S2609D-2013: Enacts into law major components of legislation necessary to implement the state fiscal plan for the 2013-2014 state fiscal year

Same as: A3009D-2013 / Versions: S2609B-2013 S2609-2013 S2609C-2013 S2609D-2013 S2609A-2013

Enacts into law major components of legislation necessary to implement the state fiscal plan for the 2013-2014 state fiscal year; relates to the temporary metropolitan transportation business tax surcharge; relates to the empire state film production credit and to the empire state film post production credit; relates to reports; establishes the New York business incubator and innovation hot spot support act; relates to extending for three years the charitable contributions deduction limitation; relates to the exclusion of certain royalty payments from the entire net income or other taxable basis of corporations, banking corporations, and insurance corporations, from the unrelated business income of corporations, and from the adjusted gross income of individual taxpayers; relates to the historic preservation tax credit; provides a tax credit for electric vehicle recharging property; relates to extending provisions relating to mandatory electronic filing of tax documents and improving sales tax compliance; relates to restrictions on funds of the industrial development agency and relates to industrial development agencies and authorities; relates to expanding the exemption of CNG in the sales tax to include natural gas purchased and used to produce CNG for use exclusively and directly in the engine of a motor vehicle; relates to allowing voluntary ambulance services, fire companies, fire departments and rescue squads to claim reimbursement of the petroleum business tax for fuel used in their vehicles; relates to increasing the penalty for the possession of unstamped and unlawfully stamped cigarettes; relates to the suspension of drivers' licenses of persons who are delinquent in the payment of past-due tax liabilities; relates to serving an income execution with respect to individual tax debtors without filing a warrant; relates to vendor fees paid to vendor tracks; relates to licenses for simulcasting 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; extends certain provisions of law; relates to the credit for the rehabilitation of historic homes; relates to allowing certain tax-free interdistributor sales of highway diesel motor fuel; relates to updating the farming exemption in the highway use tax to reflect current industry practice; relates to providing a subtraction from income for small businesses and small farms; relates to providing tax cuts to manufacturers; relates to adding a hire a vet credit; relates to extending the temporary state energy and utility conservation assessment; relates to a credit for middle income taxpayers with children; relates to the New York youth works tax credit program; relates to adding a minimum wage reimbursement credit; relates to personal income tax rates; relates to the gift for New York state teen health education fund; relates to establishing the New York state teen health education fund; relates to eligible businesses participating in the excelsior linked deposit program; relates to small business loan funds for business enterprises that are minority- and women-owned; and relates to establishing a New York state innovation capital fund.

Sponsor: BUDGET

Law Section: Budget Bills / **Law:** Amd Various Laws, generally

S2609D-2013 Actions

- Mar 28, 2013: SIGNED CHAP.59
- Mar 28, 2013: DELIVERED TO GOVERNOR
- Mar 28, 2013: returned to senate
- Mar 28, 2013: passed assembly
- Mar 28, 2013: ruling of chair on point of order
- Mar 28, 2013: ruling of chair on point of order
- Mar 28, 2013: motion to amend lost
- Mar 28, 2013: motion to amend lost
- Mar 28, 2013: motion to amend lost
- Mar 28, 2013: ordered to third reading rules cal.48
- Mar 28, 2013: substituted for a3009d
- Mar 27, 2013: referred to ways and means
- Mar 27, 2013: DELIVERED TO ASSEMBLY
- Mar 27, 2013: PASSED SENATE
- Mar 26, 2013: ORDERED TO THIRD READING CAL.278
- Mar 24, 2013: PRINT NUMBER 2609D
- Mar 24, 2013: AMEND (T) AND RECOMMIT TO FINANCE
- Mar 11, 2013: PRINT NUMBER 2609C
- Mar 11, 2013: AMEND (T) AND RECOMMIT TO FINANCE
- Feb 22, 2013: PRINT NUMBER 2609B
- Feb 22, 2013: AMEND (T) AND RECOMMIT TO FINANCE
- Feb 13, 2013: PRINT NUMBER 2609A
- Feb 13, 2013: AMEND (T) AND RECOMMIT TO FINANCE
- Jan 22, 2013: REFERRED TO FINANCE

S2609D-2013 Meetings

Finance: Mar 26, 2013

S2609D-2013 Calendars

Active List: Mar 27, 2013 , Floor Calendar: Mar 26, 2013 , Floor Calendar: Mar 27, 2013

