

STATE OF NEW YORK

S. 4009--C

A. 3009--C

SENATE - ASSEMBLY

February 1, 2023

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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

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

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state commercial production tax credit for five years (Subpart C); to amend the tax law, in relation to extending provisions of law relating to the grade No. 6 heating oil conversion tax credit (Subpart D); to amend subpart B of part PP of chapter 59 of the laws of 2021 amending the tax law and the state finance law relating to establishing the New York city musical and theatrical production tax credit and establishing the New York state council on the arts cultural program fund, in relation to the effectiveness thereof; and to amend the tax law, in relation to the New York city musical and theatrical production tax credit (Subpart E) (Part I); to amend the tax law, in relation to making technical corrections to the credit for companies who provide transportation to individuals with disabilities (Subpart A); to amend the tax law, in relation to eligibility for the brownfield redevelopment tax credit (Subpart B); to amend the tax law, in relation to the pass-through entity tax and city pass-through entity tax and making technical corrections thereto (Subpart C) (Part J); to amend the real property tax law, in relation to simplifying certain senior citizens real property tax exemptions (Part K); to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effectiveness thereof (Part L); intentionally omitted (Part M); to amend the real property tax law and the state administrative procedure act, in relation to clarifying the solar or wind energy system appraisal model (Part N); intentionally omitted (Part O); to repeal certain provisions of the tax law, relating to eliminating congestion surcharge registration requirements (Part P); to amend the tax law, in relation to the payment of tax on increased quantities of motor fuel and Diesel motor fuel on which the taxes pursuant to articles 12-A, 13-A and 28 were not previously paid (Part Q); to amend the tax law, in relation to extending the sales tax exemption for certain sales made through vending machines (Part R); to amend the tax law, in relation to an increase in the rate of tax on cigarettes (Part S); to amend the tax law, in relation to the revocation of certain certificates and civil penalties for refusal of a cigarette and tobacco inspection (Part T); to amend the tax law and the administrative code of the city of New York, in relation to extending the tax rate reduction under the New York state real estate transfer tax and the New York city real property transfer tax for conveyances of real property to existing real estate investment funds (Part U); to amend the tax law, in relation to permitting the commissioner of taxation and finance to seek judicial review of decisions of the tax appeals tribunal (Part V); to amend the state finance law, in relation to clarifying the deposit timeframe for moneys deposited by the commissioner of taxation and finance (Part W); to amend the racing, pari-mutuel wagering and breeding law and the tax law, in relation to requiring the New York Racing Association, Inc. to enter into a repayment agreement with the state of New York for the repayment of funds provided by the state for the renovation of Belmont Park racetrack; and in relation to the membership of the franchise oversight board (Part X); intentionally omitted (Part Y); intentionally omitted (Part Z); intentionally omitted (Part AA); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting; to amend chapter



346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part BB); intentionally omitted (Part CC); to amend the state finance law, in relation to the liability of a person who presents false claims for money or property to the state or a local government (Part DD); to repeal subparagraph 9 of paragraph (e) of subdivision 1 of section 210-B of the tax law relating to the transferability of the investment tax credit (Part EE); to amend the tax law, in relation to the amount of credit for cider, wine, and liquor under the alcoholic beverage production credit (Part FF); and to amend the tax law, in relation to establishing a permanent rate for the metropolitan transportation business tax surcharge (Part GG)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2023-2024
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through GG. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part,
7 including the effective date of the Part, which makes a reference to a
8 section "of this act", when used in connection with that particular
9 component, shall be deemed to mean and refer to the corresponding
10 section of the Part in which it is found. Section three of this act sets
11 forth the general effective date of this act.

12 PART A

13 Section 1. The opening paragraph of paragraph a of subdivision twen-
14 ty-eighth of section 171 of the tax law, as amended by chapter 451 of
15 the laws of 2022, is amended to read as follows:

16 [In the case of a taxpayer who is determined for federal tax purposes
17 under the provisions of] Have the authority to postpone certain dead-
18 lines for a period of up to ninety days, or longer when necessary to
19 align with relief provided by the Internal Revenue Service pursuant to
20 section seven thousand five hundred eight-A of the internal revenue code
21 [to be affected by a presidentially declared disaster, or who], for a
22 taxpayer who is determined [under regulations promulgated by the commis-
23 sioner] to be affected by a presidentially declared disaster or by a
24 disaster emergency declared by the governor[, have authority to provide
25 that a period of up to ninety days, or a longer period when necessary to
26 align with relief that has already been provided by the Internal Revenue
27 Service under the authority to postpone certain deadlines in section
28 seven thousand five hundred eight-A of the internal revenue code, may].
29 Any extension period provided pursuant to the authority in this subdivi-
30 sion shall be disregarded in determining under the tax law, or under a
31 law enacted pursuant to the authority of the tax law or former article
32 2-E of the general city law where administered by the commissioner, in
33 respect of any tax liability (including any interest, penalty, addi-
34 tional amount, or addition to the tax) of such taxpayer:

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

4 c. Definitions. 1. Presidentially declared disaster. For purposes of
5 this subdivision, the term "presidentially declared disaster" means any
6 disaster which, with respect to an area, resulted in a subsequent deter-
7 mination by the president of the United States that such area warrants
8 assistance by the federal government under the disaster relief and emer-
9 gency assistance act.

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

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

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

25 § 4. This act shall take effect immediately.

26

PART B

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

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

40 § 2. This act shall take effect immediately.

41

PART C

42 Section 1. Paragraph (d) of subdivision 1 of section 210-B of the tax
43 law, as amended by section 31 of part T of chapter 59 of the laws of
44 2015, is amended to read as follows:

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

1 January first, nineteen hundred eighty-seven and not deductible in such
2 taxable year may be carried over to the following year or years and may
3 be deducted from the taxpayer's tax for such year or years but in no
4 event shall such credit be carried over to taxable years commencing on
5 or after January first, two thousand two, and any amount of credit
6 allowed for a taxable year commencing on or after January first, nine-
7 teen hundred eighty-seven and not deductible in such year may be carried
8 over to the fifteen taxable years next following such taxable year and
9 may be deducted from the taxpayer's tax for such year or years. In lieu
10 of such carryover, (i) any such taxpayer which qualifies as a new busi-
11 ness under paragraph (f) of this subdivision may elect to treat the
12 amount of such carryover as an overpayment of tax to be credited or
13 refunded in accordance with the provisions of section ten hundred eight-
14 y-six of this chapter, and (ii) any such taxpayer that is an eligible
15 farmer, as defined in subdivision eleven of this section, may for taxa-
16 ble years beginning before January first, two thousand twenty-eight,
17 elect to treat the amount of such carryover as an overpayment of tax to
18 be credited or refunded in accordance with the provisions of section one
19 thousand eighty-six of this chapter, provided, however, the provisions
20 of subsection (c) of section ten hundred eighty-eight of this chapter
21 notwithstanding, no interest shall be paid thereon.

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

25 (5) If the amount of credit allowable under this subsection for any
26 taxable year shall exceed the taxpayer's tax for such year, the excess
27 allowed for a taxable year commencing prior to January first, nineteen
28 hundred eighty-seven may be carried over to the following year or years
29 and may be deducted from the taxpayer's tax for such year or years, but
30 in no event shall such credit be carried over to taxable years commenc-
31 ing on or after January first, nineteen hundred ninety-seven, and any
32 amount of credit allowed for a taxable year commencing on or after Janu-
33 ary first, nineteen hundred eighty-seven and not deductible in such year
34 may be carried over to the ten taxable years next following such taxable
35 year and may be deducted from the taxpayer's tax for such year or years.
36 In lieu of carrying over any such excess, (A) a taxpayer who qualifies
37 as an owner of a new business for purposes of paragraph ten of this
38 subsection may, at [his] the taxpayer's option, receive such excess as a
39 refund, and (B) a taxpayer that is an eligible farmer as defined in
40 subsection (n) of this section may, at the taxpayer's option, for taxa-
41 ble years beginning before January first, two thousand twenty-eight
42 receive such excess as a refund. Any refund paid pursuant to this para-
43 graph shall be deemed to be a refund of an overpayment of tax as
44 provided in section six hundred eighty-six of this article, provided,
45 however, that no interest shall be paid thereon.

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

48

PART D

49 Section 1. Paragraph 2 of subdivision (a) of section 24 of the tax
50 law, as separately amended by sections 1 and 2 of part M of chapter 59
51 of the laws of 2020, is amended to read as follows:

52 (2) The amount of the credit shall be the product (or pro rata share
53 of the product, in the case of a member of a partnership) of [twenty-
54 five] thirty percent and the qualified production costs paid or incurred

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

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

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



1 for services performed by those individuals in one of the counties spec-
2 ified in this paragraph in connection with a qualified film with a mini-
3 mum budget of five hundred thousand dollars, and (ii) the product (or
4 pro rata share of the product, in the case of a member of a partnership)
5 of ten percent and the qualified production costs (excluding wages,
6 salaries or other compensation) paid or incurred in the production of a
7 qualified film where the property constituting such qualified production
8 costs was used, and the services constituting such qualified production
9 costs were performed in any of the counties specified in this paragraph
10 in connection with a qualified film with a minimum budget of five
11 hundred thousand dollars where the majority of principal photography
12 shooting days in the production of such film were shot in any of the
13 counties specified in this paragraph. Provided, however, that the aggre-
14 gate total eligible qualified production costs constituting wages, sala-
15 ries or other compensation, for writers, directors, composers, produc-
16 ers, and performers shall not exceed forty percent of the aggregate sum
17 total of all other qualified production costs. For purposes of [this
18 additional] the credit, the services must be performed and the property
19 must be used in one or more of the following counties: Albany, Allegany,
20 Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton,
21 Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton,
22 Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madi-
23 son, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange,
24 Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady,
25 Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga,
26 Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. [The
27 aggregate amount of tax credits allowed pursuant to the authority of
28 this paragraph shall be five million dollars each year during the period
29 two thousand fifteen through two thousand twenty-nine of the annual
30 allocation made available to the program pursuant to paragraph four of
31 subdivision (e) of this section. Such aggregate amount of credits shall
32 be allocated by the governor's office for motion picture and television
33 development among taxpayers in order of priority based upon the date of
34 filing an application for allocation of film production credit with such
35 office. If the total amount of allocated credits applied for under this
36 paragraph in any year exceeds the aggregate amount of tax credits
37 allowed for such year under this paragraph, such excess shall be treated
38 as having been applied for on the first day of the next year. If the
39 total amount of allocated tax credits applied for under this paragraph
40 at the conclusion of any year is less than five million dollars, the
41 remainder shall be treated as part of the annual allocation made avail-
42 able to the program pursuant to paragraph four of subdivision (e) of
43 this section. However, in no event may the total of the credits allo-
44 cated under this paragraph and the credits allocated under paragraph
45 five of subdivision (a) of section thirty-one of this article exceed
46 five million dollars in any year during the period two thousand fifteen
47 through two thousand twenty-nine.]

