

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

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

PART K

Intentionally Omitted

PART L

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

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

§ 2. This act shall take effect immediately.

PART M

Intentionally Omitted

PART N

Intentionally Omitted

PART O

Intentionally Omitted

PART P

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

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

§ 3. This act shall take effect immediately.

PART Q

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

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

fluctuation, the distributor must remit such taxes to the commissioner on the return for the period in which such sale was made.

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

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

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

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

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

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

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

PART R

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

(B) Until May [~~thirty-first~~] thirty-first, two thousand [~~twenty-three~~] twenty-four, the food and drink excluded from the exemption provided by clauses (i), (ii) and (iii) of subparagraph (A) of this paragraph, and bottled water, shall be exempt under this subparagraph: (i) when sold for one dollar and fifty cents or less through any vending machine 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

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

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

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

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

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

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

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

PART T

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

4. **(a)** At the time of delivering cigarettes to any person each agent or wholesale dealer, and at the time of delivering tobacco products to any person each distributor or wholesale dealer of tobacco products, shall make a true duplicate invoice showing the date of delivery, the number of packages and number of cigarettes contained therein, in each shipment of cigarettes delivered, and the items and quantity and wholesale price of each item in each shipment of tobacco products delivered, and the name of the purchaser to whom delivery is made, and shall retain the same for a period of three years subject to the use and inspection of the commissioner [~~of taxation and finance~~]. Each dealer shall procure and retain invoices showing the number of packages and number of cigarettes contained therein, in each shipment of cigarettes received by him **or her**, and the items and quantity and wholesale price of each item in each shipment of tobacco products received by him **or her**, the date thereof, and the name of the shipper, and shall retain the same for a period of three years subject to the use and inspection of the commissioner [~~of taxation and finance~~]. The commissioner [~~of taxation and finance~~] by regulation may provide that whenever cigarettes or tobacco products are shipped into the state, the railroad company, express company, trucking company or other public carrier transporting any shipment thereof shall file with the commissioner [~~of taxation and finance~~] a copy of the freight bill within ten days after the delivery in the state of each shipment. All dealers shall maintain and keep for a period of three years such other records of cigarettes or tobacco products received, sold or delivered within the state as may be required by the commissioner [~~of taxation and finance~~]. The commissioner [~~of taxation and finance~~] is hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes or tobacco products are placed, stored, sold or offered for sale, and the equipment of any such person pertaining to the stamping of cigarettes or the sale and delivery of cigarettes or tobacco products taxable under this article, as well as the stock of cigarettes

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

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

§ 2. This act shall take effect immediately.

PART U

Intentionally Omitted

PART V

Intentionally Omitted

PART W

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

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

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

§ 2. This act shall take effect immediately.

PART X

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

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

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

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

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

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

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

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

(v) at least one commercial tunnel;

(vi) at least two pedestrian tunnels;

(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

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

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

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

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

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

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

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

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

4. (a) There shall be established a community advisory committee to assess bids made in response to the request for proposals issued pursuant to the competitive bidding process authorized by this section. The committee shall consist of six members, one to be appointed by the governor, one to be appointed by the senator representing the senate district where the proposed affordable housing development is to be located, one to be appointed by the assemblymember representing the assembly district where the proposed affordable housing development is to be located, one to be appointed by the borough president where the affordable housing development is proposed to be located, one to be appointed by the city councilmember representing the district where the affordable housing development is proposed to be located, and one to be appointed by the New York city mayor.

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

(c) The division of housing and community renewal may hire a consultant to serve as a community consultant to assist and manage the community advisory committee process. The division of housing and community renewal or community consultant shall provide administrative support and technical assistance for the establishment and activity of the community advisory committee constituted pursuant to this subdivision.

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

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

(ii) entities interested in constructing affordable housing projects pursuant to this section may submit a bid to the division of housing and community renewal who shall provide such bid to the community consultant;

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

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

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

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

(vii) the community consultant shall present the bids to the committee;

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

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

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

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

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

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

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

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

6. Such disposal shall be subject to legislative approval.

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

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

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

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

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

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

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

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

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

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

§ 10. This act shall take effect immediately.

PART Y

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.