S2609D-2013 Votes

VOTE: COMMITTEE VOTE: - Finance - Mar 26, 2013

Ayes (21): DeFrancisco, Smith, Bonacic, Farley, Flanagan, Fuschillo, Golden, Griffo, Grisanti, Lanza, Larkin, LaValle, Little, Marcellino, Nozzolio, O'Mara, Ranzenhofer, Robach, Savino, Seward, Young
Ayes W/R (14): Krueger, Dilan, Rivera, Gianaris, Breslin, Montgomery, Parker, Peralta, Perkins, Stavisky, Squadron, Kennedy, Espaillat, Sampson
Excused (2): Hannon, Diaz

VOTE: FLOOR VOTE: - Mar 27, 2013

Ayes (51): Adams, Addabbo, Avella, Ball, Bonacic, Boyle, Breslin, Carlucci, DeFrancisco, Dilan, Farley, Flanagan, Fuschillo, Gallivan, Gianaris, Gipson, Golden, Griffo, Grisanti, Hassell-Thomps, Kennedy, Klein, Lanza, Larkin, Latimer, LaValle, Libous, Little, Marcellino, Marchione, Martins, Maziarz, Nozzolio, O'Brien, O'Mara, Ranzenhofer, Ritchie, Robach, Sanders, Savino, Serrano, Seward, Skelos, Smith, Squadron, Stavisky, Stewart-Cousin, Tkaczyk, Valesky, Young, Zeldin
Nays (9): Espaillat, Hoylman, Krueger, Montgomery, Parker, Peralta, Perkins, Rivera, Sampson
Excused (3): Diaz, Felder, Hannon

S2609D-2013 Memo

BILL NUMBER:S2609

TITLE OF BILL:
An act
to amend the tax law, in relation to the temporary metropolitan
transportation business tax surcharge
(Part A);
to amend the tax law, in relation to the empire state film production
credit and the empire state film post production credit;
and to amend part Y-1 of chapter 57 of the laws of 2009 amending
the tax law relating to the empire state film production credit,
in relation to reports
(Part B);
to amend the economic development law, the tax law and the
administrative code of the city of New York, in relation to establishing
the New York innovation hot spot program
(Part C);
to amend the tax law and the administrative code of the city of New
York, in relation to extending for three years the charitable
contributions deduction limitation
(Part D);
to amend the tax law and the administrative code of the city of New
York, in relation to the exclusion of certain royalty payments from the
entire net income or other taxable basis of corporations, banking
corporations, and insurance corporations, from the unrelated business
income of corporations, and from the adjusted gross income of individual
taxpayers; and to repeal certain provisions of the tax law
relating thereto
(Part E);
to amend the tax law, in relation to the historic preservation tax
credit
(Part F);
to amend the tax law, in relation to providing a tax credit for electric
vehicle recharging property
(Part G);
to amend chapter 61 of the laws of 2011 amending the real property tax
law and other laws relating to establishing standards for electronic
real property tax administration, in relation to making permanent,
provisions relating to mandatory electronic filing of tax documents and
improving sales tax compliance and to repeal certain provisions of the
tax law and the administrative code of the city of New York relating
thereto
(Part H);
to amend the tax law, in relation to exempting sales made at a Taste-NY
facility from sales and compensating use taxes; and to amend
the alcoholic
beverage control law, in relation to allowing sales of all types of

alcoholic beverages at a Taste-NY facility
(Part I);
to amend the general municipal law and the public authorities law, in
relation to industrial development agencies and authorities
(Part J);
to amend the tax law, in relation to expanding the exemption of CNG in
the sales tax to include natural gas purchased and used to produce CNG
for use exclusively and directly in the engine of a motor vehicle
(Part K);
to amend the tax law, in relation to allowing voluntary ambulance