48 § 2-a. Paragraph 1 of subdivision (b) of section 24 of the tax law, as
49 amended by section 4 of part B of chapter 59 of the laws of 2013, is
50 amended to read as follows:

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

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

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

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

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

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

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

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

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

8 § 5-a. Subdivision (b) of section 24 of the tax law is amended by
9 adding a new paragraph 10 to read as follows:

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

16 § 6. Paragraph 4 of subdivision (e) of section 24 of the tax law, as
17 amended by section 3 of part M of chapter 59 of the laws of 2022, is
18 amended to read as follows:

19 (4) Additional pool 2 - The aggregate amount of tax credits allowed in
20 subdivision (a) of this section shall be increased by an additional four
21 hundred twenty million dollars in each year starting in two thousand ten
22 through two thousand [twenty-nine] twenty-three and seven hundred
23 million dollars each year starting in two thousand twenty-four through
24 two thousand thirty-four, provided however, seven million dollars of the
25 annual allocation shall be available for the empire state film post
26 production credit pursuant to section thirty-one of this article in two
27 thousand thirteen and two thousand fourteen, twenty-five million dollars
28 of the annual allocation shall be available for the empire state film
29 post production credit pursuant to section thirty-one of this article in
30 each year starting in two thousand fifteen through two thousand [twe-
31 ty-nine and] twenty-three, and forty-five million dollars of the annual
32 allocation shall be available for the empire state film post production
33 credit pursuant to section thirty-one of this article in each year
34 starting in two thousand twenty-four through two thousand thirty-four.
35 Provided further, five million dollars of the annual allocation shall be
36 made available for the television writers' and directors' fees and sala-
37 ries credit pursuant to section twenty-four-b of this article in each
38 year starting in two thousand twenty through two thousand [twenty-nine]
39 thirty-four. This amount shall be allocated by the [governor's office
40 for motion picture and television] department of economic development
41 among taxpayers in accordance with subdivision (a) of this section. If
42 the commissioner of economic development determines that the aggregate
43 amount of tax credits available from additional pool 2 for the empire
44 state film production tax credit have been previously allocated, and
45 determines that the pending applications from eligible applicants for
46 the empire state film post production tax credit pursuant to section
47 thirty-one of this article is insufficient to utilize the balance of
48 unallocated empire state film post production tax credits from such
49 pool, the remainder, after such pending applications are considered,
50 shall be made available for allocation in the empire state film tax
51 credit pursuant to this section, subdivision (gg) of section twenty of two
52 hundred ten-B and subsection (gg) of section six hundred six of this
53 chapter. Also, if the commissioner of economic development determines
54 that the aggregate amount of tax credits available from additional pool
55 2 for the empire state film post production tax credit have been previ-
56 ously allocated, and determines that the pending applications from



1 eligible applicants for the empire state film production tax credit
2 pursuant to this section is insufficient to utilize the balance of unal-
3 located film production tax credits from such pool, then all or part of
4 the remainder, after such pending applications are considered, shall be
5 made available for allocation for the empire state film post production
6 credit pursuant to this section, subdivision thirty-two of section two
7 hundred ten-B and subsection (qq) of section six hundred six of this
8 chapter. The [governor's office for motion picture and television]
9 department of economic development must notify taxpayers of their allo-
10 cation year and include the allocation year on the certificate of tax
11 credit. Taxpayers eligible to claim a credit must report the allocation
12 year directly on their empire state film production credit tax form for
13 each year a credit is claimed and include a copy of the certificate with
14 their tax return. In the case of a qualified film that receives funds
15 from additional pool 2, no empire state film production credit shall be
16 claimed before the later of (1) the taxable year the production of the
17 qualified film is complete, or (2) the taxable year [immediately follow-
18 ing] that includes the last day of the allocation year for which the
19 film has been allocated credit by the [governor's office for motion
20 picture and television] department of economic development.

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

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

1 ously allocated, and determines that the pending applications from
2 eligible applicants for the empire state film production tax credit
3 pursuant to this section is insufficient to utilize the balance of unal-
4 located film production tax credits from such pool, then all or part of
5 the remainder, after such pending applications are considered, shall be
6 made available for allocation for the empire state film post production
7 credit pursuant to this section, subdivision thirty-two of section two
8 hundred ten-B and subsection (qq) of section six hundred six of this
9 chapter. The [governor's office for motion picture and television]
10 department of economic development must notify taxpayers of their allo-
11 cation year and include the allocation year on the certificate of tax
12 credit. Taxpayers eligible to claim a credit must report the allocation
13 year directly on their empire state film production credit tax form for
14 each year a credit is claimed and include a copy of the certificate with
15 their tax return. In the case of a qualified film that receives funds
16 from additional pool 2, no empire state film production credit shall be
17 claimed before the later of (1) the taxable year the production of the
18 qualified film is complete, or (2) the taxable year [immediately follow-
19 ing] that includes the last day of the allocation year for which the
20 film has been allocated credit by the [governor's office for motion
21 picture and television] department of economic development.

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

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

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

37 (6) For the period two thousand fifteen through two thousand [twenty-
38 nine] thirty-four, in addition to the amount of credit established in
39 paragraph two of this subdivision, a taxpayer shall be allowed a credit
40 equal to the product (or pro rata share of the product, in the case of a
41 member of a partnership) of ten percent and the amount of wages or sala-
42 ries paid to individuals directly employed (excluding those employed as
43 writers, directors, [music directors] composers, producers and perform-
44 ers, [including] other than background actors with no scripted lines)
45 for services performed by those individuals in one of the counties spec-
46 ified in this paragraph in connection with the post production work on a
47 qualified film with a minimum budget of five hundred thousand dollars at
48 a qualified post production facility in one of the counties listed in
49 this paragraph. For purposes of this additional credit, the services
50 must be performed in one or more of the following counties: Albany,
51 Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango,
52 Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin,
53 Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Living-
54 ston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario,
55 Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenec-
56 tady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan,

1 Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates.
2 [The aggregate amount of tax credits allowed pursuant to the authority
3 of this paragraph shall be five million dollars each year during the
4 period two thousand fifteen through two thousand twenty-nine of the
5 annual allocation made available to the empire state film post
6 production credit pursuant to paragraph four of subdivision (e) of
7 section twenty-four of this article. Such aggregate amount of credits
8 shall be allocated by the governor's office for motion picture and tele-
9 vision development among taxpayers in order of priority based upon the
10 date of filing an application for allocation of post production credit
11 with such office. If the total amount of allocated credits applied for
12 under this paragraph in any year exceeds the aggregate amount of tax
13 credits allowed for such year under this paragraph, such excess shall be
14 treated as having been applied for on the first day of the next year. If
15 the total amount of allocated tax credits applied for under this para-
16 graph at the conclusion of any year is less than five million dollars,
17 the remainder shall be treated as part of the annual allocation for two
18 thousand seventeen made available to the empire state film post
19 production credit pursuant to paragraph four of subdivision (e) of
20 section twenty-four of this article. However, in no event may the total
21 of the credits allocated under this paragraph and the credits allocated
22 under paragraph five of subdivision (a) of section twenty-four of this
23 article exceed five million dollars in any year during the period two
24 thousand fifteen through two thousand twenty-nine.]

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

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

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

14 § 10. This act shall take effect immediately and shall apply to
15 initial applications received on or after April 1, 2023; provided,
16 however, that the amendments to paragraph 4 of subdivision (e) of
17 section 24 of the tax law made by section six of this act shall take
18 effect on the same date and in the same manner as section 6 of chapter
19 683 of the laws of 2019, as amended, takes effect.

20

PART E

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

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

29 § 2. This act shall take effect immediately.

30

PART F

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

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

36 § 2. This act shall take effect immediately.

37

PART G

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

TITLE 1-A

CHILD CARE CREATION AND EXPANSION TAX CREDIT PROGRAM

42 Section 394. Short title.

43 394-a. Definitions.

44 394-b. Eligibility criteria.

45 394-c. Application and approval process.

46 394-d. Child care creation and expansion tax credit.

47 394-e. Allocation of credit.

48 394-f. Powers and duties of the commissioner.

49 394-g. Maintenance of records.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 <u>(1) Child care creation and</u>	<u>Amount of credit</u>
16 <u>expansion tax credit under</u>	<u>under subdivision fifty-nine</u>
17 <u>subsection (ooo)</u>	<u>of section two hundred</u>
18	<u>ten-B</u>

19 § 6. Section 1511 of the tax law is amended by adding a new subdivi-
20 sion (ee) to read as follows:

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

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

37 § 7. This act shall take effect immediately.