PART Z

Intentionally Omitted

PART AA

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

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

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

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

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

§ 2. This act shall take effect immediately.

PART BB

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

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

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

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

(iii) Of the sums retained by a receiving track located in Westchester county on races received from a franchised corporation, for the period commencing January first, two thousand eight and continuing through June

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

§ 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by section 3 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

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

§ 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

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

§ 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part EE of chapter 59 of the laws of 2022, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 10. This act shall take effect immediately.

PART CC

Intentionally Omitted

PART DD

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

(28) 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.

§ 2. Subdivision 9 of section 208 of the tax law 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.

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

(44) 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.

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

(y) Qualified opportunity zones. 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.

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

(AA) 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.

§ 6. Section 1503 of the tax law is amended by adding a new subdivision (d) to read as follows:

(d) 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.

§ 7. Paragraph (a) of subdivision 8 of section 11-602 of the administrative code of the city of New York is amended by adding a new subparagraph 17 to read as follows:

(17) 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.

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

11. 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.

§ 9. Paragraph (a) of subdivision 8 of section 11-652 of the administrative code of the city of New York is amended by adding a new subparagraph 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

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

1. its operations and accomplishments during such fiscal year;

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

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

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

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

[~~5~~] **6**. such other information relating to the operations of the corporation as shall be deemed pertinent by the directors, the participating counties, the commission, and the state comptroller.

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

PART FF

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

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

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

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

PART GG

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

§ 502-a. Special provisions with regard to the western regional off-track betting corporation. Notwithstanding any inconsistent provision of this article, on the effective date of this section the term of each board member of the western regional off-track betting corporation, or 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

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.

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

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

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

(3) Solar energy system equipment. The term "solar energy system equipment" shall mean an arrangement or combination of components utilizing solar radiation, which, when installed in a residence, produces **and stores** energy designed to provide heating, cooling, hot water or electricity for use in such residence. Such arrangement or components shall not include equipment connected to solar energy system equipment that is a component of part or parts of a non-solar energy system or which uses any sort of recreational facility or equipment as a storage medium. Solar energy system equipment that generates **and stores** electricity for use in a residence must conform to applicable requirements set forth in section sixty-six-j of the public service law. Provided, however, where solar energy system equipment is purchased and installed by a condominium management association or a cooperative housing corporation, for purposes of this subsection only, the term "ten kilowatts" in such section sixty-six-j shall be read as [~~"fifty~~] **"ten** kilowatts **multiplied by the number of owner-occupied units in the cooperative or condominium management association**."

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

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

(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.

PART JJ

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

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

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

PART KK

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

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

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

§ 2. Nothing in this act shall be deemed to modify or restrict the application of paragraph (a), (b), (c), (d), (e), (f) or (g) of 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~~] **10.80**% of excess over $5,000,000
Over $25,000,000	$[~~2,478,263~~] **2,578,263** plus [~~10.90~~] **11.40**% 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~~] **10.80**%

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

§ 3. Clause (vi) of subparagraph (B) of paragraph 1 of subsection (c) of section 601 of the tax law, as amended by section 3 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 $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.50% of excess over $13,900
Over $80,650 but not over $215,400	$4,271 plus 6.00% of excess over $80,650
Over $215,400 but not over $1,077,550	$12,356 plus 6.85% of excess over $215,400
Over $1,077,550 but not over $5,000,000	$71,413 plus 9.65% of excess over $1,077,550
Over $5,000,000 but not over $25,000,000	$449,929 plus [~~10.30~~] 10.80% of excess over $5,000,000
Over $25,000,000	$[~~2,509,929~~] 2,609,929 plus [~~10.90~~] 11.40% of excess over $25,000,000

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

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

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

(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
$27,900	$161,550	$0	$333
$161,550	$323,200	$333	$807
$323,200	$2,155,350	$1,140	$2,747
$2,155,350	$5,000,000	$3,887	$60,350
$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-

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

(11) For tax year two thousand twenty-two, the commissioner shall issue a payment of a supplemental enhanced earned income tax credit in the amount of twenty-five percent of the enhanced earned income tax credit calculated and allowed pursuant to this subsection. Such payment shall be allowed to 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.

§ 3. This act shall take effect immediately.

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

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