services, fire companies, fire departments
and rescue squads to claim
reimbursement of the petroleum business tax for fuel used in their
vehicles
(Part L);
to amend the tax law, in relation to the power of the
commissioner of taxation and finance to
refuse to issue a certificate of authority to collect the sales and use
taxes and the power of the commissioner of taxation and finance
to revoke such a certificate
once granted and penalties related to the operation of a business
without such certificate
(Part M);
to amend the tax law, in relation to allowing the department of taxation
and finance to refuse a certificate of registration to retail dealers of
cigarettes and tobacco products if such dealers have certain tax
liabilities or have been convicted of a tax crime within one year of
applying for or renewing a certificate of registration
(Part N);
to amend the tax law, in relation to increasing the penalty for the
possession of unstamped and unlawfully stamped cigarettes
(Part O);
to amend the tax law, the vehicle and traffic law and the
insurance law, in
relation to
the suspension of drivers' licenses of persons
who are delinquent in the payment of past-due tax
liabilities
(Part P);
to amend the tax law, in relation to serving an income execution with
respect to individual tax debtors without filing a warrant
(Part Q);
to amend the tax law, in relation to the authority of counties to impose
sales and compensating use taxes pursuant to the authority of article 29
of such law; and to repeal certain provisions of sections 1210 and 1224
and section 1210-E of such law relating thereto

(Part R);
to amend the tax law, in relation to a keno style lottery game
(Part S);
to amend the tax law, in relation to vendor fees paid to vendor tracks
(Part T); and
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 and 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 making permanent
certain provisions thereof; to amend the racing,
pari-mutuel
wagering and breeding law, in relation to making permanent
certain
provisions thereof; and to repeal subdivision 5 of section 1012
of the racing, pari-mutuel wagering and breeding law
relating to telephone accounts
and telephone wagering
and section 1014 of the racing, pari-mutuel wagering and breeding law
relating to simulcasting of out-of-state thoroughbred races
(Part U)

PURPOSE:

This bill contains provisions needed to implement the Revenue portion
of the 2013-14 Executive Budget.

This memorandum describes Parts A through U of the 2013-14 Article VII
Revenue bill which are described wholly within the parts listed below.

Part A - Extend the RATA business tax surcharge for five years.

Purpose:

This bill would provide a five year extension of the temporary

metropolitan transportation business tax surcharge.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would provide a five year extension of the temporary metropolitan transportation business tax surcharge under Tax Law sections 183-a,184-a, 186-c, 209B, 1455-B and 1505-a. Under current law the temporary metropolitan transportation business tax surcharges are set to expire for taxable years ending before December 31, 2013. This provision has been repeatedly extended since the 1980's and this bill would extend the surcharges for an additional five years to taxable years ending before December 31, 2018.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-2014 Executive Budget because it would preserve revenue dedicated to support the operations of the Metropolitan Transportation Authority.

Effective Date:

This bill would take effect immediately upon enactment.

Part B - New York Film Production tax credit-extend for five years, enhance, and improve transparency.

Purpose:

This bill would extend funding through 2019 for the empire state film production credit and empire state film post production credit, make changes to the definition of a qualified film and make changes to the post production tax credit. The empire state film production tax credit was initially enacted in 2004, and it has been amended numerous times since then. The proposed changes will provide certainty to the industry that is necessary to support long term investments in the state, increase the opportunity for additional activity in the state in the area of post production, and increase the reporting requirements, disclosure requirements, and oversight of the film credit programs.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would provide an additional $420 million in funds for the film tax credit and post production credit through calendar year 2019 and increase the amount allocated from the total funds available to

the post production credit from $7 million to $25 million per calendar year beginning in 2015. The extension through 2019 Will allow the state to attract more long-term investments, and the increase in allocation to post production is necessary to accommodate the rise in spending on post production, visual effects and animation as a portion of overall budgets.

The amendments would allow a taxpayer to claim a post production credit for visual effects or animation: 1) where the taxpayer's post production costs relating to visual effects or animation at a New York post production facility equal or exceed the lesser of $3 million or 20 percent or more of a taxpayer's post production costs related to visual effects or animation at post production facilities within and without New York; or 2) where the taxpayer's post production costs excluding visual effects and animation at a New York post production facility equal or exceed 75 percent or more of a taxpayer's post production costs excluding visual effects and animation at post production facilities
everywhere. This will help proactively expand New York's presence in visual effects and animation.

The approaching sunset date of the film tax credit program and minimal funding for post production are out of line with the needs of the industry. Under the film production credit, a taxpayer is able to claim a credit for the qualified production costs paid or incurred in the production of a qualified film. Currently, qualified production costs do not include post production costs unless the portion of the post production costs attributable to the production of a qualified film in New York equal or exceed 75 percent of the total post production costs incurred in the production of such qualified film. This threshold has proved prohibitively high for productions that make use of extensive special effects. The combination of visual effects, animation and other post production activities makes it impossible for many companies to qualify for the credit, given New York's limited capacity in visual effects. This change would reward companies for bringing their visual effects, animation and post production work to New York.