38

PART H

39 Section 1. Subdivision (d) of section 1201-a of the tax law, as added
40 by chapter 453 of the laws of 2009, paragraph 5 as amended by chapter
41 260 of the laws of 2015, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

21 (A) may not apply to taxable years beginning before January first, two
22 thousand ten or beginning on or after January first, two thousand nine-
23 teen; and

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

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

36 § 2. Subparagraph 1 of paragraph (a) of subdivision 21 of section
37 11-654 of the administrative code of the city of New York, as added by
38 section 1 of part D of chapter 60 of the laws of 2015, is amended to
39 read as follows:

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

1 or any comparable successor survey as determined by the department of
2 finance, and whose total annual product sales are ten million dollars or
3 less. For the purposes of this subdivision, the definition of research
4 and development funds shall be the same as that used by the National
5 Science Foundation in the aforementioned survey. For the purposes of
6 this subdivision, "biotechnologies" shall mean the technologies involv-
7 ing the scientific manipulation of living organisms, especially at the
8 molecular and/or the sub-molecular genetic level, to produce products
9 conducive to improving the lives and health of plants, animals, and
10 humans; and the associated scientific research, pharmacological, mechan-
11 ical, and computational applications and services connected with these
12 improvements. Activities included with such applications and services
13 shall include, but not be limited to, alternative mRNA splicing, DNA
14 sequence amplification, antigenetic switching bioaugmentation, bioen-
15 richment, bioremediation, chromosome walking, cytogenetic engineering,
16 DNA diagnosis, fingerprinting, and sequencing, electroporation, gene
17 translocation, genetic mapping, site-directed mutagenesis, bio-transduc-
18 tion, bio-mechanical and bio-electrical engineering, and bio-informat-
19 ics.

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

22

PART I

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

34

SUBPART A

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

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



1 paragraph shall be computed pursuant to subparagraph (iv) of this para-
2 graph and in the case of a manufacturer, as defined in subparagraph (vi)
3 of this paragraph, the amount prescribed by this paragraph shall be
4 computed pursuant to subparagraph (vi) of this paragraph, and, in the
5 case of a qualified emerging technology company, as defined in subpara-
6 graph (vii) of this paragraph, the amount prescribed by this paragraph
7 shall be computed pursuant to subparagraph (vii) of this paragraph.

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

11 (1) (i) The amount prescribed by this paragraph shall be computed
12 at .15 percent for each dollar of the taxpayer's total business capital,
13 or the portion thereof apportioned within the state as hereinafter
14 provided for taxable years beginning before January first, two thousand
15 sixteen. However, in the case of a cooperative housing corporation as
16 defined in the internal revenue code, the applicable rate shall be .04
17 percent until taxable years beginning on or after January first, two
18 thousand twenty and zero percent for taxable years beginning on or after
19 January first, two thousand twenty-one. The rate of tax for subsequent
20 tax years shall be as follows: .125 percent for taxable years beginning
21 on or after January first, two thousand sixteen and before January
22 first, two thousand seventeen; .100 percent for taxable years beginning
23 on or after January first, two thousand seventeen and before January
24 first, two thousand eighteen; .075 percent for taxable years beginning
25 on or after January first, two thousand eighteen and before January
26 first, two thousand nineteen; .050 percent for taxable years beginning
27 on or after January first, two thousand nineteen and before January
28 first, two thousand twenty; .025 percent for taxable years beginning on
29 or after January first, two thousand twenty and before January first,
30 two thousand twenty-one; and .1875 percent for years beginning on or
31 after January first, two thousand twenty-one and before January first,
32 two thousand [twenty-four] twenty-seven, and zero percent for taxable
33 years beginning on or after January first, two thousand [twenty-four]
34 twenty-seven. Provided however, for taxable years beginning on or after
35 January first, two thousand twenty-one, the rate of tax for a small
36 business as defined in paragraph (f) of this subdivision shall be zero
37 percent. The rate of tax for a qualified New York manufacturer shall be
38 .132 percent for taxable years beginning on or after January first, two
39 thousand fifteen and before January first, two thousand sixteen, .106
40 percent for taxable years beginning on or after January first, two thou-
41 sand sixteen and before January first, two thousand seventeen, .085
42 percent for taxable years beginning on or after January first, two thou-
43 sand seventeen and before January first, two thousand eighteen; .056
44 percent for taxable years beginning on or after January first, two thou-
45 sand eighteen and before January first, two thousand nineteen; .038
46 percent for taxable years beginning on or after January first, two thou-
47 sand nineteen and before January first, two thousand twenty; .019
48 percent for taxable years beginning on or after January first, two thou-
49 sand twenty and before January first, two thousand twenty-one; and zero
50 percent for years beginning on or after January first, two thousand
51 twenty-one. (ii) In no event shall the amount prescribed by this para-
52 graph exceed three hundred fifty thousand dollars for qualified New York
53 manufacturers and for all other taxpayers five million dollars.

54 § 3. This act shall take effect immediately.

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

4 (A) For taxable years beginning on or after January first, two thou-
5 sand ten and before January first, two thousand [twenty-five] thirty, a
6 taxpayer shall be allowed a credit as hereinafter provided, against the
7 tax imposed by this article, in an amount equal to one hundred percent
8 of the amount of credit allowed the taxpayer with respect to a certified
9 historic structure, and one hundred fifty percent of the amount of cred-
10 it allowed the taxpayer with respect to a certified historic structure
11 that is a small project, under internal revenue code section 47(c)(3),
12 determined without regard to ratably allocating the credit over a five
13 year period as required by subsection (a) of such section 47, with
14 respect to a certified historic structure located within the state.
15 Provided, however, the credit shall not exceed five million dollars. For
16 taxable years beginning on or after January first, two thousand [twen-
17 ty-five] thirty, a taxpayer shall be allowed a credit as hereinafter
18 provided, against the tax imposed by this article, in an amount equal to
19 thirty percent of the amount of credit allowed the taxpayer with respect
20 to a certified historic structure under internal revenue code section
21 47(c)(3), determined without regard to ratably allocating the credit
22 over a five year period as required by subsection (a) of such section
23 47, with respect to a certified historic structure located within the
24 state; provided, however, the credit shall not exceed one hundred thou-
25 sand dollars.

26 § 2. Subparagraph (i) of paragraph (a) of subdivision 26 of section
27 210-B of the tax law, as amended by section 2 of part CCC of chapter 59
28 of the laws of 2021, is amended to read as follows:

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

42 § 3. Clause (B) of subparagraph (ii) of paragraph (a) of subdivision
43 26 of section 210-B of the tax law, as added by section 17 of part A of
44 chapter 59 of the laws of 2014, is redesignated as paragraph (a-1) and
45 is amended to read as follows:

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

52 § 4. Subparagraph (ii) of paragraph (a) of subdivision 26 of section
53 210-B of the tax law, as amended by section 2 of part RR of chapter 59
54 of the laws of 2018, is amended to read as follows:

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

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

10 § 5. Subparagraph (A) of paragraph 1 of subdivision (y) of section
11 1511 of the tax law, as amended by section 3 of part CCC of chapter 59
12 of the laws of 2021, is amended to read as follows:

13 (A) For taxable years beginning on or after January first, two thou-
14 sand ten and before January first, two thousand [twenty-five] thirty, a
15 taxpayer shall be allowed a credit as hereinafter provided, against the
16 tax imposed by this article, in an amount equal to one hundred percent
17 of the amount of credit allowed the taxpayer with respect to a certified
18 historic structure, and one hundred fifty percent of the amount of cred-
19 it allowed the taxpayer with respect to a certified historic structure
20 that is a small project, under internal revenue code section 47(c)(3),
21 determined without regard to ratably allocating the credit over a five
22 year period as required by subsection (a) of such section 47, with
23 respect to a certified historic structure located within the state.
24 Provided, however, the credit shall not exceed five million dollars. For
25 taxable years beginning on or after January first, two thousand [twen-
26 ty-five] thirty, a taxpayer shall be allowed a credit as hereinafter
27 provided, against the tax imposed by this article, in an amount equal to
28 thirty percent of the amount of credit allowed the taxpayer with respect
29 to a certified historic structure under internal revenue code section
30 47(c)(3), determined without regard to ratably allocating the credit
31 over a five year period as required by subsection (a) of such section 47
32 with respect to a certified historic structure located within the state.
33 Provided, however, the credit shall not exceed one hundred thousand
34 dollars.

35 § 6. This act shall take effect immediately.

36 SUBPART C

37 Section 1. Paragraph 1 of subdivision (a) of section 28 of the tax
38 law, as amended by section 1 of part AAA of chapter 59 of the laws of
39 2019, is amended to read as follows:

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

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

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

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

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

13 § 4. This act shall take effect immediately.

14

SUBPART D

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

18 (1) Allowance of credit. A taxpayer that meets the eligibility
19 requirements of subdivision (b) of this section and is subject to tax
20 under article nine-A or twenty-two of this chapter may be eligible to
21 claim a grade no. 6 heating oil conversion tax credit in the taxable
22 year the conversion is complete. The credit shall be equal to fifty
23 percent of the conversion costs for all of the taxpayer's buildings
24 located at a facility regulated pursuant to section 19-0302 or title ten
25 of article seventeen of the environmental conservation law, paid by such
26 taxpayer on or after January first, two thousand twenty-two and before
27 [July] January first, two thousand [twenty-three] twenty-four. The
28 credit cannot exceed five hundred thousand dollars per facility.

29 § 2. This act shall take effect immediately.

30

SUBPART E

31 Section 1. Section 6 of subpart B of part PP of chapter 59 of the laws
32 of 2021 amending the tax law and the state finance law relating to
33 establishing the New York city musical and theatrical production tax
34 credit and establishing the New York state council on the arts cultural
35 program fund, as amended by section 7 of part F of chapter 59 of the
36 laws of 2022, is amended to read as follows:

37 § 6. This act shall take effect immediately; provided however, that
38 [section] sections one, two, three and four of this act shall apply to
39 taxable years beginning on or after January 1, 2021, and before January
40 1, [2024] 2026 and shall expire and be deemed repealed January 1, [2024]
41 2026; provided further, however that the obligations under paragraph 3
42 of subdivision (g) of section 24-c of the tax law, as added by section
43 one of this act, shall remain in effect until December 31, [2025] 2027.

44 § 2. Paragraph 2 of subdivision (a) of section 24-c of the tax law, as
45 amended by section 1 of part F of chapter 59 of the laws of 2022, is
46 amended to read as follows:

47 (2) The amount of the credit shall be the product (or pro rata share
48 of the product, in the case of a member of a partnership) of twenty-five
49 percent and the sum of the qualified production expenditures paid for
50 during the qualified New York city musical and theatrical production's
51 credit period. Provided however that the amount of the credit cannot
52 exceed three hundred fifty thousand dollars per qualified New York city

1 musical and theatrical production in a level two qualified New York city
2 production facility and three million dollars per qualified New York
3 city musical and theatrical production [for productions whose first
4 performance is prior to January first, two thousand twenty-three. For
5 productions whose first performance is on or after January first, two
6 thousand twenty-three, such cap shall decrease to one million five
7 hundred thousand dollars per qualified New York city musical and theat-
8 rical production unless the New York city tourism economy has not suffi-
9 ciently recovered, as determined by the department of economic develop-
10 ment in consultation with the division of the budget. In determining
11 whether the New York city tourism economy has sufficiently recovered,
12 the department of economic development will perform an analysis of key
13 New York city economic indicators which shall include, but not be limit-
14 ed to, hotel occupancy rates and travel metrics. The department of
15 economic development's analysis shall also be informed by the status of
16 any remaining COVID-19 restrictions affecting New York city musical and
17 theatrical productions] in a level one qualified New York city
18 production facility. In no event shall a qualified New York city
19 musical and theatrical production be eligible for more than one credit
20 under this program.

21 § 2-a. Paragraphs 1, 2, 3 and 4 of subdivision (b) of section 24-c of
22 the tax law, as added by section 1 of subpart B of part PP of chapter 59
23 of the laws of 2021, are amended to read as follows:

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

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

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

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

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

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

20 § 3. Subparagraph (i) of paragraph 5 of subdivision (b) of section
21 24-c of the tax law, as amended by section 2 of part F of chapter 59 of
22 the laws of 2022, is amended to read as follows:

23 (i) "The credit period of a qualified New York city musical and theat-
24 rical production company" is the period starting on the production start
25 date and ending on the earlier of the date the qualified musical and
26 theatrical production has expended sufficient qualified production
27 expenditures to reach its credit cap, September thirtieth, two thousand
28 [twenty-three] twenty-five or the date the qualified musical and theat-
29 rical production closes.

30 § 3-a. Subdivision (b) of section 24-c of the tax law is amended by
31 adding a new paragraph 6 to read as follows:

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

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

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

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

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

53 (2) The commissioner of economic development, after consulting with
54 the commissioner, shall promulgate regulations to establish procedures
55 for the allocation of tax credits as required by this section. Such
56 rules and regulations shall include provisions describing the applica-

1 tion process, the due dates for such applications, the standards that
2 will be used to evaluate the applications, the documentation that will
3 be provided by applicants to substantiate to the department the amount
4 of qualified production expenditures of such applicants, and such other
5 provisions as deemed necessary and appropriate. Notwithstanding any
6 other provisions to the contrary in the state administrative procedure
7 act, such rules and regulations may be adopted on an emergency basis. In
8 no event shall a qualified New York city musical and theatrical
9 production submit an application for this program after June thirtieth,
10 two thousand [twenty-three] twenty-five.

11 § 5-a. Subdivision (g) of section 24-c of the tax law, as amended by
12 section 5 of part F of chapter 59 of the laws of 2022, is amended to
13 read as follows:

14 (g) Any qualified New York city musical and theatrical production
15 company that performs in a level one or level two qualified New York
16 city production facility and applies to receive a credit under this
17 section shall be required to: (1) participate in a New York state
18 diversity and arts job training program; (2) create and implement a plan
19 to ensure that their production is available and accessible for low-or
20 no-cost to low income New Yorkers; and (3) contribute to the New York
21 state council on the arts, cultural program fund an amount up to fifty
22 percent of the total credits received if its production earns ongoing
23 revenue prospectively after the end of the credit period that is at
24 least equal to two hundred percent of its ongoing production costs, with
25 such amount payable from twenty-five percent of net operating profits,
26 such amounts payable on a monthly basis, up until such fifty percent of
27 the total credit amount is reached. Any funds deposited pursuant to this
28 subdivision may be used for arts and cultural grant programs of the New
29 York state council on the arts as specified in subdivision five of
30 section ninety-nine-11 of the state finance law.

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

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

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

47

PART J

48 Section 1. This act enacts into law major components of legislation
49 relating to taxation. Each component is wholly contained within a
50 Subpart identified as Subparts A through C. The effective date for each
51 particular provision contained within such Subpart is set forth in the
52 last section of such Subpart. Any provision in any section contained
53 within a Subpart, including the effective date of the Subpart, which
54 makes reference to a section "of this act", when used in connection with

1 that particular component, shall be deemed to mean and refer to the
2 corresponding section of the Subpart in which it is found. Section three
3 of this act sets forth the general effective date of this act.

4

SUBPART A

5 Section 1. Paragraph (b) of subdivision 38 of section 210-B of the tax
6 law, as amended by section 2 of part L of chapter 59 of the laws of
7 2022, is amended to read as follows:

8 (b) Definitions. The term "accessible by individuals with disabili-
9 ties" shall, for the purposes of this subdivision, refer to a vehicle
10 that complies with federal regulations promulgated pursuant to the Amer-
11 icans with Disabilities Act applicable to vans under twenty-two feet in
12 length, by the federal Department of Transportation, in Code of Federal
13 Regulations, title 49, parts 37 and 38[, and by the federal Architecture
14 and Transportation Barriers Compliance Board, in Code of Federal Regu-
15 lations, title 36, section 1192.23,] and the Federal Motor Vehicle Safe-
16 ty Standards, Code of Federal Regulations, title 49, part [57] 571. The
17 term "electric vehicle" shall, for the purposes of this subdivision,
18 have the same meaning as in section sixty-six-s of the public service
19 law.

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

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

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

40

SUBPART B

41 Section 1. Paragraph 2 of subdivision (b) of section 21 of the tax
42 law, as amended by section 7 of part LL of chapter 58 of the laws of
43 2022, is amended to read as follows:

44 (2) Site preparation costs. The term "site preparation costs" shall
45 mean all amounts properly chargeable to a capital account, which are
46 paid or incurred which are necessary to implement a site's investi-
47 gation, remediation, or qualification for a certificate of completion,
48 and shall include costs of: excavation; demolition; activities undertak-
49 en under the oversight of the department of labor or in accordance with
50 standards established by the department of health to remediate and
51 dispose of regulated materials including asbestos, lead or polychlori-
52 nated biphenyls; environmental consulting; engineering; legal costs;

1 transportation, disposal, treatment or containment of contaminated soil;
2 remediation measures taken to address contaminated soil vapor; cover
3 systems consistent with applicable regulations; physical support of
4 excavation; dewatering and other work to facilitate or enable remedi-
5 ation activities; sheeting, shoring, and other engineering controls
6 required to prevent off-site migration of contamination from the quali-
7 fied site or migrating onto the qualified site; and the costs of fenc-
8 ing, temporary electric wiring, scaffolding, and security facilities
9 until such time as the certificate of completion has been issued. Site
10 preparation shall include all costs paid or incurred within sixty months
11 after the last day of the tax year in which the certificate of
12 completion is issued that are necessary for compliance with the certif-
13 icate of completion or subsequent modifications thereof, or the remedial
14 program defined in such certificate of completion including but not
15 limited to institutional controls, engineering controls, an approved
16 site management plan, and an environmental easement with respect to the
17 qualified site; provided, however, with respect to any qualified site
18 for which [the department of environmental conservation has issued a
19 notice to the taxpayer on or after July first, two thousand fifteen but
20 on or before June twenty-fourth, two thousand twenty-one that its
21 request for participation has been accepted under subdivision six of
22 section 27-1407 of the environmental conservation law] a certificate of
23 completion was issued on or after July first, two thousand fifteen but
24 on or before June twenty-fourth, two thousand twenty-one, site prepara-
25 tion shall include all costs paid or incurred within eighty-four months
26 after the last day of the tax year in which the certificate of
27 completion is issued that are necessary for compliance with the certif-
28 icate of completion or subsequent modifications thereof, or the remedial
29 program defined in such certificate of completion including but not
30 limited to institutional controls, engineering controls, an approved
31 site management plan, and an environmental easement with respect to the
32 qualified site, provided, however, with respect to any qualified site
33 located in cities with a population greater than two hundred five thou-
34 sand and less than two hundred fifteen thousand in counties with a popu-
35 lation greater than one million but less than one million ten thousand
36 based on the latest federal decennial census for which the department of
37 environmental conservation has issued a certificate of completion to the
38 taxpayer on or after January first, two thousand seventeen and before
39 December thirty-first, two thousand seventeen, this credit component
40 shall be allowed for up to one hundred eighty months after the date of
41 the issuance of such certificate of completion. Site preparation cost
42 shall not include the costs of foundation systems that exceed the cover
43 system requirements in the regulations applicable to the qualified site.

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

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

1 ty-two, on sites that comply with the track one remediation standards
2 promulgated pursuant to subdivision four of section 27-1415 of the envi-
3 ronmental conservation law, stadiums, baseball parks, basketball courts
4 and other athletic facilities shall be considered buildings, and that
5 components of stadiums, baseball parks, basketball courts, and other
6 athletic facilities constructed on such sites, including sports field
7 turf, site lighting, sidewalks, access and entry ways, and other
8 improvements added to land, shall be considered structural components of
9 buildings under the internal revenue code, and shall be included in the
10 definition of tangible property for the purposes of this section. A
11 related party service fee shall be allowed only in the calculation of
12 the tangible property credit component and shall not be allowed in the
13 calculation of the site preparation credit component or the on-site
14 groundwater remediation credit component. The portion of the tangible
15 property credit component which is attributable to related party service
16 fees shall be allowed only as follows: (A) in the taxable year in which
17 the qualified tangible property described in subparagraph (iii) of this
18 paragraph is placed in service, for that portion of the related party
19 service fees which have been earned and actually paid to the related
20 party on or before the last day of such taxable year; and (B) with
21 respect to any other taxable year for which the tangible property credit
22 component may be claimed under this subparagraph and in which the amount
23 of any additional related party service fees are actually paid by the
24 taxpayer to the related party, the tangible property credit component
25 for such amount shall be allowed in such taxable year. The credit compo-
26 nent amount so determined shall be allowed for the taxable year in which
27 such qualified tangible property is first placed in service on a quali-
28 fied site with respect to which a certificate of completion has been
29 issued to the taxpayer, or for the taxable year in which the certificate
30 of completion is issued if the qualified tangible property is placed in
31 service prior to the issuance of the certificate of completion. This
32 credit component shall only be allowed for up to one hundred twenty
33 months after the date of the issuance of such certificate of completion,
34 provided, however, that for qualified sites to which a certificate of
35 completion is issued on or after March twentieth, two thousand ten, but
36 prior to January first, two thousand twelve, the commissioner may extend
37 the credit component for up to one hundred forty-four months after the
38 date of such issuance, if the commissioner, in consultation with the
39 commissioner of environmental conservation, determines that the require-
40 ments for the credit would have been met if not for the restrictions
41 related to the state disaster emergency declared pursuant to executive
42 order 202 of 2020 or any extension thereof or subsequent executive order
43 issued in response to the novel coronavirus (COVID-19) pandemic;
44 provided, however, with respect to any qualified site for which the
45 department of environmental conservation has issued a certificate of
46 completion to the taxpayer on or after March twentieth, two thousand ten
47 and before December thirty-first, two thousand fifteen, this credit
48 component shall be allowed for up to one hundred eighty months after the
49 date of the issuance of such certificate of completion; and provided
50 further, with respect to any qualified site located in cities with a
51 population greater than two hundred five thousand and less than two
52 hundred fifteen thousand in counties with a population greater than one
53 million but less than one million ten thousand based on the latest
54 federal decennial census for which the department of environmental
55 conservation has issued a certificate of completion to the taxpayer on
56 or after January first, two thousand seventeen and before December thir-



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

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

7 (2) Site preparation credit component. The site preparation credit
8 component shall be equal to the applicable percentage of the site prepa-
9 ration costs paid or incurred by the taxpayer with respect to a quali-
10 fied site. The credit component amount so determined with respect to a
11 site's qualification for a certificate of completion shall be allowed
12 for the taxable year in which the effective date of the certificate of
13 completion occurs. The credit component amount determined other than
14 with respect to such qualification shall be allowed for the taxable year
15 in which the improvement to which the applicable costs apply is placed
16 in service for up to five taxable years after the issuance of such
17 certificate of completion; provided, however, that for any qualified
18 site to which a certificate of completion is issued on or after July
19 first, two thousand fifteen but on or before June twenty-fourth, two
20 thousand twenty-one, the site preparation credit component for such
21 costs shall be allowed for up to seven taxable years after the issuance
22 of such certificate of completion; and provided further, however, that
23 for any qualified site located in cities with a population greater than
24 two hundred five thousand and less than two hundred fifteen thousand in
25 counties with a population greater than one million but less than one
26 million ten thousand based on the latest federal decennial census for
27 which the department of environmental conservation has issued a certifi-
28 cate of completion to the taxpayer on or after January first, two thou-
29 sand seventeen and before December thirty-first, two thousand seventeen,
30 the site preparation credit component for such costs shall be allowed
31 for up to fifteen taxable years after the issuance of such certificate
32 of completion.

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

35

SUBPART C

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

41 (1) In the case of an electing partnership, the sum of (i) all items
42 of income, gain, loss, or deduction derived from or connected with New
43 York sources to the extent they are included in the taxable income of a
44 nonresident partner subject to tax under article twenty-two, under para-
45 graph one of subsection (a) of section six hundred thirty-two of this
46 chapter; [and] (ii) all items of income, gain, loss, or deduction to the
47 extent they are included in the taxable income of a resident partner
48 subject to tax under article twenty-two of this chapter; and (iii) all
49 pass-through entity taxes including taxes paid under this article to New
50 York, taxes paid under article twenty-four-B of this chapter to the city
51 of New York, and taxes paid to other jurisdictions that are substantial-
52 ly similar to the taxes paid under this article, to the extent that, for
53 federal income tax purposes, the taxes are paid and deducted in the
54 taxable year, and are included in the taxable income of the partners

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

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

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

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

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

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

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

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

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

6 § 4. Subsection (e) of section 867 of the tax law, as added by section
7 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended
8 to read as follows:

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

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

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

16 § 5. Subsection (i) of section 867 of the tax law, as added by section
17 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended
18 to read as follows:

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

29 § 6. Subsection (j) of section 867 of the tax law, as added by section
30 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended
31 to read as follows:

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

40 § 7. Subsection (c) of section 868 of the tax law, as added by section
41 1 of subpart B of part MM of chapter 59 of the laws of 2022, is amended
42 to read as follows:

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

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

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

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

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

16

PART K

17 Section 1. Paragraphs (a) and (d) of subdivision 1 of section 467 of
18 the real property tax law, as amended by section 1 of part B of chapter
19 686 of the laws of 2022, are amended to read as follows:

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

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

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

44 3. No exemption shall be granted:

45 (a) (i) if the income of the owner or the combined income of the owners
46 of the property for the applicable income tax year [immediately preced-
47 ing the date of making application for exemption] exceeds the sum of
48 three thousand dollars, or such other sum not less than three thousand
49 dollars nor more than [twenty-six thousand dollars beginning July first,
50 two thousand six, twenty-seven thousand dollars beginning July first,
51 two thousand seven, twenty-eight thousand dollars beginning July first,
52 two thousand eight, twenty-nine thousand dollars beginning July first,
53 two thousand nine, fifty thousand dollars beginning July first, two
54 thousand twenty-two, and in a city with a population of one million or

1 more fifty thousand dollars beginning July first, two thousand seven-
2 teen,] fifty thousand dollars, as may be provided by the local law,
3 ordinance or resolution adopted pursuant to this section.

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

17 (iii) Where title is vested in [either the husband or the wife, their]
18 a married person, the combined income of such person and such person's
19 spouse may not exceed such sum, except where [the husband or wife, or
20 ex-husband or ex-wife] one spouse or ex-spouse is absent from the prop-
21 erty as provided in subparagraph (ii) of paragraph (d) of this subdivi-
22 sion, then only the income of the spouse or ex-spouse residing on the
23 property shall be considered and may not exceed such sum. [Such income
24 shall include social security and retirement benefits, interest, divi-
25 dends, total gain from the sale or exchange of a capital asset which may
26 be offset by a loss from the sale or exchange of a capital asset in the
27 same income tax year, net rental income, salary or earnings, and net
28 income from self-employment, but shall not include a return of capital,
29 gifts, inheritances, payments made to individuals because of their
30 status as victims of Nazi persecution, as defined in P.L. 103-286 or
31 monies earned through employment in the federal foster grandparent
32 program and any such income shall be offset by all medical and
33 prescription drug expenses actually paid which were not reimbursed or
34 paid for by insurance, if the governing board of a municipality, after a
35 public hearing, adopts a local law, ordinance or resolution providing
36 therefor. In addition, an exchange of an annuity for an annuity
37 contract, which resulted in non-taxable gain, as determined in section
38 one thousand thirty-five of the internal revenue code, shall be excluded
39 from such income. Provided that such exclusion shall be based on satis-
40 factory proof that such an exchange was solely an exchange of an annuity
41 for an annuity contract that resulted in a non-taxable transfer deter-
42 mined by such section of the internal revenue code. Furthermore, such
43 income shall not include the proceeds of a reverse mortgage, as author-
44 ized by section six-h of the banking law, and sections two hundred
45 eighty and two hundred eighty-a of the real property law; provided,
46 however, that monies used to repay a reverse mortgage may not be
47 deducted from income, and provided additionally that any interest or
48 dividends realized from the investment of reverse mortgage proceeds
49 shall be considered income. The provisions of this paragraph notwith-
50 standing, such income shall not include veterans disability compen-
51 sation, as defined in Title 38 of the United States Code provided the
52 governing board of such municipality, after public hearing, adopts a
53 local law, ordinance or resolution providing therefor. In computing net
54 rental income and net income from self-employment no depreciation
55 deduction shall be allowed for the exhaustion, wear and tear of real or
56 personal property held for the production of income;]

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

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

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

20 (3) the applicant's income shall be offset by all medical and
21 prescription drug expenses actually paid that were not reimbursed or
22 paid for by insurance, if the governing board of a municipal corpo-
23 ration, after a public hearing, adopts a local law, ordinance or resol-
24 ution providing therefor;

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

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

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

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

34 (C) the aggregate amount of all losses shall not exceed fifteen thou-
35 sand dollars;

36 (b) unless the owner shall have held an exemption under this section
37 for [his] the owner's previous residence or unless the title of the
38 property shall have been vested in the owner or one of the owners of the
39 property for at least twelve consecutive months prior to the date of
40 making application for exemption, provided, however, that in the event
41 of the death of [either a husband or wife] a married person in whose
42 name title of the property shall have been vested at the time of death
43 and then becomes vested solely in [the survivor] such person's surviving
44 spouse by virtue of devise by or descent from the deceased [husband or
45 wife] spouse, the time of ownership of the property by the deceased
46 [husband or wife] spouse shall be deemed also a time of ownership by the
47 [survivor] surviving spouse and such ownership shall be deemed contin-
48 uous for the purposes of computing such period of twelve consecutive
49 months. In the event of a transfer by [either a husband or wife to the
50 other] a married person to such person's spouse of all or part of the
51 title to the property, the time of ownership of the property by the
52 transferor spouse shall be deemed also a time of ownership by the trans-
53 feree spouse and such ownership shall be deemed continuous for the
54 purposes of computing such period of twelve consecutive months. Where
55 property of the owner or owners has been acquired to replace property
56 formerly owned by such owner or owners and taken by eminent domain or

1 other involuntary proceeding, except a tax sale, the period of ownership
2 of the former property shall be combined with the period of ownership of
3 the property for which application is made for exemption and such peri-
4 ods of ownership shall be deemed to be consecutive for purposes of this
5 section. Where a residence is sold and replaced with another within one
6 year and both residences are within the state, the period of ownership
7 of both properties shall be deemed consecutive for purposes of the
8 exemption from taxation by a municipality within the state granting such
9 exemption. Where the owner or owners transfer title to property which as
10 of the date of transfer was exempt from taxation or PILOT under the
11 provisions of this section, the reacquisition of title by such owner or
12 owners within nine months of the date of transfer shall be deemed to
13 satisfy the requirement of this paragraph that the title of the property
14 shall have been vested in the owner or one of the owners for such period
15 of twelve consecutive months. Where, upon or subsequent to the death of
16 an owner or owners, title to property which as of the date of such death
17 was exempt from taxation or PILOT under such provisions, becomes vested,
18 by virtue of devise or descent from the deceased owner or owners, or by
19 transfer by any other means within nine months after such death, solely
20 in a person or persons who, at the time of such death, maintained such
21 property as a primary residence, the requirement of this paragraph that
22 the title of the property shall have been vested in the owner or one of
23 the owners for such period of twelve consecutive months shall be deemed
24 satisfied;

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

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

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

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

1 the total outstanding stock of the corporation, including that owned by
2 the corporation, shall be deemed to be vested in such tenant-stockhold-
3 er.

4 § 4. Subdivisions 5 and 5-a of section 467 of the real property tax
5 law, as amended by section 1 of part B of chapter 686 of the laws of
6 2022, are amended to read as follows:

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

18 5-a. Any local law or ordinance adopted pursuant to paragraph (a) of
19 subdivision one of this section may be amended, or a local law or ordi-
20 nance may be adopted to provide, notwithstanding subdivision five of
21 this section, that an application for such exemption may be filed with
22 the assessor after the appropriate taxable status date but not later
23 than the last date on which a petition with respect to complaints of
24 assessment may be filed, where failure to file a timely application
25 resulted from: (a) a death of the applicant's spouse, child, parent[,
26 brother or sister] or sibling; or (b) an illness of the applicant or of
27 the applicant's spouse, child, parent[, brother or sister] or sibling,
28 which actually prevents the applicant from filing on a timely basis, as
29 certified by a licensed physician. The assessor shall approve or deny
30 such application as if it had been filed on or before the taxable status
31 date.

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

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

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

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

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

30 8-a. Notwithstanding any provision of law to the contrary, the local
31 governing body of a municipal corporation that is authorized to adopt a
32 local law pursuant to subdivision eight of this section is further
33 authorized to adopt a local law providing that where a renewal applica-
34 tion for the exemption authorized by this section has not been filed on
35 or before the taxable status date, and the owner believes that good
36 cause existed for the failure to file the renewal application by that
37 date, the owner may, no later than the last day for paying taxes or
38 PILOT without incurring interest or penalty, submit a written request to
39 the assessor asking [him or her] the assessor to extend the filing dead-
40 line and grant the exemption. Such request shall contain an explanation
41 of why the deadline was missed, and shall be accompanied by a renewal
42 application, reflecting the facts and circumstances as they existed on
43 the taxable status date. The assessor may extend the filing deadline and
44 grant the exemption if [he or she] the assessor is satisfied that (i)
45 good cause existed for the failure to file the renewal application by
46 the taxable status date, and that (ii) the applicant is otherwise enti-
47 tled to the exemption. The assessor shall make a determination and mail
48 notice [of his or her determination] thereof to the owner. If the deter-
49 mination states that the assessor has granted the exemption, [he or she]
50 the assessor shall thereupon be authorized and directed to correct the
51 assessment roll accordingly, or, if another person has custody or
52 control of the assessment roll, to direct that person to make the appro-
53 priate corrections. If the correction is not made before taxes are
54 levied, the failure to take the exemption into account in the computa-
55 tion of the tax shall be deemed a "clerical error" for purposes of title

1 three of article five of this chapter, and shall be corrected according-
2 ly.

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

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

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

25 § 8. Paragraph (a) of subdivision 5 of section 459-c of the real prop-
26 erty tax law, as separately amended by section 2 of part B of chapter
27 686 and chapter 488 of the laws of 2022, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

49 (C) the aggregate amount of all losses shall not exceed fifteen thou-
50 sand dollars;

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

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

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

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

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

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

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

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

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

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

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

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

55 (C) the aggregate amount of all losses shall not exceed fifteen thou-
56 sand dollars;

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

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

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

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

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

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

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

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

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

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

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

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

5 § 12. This act shall take effect immediately and shall apply to all
6 applications for exemptions pursuant to sections 467, 459-c, 467-b and
7 467-c of the real property tax law on assessment rolls that are based on
8 taxable status dates occurring on and after October 1, 2023.

9 PART L

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

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

23 § 2. This act shall take effect immediately.

24 PART M

25 Intentionally Omitted

26 PART N

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

29 1-a. Notwithstanding any provision of law to the contrary, the solar
30 or wind energy system appraisal model authorized by this section shall
31 be identified, formulated, adopted, published, and updated periodically
32 in the manner provided in this section without regard to the provisions
33 of article two of the state administrative procedure act.

34 § 2. Subparagraph (viii) of paragraph (b) of subdivision 2 of section
35 102 of the state administrative procedure act, as amended by chapter 74
36 of the laws of 1987, is amended to read as follows:

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

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

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

4 PART O

5 Intentionally Omitted

6 PART P

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

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

11 § 3. This act shall take effect immediately.

12 PART Q

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

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

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

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

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

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

44 § 4. Section 1102 of the tax law is amended by adding a new subdivi-
45 sion (g) to read as follows:

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

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

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

7 PART R

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

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

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

20 PART S

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

24 1. There is hereby imposed and shall be paid a tax on all cigarettes
25 possessed in the state by any person for sale, except that no tax shall
26 be imposed on cigarettes sold under such circumstances that this state
27 is without power to impose such tax, including sales to qualified Indi-
28 ans for their own use and consumption on their nations' or tribes' qual-
29 ified reservation, or sold to the United States or sold to or by a
30 voluntary unincorporated organization of the armed forces of the United
31 States operating a place for the sale of goods pursuant to regulations
32 promulgated by the appropriate executive agency of the United States, to
33 the extent provided in such regulations and policy statements of such an
34 agency applicable to such sales. The tax imposed by this section is
35 imposed on all cigarettes sold on an Indian reservation to non-members
36 of the Indian nation or tribe and to non-Indians and evidence of such
37 tax shall be by means of an affixed cigarette tax stamp. Indian nations
38 or tribes may elect to participate in the Indian tax exemption coupon
39 system established in section four hundred seventy-one-e of this article
40 which provides a mechanism for the collection of the tax imposed by this
41 section on cigarette sales on qualified reservations to such non-members
42 and non-Indians and for the delivery of quantities of tax-exempt ciga-
43 rettes to Indian nations or tribes for the personal use and consumption
44 of qualified members of the Indian nation or tribe. If an Indian nation
45 or tribe does not elect to participate in the Indian tax exemption
46 coupon system, the prior approval system shall be the mechanism for the
47 delivery of quantities of tax-exempt cigarettes to Indian nations or
48 tribes for the personal use and consumption of qualified members of the
49 Indian nation or tribe as provided for in paragraph (b) of subdivision
50 five of this section. Such tax on cigarettes shall be at the rate of
51 [four] five dollars and thirty-five cents for each twenty cigarettes or
52 fraction thereof, provided, however, that if a package of cigarettes

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

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

11 § 471-a. Use tax on cigarettes. There is hereby imposed and shall be
12 paid a tax on all cigarettes used in the state by any person, except
13 that no tax shall be imposed (1) if the tax provided in section four
14 hundred seventy-one of this article is paid, (2) on the use of ciga-
15 rettes which are exempt from the tax imposed by said section, or (3) on
16 the use of four hundred or less cigarettes, brought into the state on,
17 or in the possession of, any person. Such tax on cigarettes shall be at
18 the rate of [four] five dollars and thirty-five cents for each twenty
19 cigarettes or fraction thereof, provided, however, that if a package of
20 cigarettes contains more than twenty cigarettes, the rate of tax on the
21 cigarettes in such package in excess of twenty shall be one dollar and
22 [eight] thirty-three and three-quarters cents for each five cigarettes
23 or fraction thereof. Within twenty-four hours after liability for the
24 tax accrues, each such person shall file with the commissioner a return
25 in such form as the commissioner may prescribe together with a remit-
26 tance of the tax shown to be due thereon. For purposes of this article,
27 the word "use" means the exercise of any right or power actual or
28 constructive and shall include but is not limited to the receipt, stor-
29 age or any keeping or retention for any length of time, but shall not
30 include possession for sale. All other provisions of this article if not
31 inconsistent shall apply to the administration and enforcement of the
32 tax imposed by this section in the same manner as if the language of
33 said provisions had been incorporated in full into this section.

34 § 3. Notwithstanding any other provision of law to the contrary, the
35 tax due on cigarettes possessed in New York state as of the close of
36 business on August 31, 2023, by any person for sale solely attributable
37 to the increase imposed by the amendments to section 471 of the tax law,
38 as amended by section one of this act, shall be paid by November 20,
39 2023, subject to such terms and conditions as the commissioner of taxa-
40 tion and finance shall prescribe.

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

44 PART T

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

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

1 same for a period of three years subject to the use and inspection of
2 the commissioner [of taxation and finance]. Each dealer shall procure
3 and retain invoices showing the number of packages and number of ciga-
4 rettes contained therein, in each shipment of cigarettes received by him
5 or her, and the items and quantity and wholesale price of each item in
6 each shipment of tobacco products received by him or her, the date ther-
7 eof, and the name of the shipper, and shall retain the same for a period
8 of three years subject to the use and inspection of the commissioner [of
9 taxation and finance]. The commissioner [of taxation and finance] by
10 regulation may provide that whenever cigarettes or tobacco products are
11 shipped into the state, the railroad company, express company, trucking
12 company or other public carrier transporting any shipment thereof shall
13 file with the commissioner [of taxation and finance] a copy of the
14 freight bill within ten days after the delivery in the state of each
15 shipment. All dealers shall maintain and keep for a period of three
16 years such other records of cigarettes or tobacco products received,
17 sold or delivered within the state as may be required by the commission-
18 er [of taxation and finance]. The commissioner [of taxation and finance]
19 is hereby authorized to examine the books, papers, invoices and other
20 records of any person in possession, control or occupancy of any prem-
21 ises where cigarettes or tobacco products are placed, stored, sold or
22 offered for sale, and the equipment of any such person pertaining to the
23 stamping of cigarettes or the sale and delivery of cigarettes or tobacco
24 products taxable under this article, as well as the stock of cigarettes
25 or tobacco products in any such premises or vehicle. To verify the accu-
26 racy of the tax imposed and assessed by this article, each such person
27 is hereby directed and required to give to the commissioner [of taxation
28 and finance] or his or her duly authorized representatives, the means,
29 facilities and opportunity for such examinations as are herein provided
30 for and required.

31 § 2. Paragraphs (b) and (d) of subdivision 4 of section 480-a of the
32 tax law, as amended by section 4 of part I of chapter 59 of the laws of
33 2020, are amended and a new paragraph (a-1) is added to read as follows:

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

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

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

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

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

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

32 § 4. This act shall take effect immediately.

33 PART U

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

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

49 § 2. Subparagraph 2 of paragraph (xi) of subdivision (b) of section
50 1201 of the tax law, as amended by section 2 of item UUU of subpart B of
51 part XXX of chapter 58 of the laws of 2020, is amended to read as
52 follows:

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

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

12 § 3. Subparagraph (B) of paragraph 2 of subdivision e of section
13 11-2102 of the administrative code of the city of New York, as amended
14 by section 3 of item UUU of subpart B of part XXX of chapter 58 of the
15 laws of 2020, is amended to read as follows:

16 (B) any issuance or transfer of an interest in a REIT, or in a part-
17 nership or corporation in which a REIT owns a controlling interest imme-
18 diately following the issuance or transfer in connection with a trans-
19 action described in subparagraph (A) of this paragraph. Notwithstanding
20 the foregoing, a transaction described in the preceding sentence shall
21 not constitute a real estate investment trust transfer unless (i) it
22 occurs in connection with the initial formation of the REIT and the
23 conditions described in subparagraphs (C) and (D) of this paragraph are
24 satisfied, or (ii) in the case of any real estate investment trust
25 transfer occurring on or after July thirteenth, nineteen hundred nine-
26 ty-six and before September first, two thousand [twenty-three] twenty-
27 six, the transaction is described in subparagraph (E) of this paragraph
28 in which case the provision of such subparagraph shall apply.

29 § 4. This act shall take effect immediately.

30

PART V

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

33 § 2016. Judicial review. 1. A decision of the tax appeals tribunal,
34 which is not subject to any further administrative review, shall finally
35 and irrevocably decide all the issues which were raised in proceedings
36 before the division of tax appeals upon which such decision is based
37 unless the petitioner or the commissioner, or both, petitions for judi-
38 cial review in the manner provided by article seventy-eight of the civil
39 practice law and rules, except as otherwise provided in this section,
40 within four months after notice of such decision is served by the tax
41 appeals tribunal upon every party to the proceeding before such tribunal
42 by certified mail or personal service[, the petitioner who commenced the
43 proceeding petitions for judicial review in the manner provided by arti-
44 cle seventy-eight of the civil practice law and rules, except as other-
45 wise provided in this section]. Such service by certified mail shall be
46 complete upon deposit of such notice, enclosed in a post-paid properly
47 addressed wrapper, in a post office or official depository under the
48 exclusive care and custody of the United States postal service. [The]

49 2. When the petitioner who commenced the proceeding before the divi-
50 sion of tax appeals files a petition for judicial review, such petition
51 shall designate the tax appeals tribunal and the commissioner [of taxa-
52 tion and finance] as respondents in the proceeding for judicial review.

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

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

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

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

27 § 2. This act shall take effect immediately and shall apply to deci-
28 sions and orders issued by the tax appeals tribunal on or after such
29 date.

30 PART W

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

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

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

10 § 2. This act shall take effect immediately.

11 PART X

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

24 § 2. Prior to, and as a condition to the state initially providing
25 funds for the renovation of Belmont Park racetrack, the franchised
26 corporation shall enter into a repayment agreement with the state acting
27 through the budget director authorizing and directing that a portion of
28 the funds of the franchised corporation dedicated for capital expendi-
29 tures of the franchised corporation pursuant to paragraph 3 of subdivi-
30 sion f and paragraph 3 of subdivision f-1 of section 1612 of the tax law
31 shall be used to repay the state for the funds provided by the state for
32 the renovation of Belmont Park racetrack, in accordance with the repay-
33 ment agreement between the state and the franchised corporation. For the
34 purposes of this act, the terms "renovate", "renovation", and "renovat-
35 ing" are limited to any and all construction funded by and subject to
36 the repayment agreement required by subparagraph (ii) of the opening
37 paragraph of paragraph 3 of subdivision f of section 1612 of the tax
38 law. Such agreement shall further provide that:

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

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

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

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

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

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

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

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

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

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

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

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

33 1. There is hereby created a franchise oversight board which shall
34 consist of five members [appointed by the governor]. Of the five
35 members, three shall be appointed by the governor, one shall be
36 appointed [upon the recommendation of] by the temporary president of the
37 senate and one shall be appointed [upon the recommendation of] by the
38 speaker of the assembly. Of the initially appointed board, one member
39 appointed by the governor shall serve for a one year term, one member
40 appointed by the governor shall serve for a two year term, and one
41 member appointed by the governor shall serve for a three year term[,
42 while each of the members appointed by the governor upon the recommenda-
43 tion of]. The members appointed by the temporary president of the senate
44 and [upon the recommendation of] the speaker of the assembly shall serve
45 for a four year term. All successors shall serve for a term of four
46 years. All members shall continue in office until their successors have
47 been appointed and qualified. The governor shall designate the chair
48 from among the sitting members who shall serve as such at the pleasure
49 of the governor.

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

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

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

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

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

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

34 § 8. The opening paragraph of paragraph 3 of subdivision f of section
35 1612 of the tax law is designated subparagraph (i) and a new subpara-
36 graph (ii) is added to read as follows:

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

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

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

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

26 § 11. 1. Notwithstanding any other provisions of law to the contrary,
27 the dormitory authority, the urban development corporation, and the New
28 York state thruway authority are hereby authorized to issue personal
29 income tax revenue bonds or notes or state sales tax revenue bonds or
30 notes in one or more series in an aggregate principal amount not to
31 exceed four hundred fifty-five million dollars (\$455,000,000) excluding
32 bonds or notes issued to pay costs of issuance of such bonds or notes
33 and bonds or notes issued to refund or otherwise repay such bonds or
34 notes previously issued, for the purpose of financing the renovation of
35 Belmont Park racetrack.

36 2. Notwithstanding any other provision of law to the contrary, in
37 order to assist the dormitory authority, urban development corporation,
38 and the New York state thruway authority in undertaking the financing
39 for the renovation of Belmont Park racetrack, the director of the budget
40 is hereby authorized to enter into one or more financing agreements with
41 the dormitory authority, the urban development corporation, and the New
42 York state thruway authority, upon such terms and conditions as the
43 director of the budget and the dormitory authority, the urban develop-
44 ment corporation and the New York state thruway authority agree, so as
45 to annually provide to the dormitory authority, the urban development
46 corporation, and the New York state thruway authority, in the aggregate,
47 a sum not to exceed the principal, interest, and related expenses
48 required for such bonds and notes. Any financing agreement entered into
49 pursuant to this section shall provide that the obligation of the state
50 to pay the amount therein provided shall not constitute a debt of the
51 state within the meaning of any constitutional or statutory provision
52 and shall be deemed executory only to the extent of monies available and
53 that no liability shall be incurred by the state beyond the monies
54 available for such purpose, subject to annual appropriation by the
55 legislature. Any such contract or any payments made or to be made there-
56 under may be assigned and pledged by the dormitory authority, the urban

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

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

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

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

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

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

47 PART Y

48 Intentionally Omitted

49 PART Z

50 Intentionally Omitted

1

PART AA

2

Intentionally Omitted

3

PART BB

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

8 (a) Any racing association or corporation or regional off-track
9 betting corporation, authorized to conduct pari-mutuel wagering under
10 this chapter, desiring to display the simulcast of horse races on which
11 pari-mutuel betting shall be permitted in the manner and subject to the
12 conditions provided for in this article may apply to the commission for
13 a license so to do. Applications for licenses shall be in such form as
14 may be prescribed by the commission and shall contain such information
15 or other material or evidence as the commission may require. No license
16 shall be issued by the commission authorizing the simulcast transmission
17 of thoroughbred races from a track located in Suffolk county. The fee
18 for such licenses shall be five hundred dollars per simulcast facility
19 and for account wagering licensees that do not operate either a simul-
20 cast facility that is open to the public within the state of New York or
21 a licensed racetrack within the state, twenty thousand dollars per year
22 payable by the licensee to the commission for deposit into the general
23 fund. Except as provided in this section, the commission shall not
24 approve any application to conduct simulcasting into individual or group
25 residences, homes or other areas for the purposes of or in connection
26 with pari-mutuel wagering. The commission may approve simulcasting into
27 residences, homes or other areas to be conducted jointly by one or more
28 regional off-track betting corporations and one or more of the follow-
29 ing: a franchised corporation, thoroughbred racing corporation or a
30 harness racing corporation or association; provided (i) the simulcasting
31 consists only of those races on which pari-mutuel betting is authorized
32 by this chapter at one or more simulcast facilities for each of the
33 contracting off-track betting corporations which shall include wagers
34 made in accordance with section one thousand fifteen, one thousand
35 sixteen and one thousand seventeen of this article; provided further
36 that the contract provisions or other simulcast arrangements for such
37 simulcast facility shall be no less favorable than those in effect on
38 January first, two thousand five; (ii) that each off-track betting
39 corporation having within its geographic boundaries such residences,
40 homes or other areas technically capable of receiving the simulcast
41 signal shall be a contracting party; (iii) the distribution of revenues
42 shall be subject to contractual agreement of the parties except that
43 statutory payments to non-contracting parties, if any, may not be
44 reduced; provided, however, that nothing herein to the contrary shall
45 prevent a track from televising its races on an irregular basis primari-
46 ly for promotional or marketing purposes as found by the commission. For
47 purposes of this paragraph, the provisions of section one thousand thir-
48 teen of this article shall not apply. Any agreement authorizing an
49 in-home simulcasting experiment commencing prior to May fifteenth, nine-
50 teen hundred ninety-five, may, and all its terms, be extended until June
51 thirtieth, two thousand [twenty-three] twenty-four; provided, however,
52 that any party to such agreement may elect to terminate such agreement



1 upon conveying written notice to all other parties of such agreement at
2 least forty-five days prior to the effective date of the termination,
3 via registered mail. Any party to an agreement receiving such notice of
4 an intent to terminate, may request the commission to mediate between
5 the parties new terms and conditions in a replacement agreement between
6 the parties as will permit continuation of an in-home experiment until
7 June thirtieth, two thousand [twenty-three] twenty-four; and (iv) no
8 in-home simulcasting in the thoroughbred special betting district shall
9 occur without the approval of the regional thoroughbred track.

10 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
11 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
12 section 2 of part EE of chapter 59 of the laws of 2022, is amended to
13 read as follows:

14 (iii) Of the sums retained by a receiving track located in Westchester
15 county on races received from a franchised corporation, for the period
16 commencing January first, two thousand eight and continuing through June
17 thirtieth, two thousand [twenty-three] twenty-four, the amount used
18 exclusively for purses to be awarded at races conducted by such receiv-
19 ing track shall be computed as follows: of the sums so retained, two and
20 one-half percent of the total pools. Such amount shall be increased or
21 decreased in the amount of fifty percent of the difference in total
22 commissions determined by comparing the total commissions available
23 after July twenty-first, nineteen hundred ninety-five to the total
24 commissions that would have been available to such track prior to July
25 twenty-first, nineteen hundred ninety-five.

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

30 The provisions of this section shall govern the simulcasting of races
31 conducted at thoroughbred tracks located in another state or country on
32 any day during which a franchised corporation is conducting a race meet-
33 ing in Saratoga county at Saratoga thoroughbred racetrack until June
34 thirtieth, two thousand [twenty-three] twenty-four and on any day
35 regardless of whether or not a franchised corporation is conducting a
36 race meeting in Saratoga county at Saratoga thoroughbred racetrack after
37 June thirtieth, two thousand [twenty-three] twenty-four. On any day on
38 which a franchised corporation has not scheduled a racing program but a
39 thoroughbred racing corporation located within the state is conducting
40 racing, each off-track betting corporation branch office and each simul-
41 casting facility licensed in accordance with section one thousand seven
42 (that has entered into a written agreement with such facility's repre-
43 sentative horsemen's organization, as approved by the commission), one
44 thousand eight, or one thousand nine of this article shall be authorized
45 to accept wagers and display the live simulcast signal from thoroughbred
46 tracks located in another state or foreign country subject to the
47 following provisions:

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

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

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

5 The provisions of this section shall govern the simulcasting of races
6 conducted at thoroughbred tracks located in another state or country on
7 any day during which a franchised corporation is not conducting a race
8 meeting in Saratoga county at Saratoga thoroughbred racetrack until June
9 thirtieth, two thousand [twenty-three] twenty-four. Every off-track
10 betting corporation branch office and every simulcasting facility
11 licensed in accordance with section one thousand seven that have entered
12 into a written agreement with such facility's representative horsemen's
13 organization as approved by the commission, one thousand eight or one
14 thousand nine of this article shall be authorized to accept wagers and
15 display the live full-card simulcast signal of thoroughbred tracks
16 (which may include quarter horse or mixed meetings provided that all
17 such wagering on such races shall be construed to be thoroughbred races)
18 located in another state or foreign country, subject to the following
19 provisions; provided, however, no such written agreement shall be
20 required of a franchised corporation licensed in accordance with section
21 one thousand seven of this article:

22 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel
23 wagering and breeding law, as amended by section 6 of part EE of chapter
24 59 of the laws of 2022, is amended to read as follows:

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

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

45 § 32. This act shall take effect immediately and the pari-mutuel tax
46 reductions in section six of this act shall expire and be deemed
47 repealed on July 1, [2023] 2024; provided, however, that nothing
48 contained herein shall be deemed to affect the application, qualifica-
49 tion, expiration, or repeal of any provision of law amended by any
50 section of this act, and such provisions shall be applied or qualified
51 or shall expire or be deemed repealed in the same manner, to the same
52 extent and on the same date as the case may be as otherwise provided by
53 law; provided further, however, that sections twenty-three and twenty-
54 five of this act shall remain in full force and effect only until May 1,
55 1997 and at such time shall be deemed to be repealed.

1 § 8. Section 54 of chapter 346 of the laws of 1990, amending the
2 racing, pari-mutuel wagering and breeding law and other laws relating to
3 simulcasting and the imposition of certain taxes, as amended by section
4 8 of part EE of chapter 59 of the laws of 2022, is amended to read as
5 follows:

6 § 54. This act shall take effect immediately; provided, however,
7 sections three through twelve of this act shall take effect on January
8 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
9 ing law, as added by section thirty-eight of this act, shall expire and
10 be deemed repealed on July 1, [2023] 2024; and section eighteen of this
11 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
12 two of this act shall take effect as of the same date as chapter 772 of
13 the laws of 1989 took effect.

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

17 (a) The franchised corporation authorized under this chapter to
18 conduct pari-mutuel betting at a race meeting or races run thereat shall
19 distribute all sums deposited in any pari-mutuel pool to the holders of
20 winning tickets therein, provided such tickets are presented for payment
21 before April first of the year following the year of their purchase,
22 less an amount that shall be established and retained by such franchised
23 corporation of between twelve to seventeen percent of the total deposits
24 in pools resulting from on-track regular bets, and fourteen to twenty-
25 one percent of the total deposits in pools resulting from on-track
26 multiple bets and fifteen to twenty-five percent of the total deposits
27 in pools resulting from on-track exotic bets and fifteen to thirty-six
28 percent of the total deposits in pools resulting from on-track super
29 exotic bets, plus the breaks. The retention rate to be established is
30 subject to the prior approval of the commission.

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

53 For the period April first, two thousand one through December thirty-
54 first, two thousand [twenty-three] twenty-four, such tax on all wagers
55 shall be one and six-tenths percent, plus, in each such period, twenty
56 percent of the breaks. Payment to the New York state thoroughbred breed-

1 ing and development fund by such franchised corporation shall be one-
2 half of one percent of total daily on-track pari-mutuel pools resulting
3 from regular, multiple and exotic bets and three percent of super exotic
4 bets and for the period April first, two thousand one through December
5 thirty-first, two thousand [twenty-three] twenty-four, such payment
6 shall be seven-tenths of one percent of regular, multiple and exotic
7 pools.

8 § 10. This act shall take effect immediately.

9 PART CC

10 Intentionally Omitted

11 PART DD

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

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

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

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

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

48 PART EE

1 Section 1. Subparagraph 9 of paragraph (e) of subdivision 1 of section
2 210-B of the tax law is REPEALED.

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

5

PART FF

6 Section 1. Paragraph 1 of subdivision (b) of section 37 of the tax
7 law, as amended by section 1 of part V of chapter 60 of the laws of
8 2016, is amended to read as follows:

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

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

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

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

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

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

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

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

30

PART GG

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

35 (a) For the privilege of exercising its corporate franchise, or of
36 doing business, or of employing capital, or of owning or leasing proper-
37 ty in a corporate or organized capacity, or of maintaining an office, or
38 of deriving receipts from activity in the metropolitan commuter trans-
39 portation district, for all or any part of its taxable year, there is
40 hereby imposed on every corporation, other than a New York S corpo-
41 ration, subject to tax under section two hundred nine of this article,
42 or any receiver, referee, trustee, assignee or other fiduciary, or any
43 officer or agent appointed by any court, who conducts the business of
44 any such corporation, a tax surcharge, in addition to the tax imposed
45 under section two hundred nine of this article, to be computed at the
46 rate of seventeen percent of the tax imposed under such section for such
47 taxable years or any part of such taxable years ending on or after
48 December thirty-first, nineteen hundred eighty-three and before January
49 first, two thousand fifteen after the deduction of any credits otherwise
50 allowable under this article, at the rate of twenty-five and six-tenths
51 percent of the tax imposed under such section for taxable years begin-
52 ning on or after January first, two thousand fifteen and before January

1 first, two thousand sixteen before the deduction of any credits other-
2 wise allowable under this article, [and] at the rate determined by the
3 commissioner pursuant to paragraph (f) of this subdivision of the tax
4 imposed under such section, for taxable years beginning on or after
5 January first, two thousand sixteen and before January first, two thou-
6 sand twenty-four before the deduction of any credits otherwise allowable
7 under this article, and at the rate of thirty percent of the tax imposed
8 under such section for taxable years beginning on or after January
9 first, two thousand twenty-four before the deduction of any credits
10 otherwise allowable under this article. However, such rate of tax
11 surcharge shall be applied only to that portion of the tax imposed under
12 section two hundred nine of this article before the deduction of any
13 credits otherwise allowable under this article which is attributable to
14 the taxpayer's business activity carried on within the metropolitan
15 commuter transportation district; and provided, further, the surcharge
16 computed on a combined report shall include a surcharge on the fixed
17 dollar minimum tax for each member of the combined group subject to the
18 surcharge under this subdivision.

19 (f) The commissioner shall determine the rate of tax for taxable years
20 beginning on or after January first, two thousand sixteen and before
21 January first, two thousand twenty-four by adjusting the rate for taxa-
22 ble years beginning on or after January first, two thousand fifteen and
23 before January first, two thousand sixteen as necessary to ensure that
24 the receipts attributable to such surcharge, as impacted by [the] part A
25 of chapter fifty-nine of the laws of two thousand fourteen [which added
26 this paragraph], will meet and not exceed the financial projections for
27 state fiscal year two thousand sixteen-two thousand seventeen, as
28 reflected in state fiscal year two thousand fifteen-two thousand sixteen
29 enacted budget. The commissioner shall annually determine the rate ther-
30 eafter, for taxable years beginning before January first, two thousand
31 twenty-four, using the financial projections for the state fiscal year
32 that commences in the year for which the rate is to be set as reflected
33 in the enacted budget for the fiscal year commencing on the previous
34 April first.

35 § 2. This act shall take effect immediately.

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

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