The bill would also allow a "relocated television production" to qualify as a qualified film, making it eligible for the tax credit. A relocated television production is defined as a television production that filmed at least five seasons prior to its first relocated season in New York, has a studio audience of 200 or more people, incurs at least $30 million in annual production costs in the State and incurs at least $10 million in qualified capital expenditures at a qualified facility

Finally, the bill would also increase the State's return on

investment, protect the film credit program's integrity, and reduce program costs by adding new third party reporting and oversight provisions,

Budget Implications:

Enactment of this bill is necessary to implement the 2013-2014 Executive Budget. The revenue foregone with enactment of this legislation is $173 million in 2016-17, $316 million in 2017-18 $420 million in each of 2018-19 and 2019-20, $417 million in 202021, $248 million in 2021-22 and $106 million in 2022-23.

Effective Date:

This bill would take effect immediately, provided, however, that sections four and five of the bill would apply to taxpayers submitting initial applications to the governor's office of motion picture and television development on or after this bill becomes law and to taxpayers who filed an initial application before the bill becomes a law but who have not yet submitted a final application to the governor's office of motion picture and television development on or before the date this bill becomes a law and section six of the bill, other than the addition by section 6 of this bill of new subdivision (b) to section 3 of part Y-1 of chapter 57 of the laws of 2009, which would take effect immediately, would only apply to taxpayers submitting initial applications to the governor's office of motion picture and television development on or after the date this bill becomes a law.

Part C Establish the New York Innovation Hot Spots Program.

Purpose:

This bill would provide for the establishment of an Innovation Hot Spots Program affiliated with private or public universities and colleges and non-profit organizations associated with universities and colleges and provide tax benefits for new businesses located in the "innovation hot spots".

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would create a new program to promote economic growth in New York State by creating "innovation hot spots" - tax free zones affiliated with higher education incubators or non-profit incubators associated with universities or colleges. These incubators will help to foster innovation by offering inventors and entrepreneurs a

low-cost and supportive environment in which to establish themselves and grow. Winning hot spots will provide start-ups with growth support and assistance by providing a one-stop shop for services, office space, networking and other technical assistance. The companies locating in the incubators will be able to grow without paying taxes in New York for their first five years.

The bill amends the Economic Development Law by adding a new section 361 to create innovation hot spots that will be tax-free zones in New York college, university and nonprofit incubators. Five "innovation hot spots" will be designated by the Department of Economic Development with the recommendations of the Regional Economic Development Councils in fiscal year 2013-2014, and five more will be designated the next fiscal year. The applicants that are approved as "innovation hot spots" are expected to foster innovation, house entrepreneurial businesses on their campuses, and offer growth support.

The bill also amends the Tax Law to provide tax benefits to qualified entities that operate a business in an "innovation hot spot". Qualified entities must be business enterprises that are in the formative stage of development and located in New York State. Corporate qualified entities that are taxpayers under Article 9-A and located in an "innovation hot spot" would pay only the fixed dollar minimum tax for five taxable years. Individuals receiving income from qualified entities that are sole proprietorships, partnerships, limited liability companies or New York Subchapter S corporations would be allowed a deduction for five taxable years for the amount of income included in their federal adjusted income to the extent that the income was attributable to income earned from the operations of a qualified entity that is also a tenant in an "innovation hot spot". Qualified entities would also be entitled to a sales and use tax credit or refund for their purchases for 60 months, beginning with the first full month during which the qualified entity becomes a tenant in an "innovation hot spot". A taxpayer who claims tax benefits under section 38 of the Tax Law would no longer be eligible for any other New York State exemptions, deductions, or credits or refunds under the Tax Law, and the election to claim the tax benefits under this section is not revocable. The personal income tax benefit would also be applicable to the New York City personal income tax.

Budget Implications:

This bill would have no fiscal impact in 2013-14, result in minimal sales tax receipts reductions in every year of the Financial Plan, and result in a $5 million All Funds total revenue loss in the corporate franchise tax in 2017-18.

Effective Date:

This bill would take effect immediately upon enactment.

Part D - Extend the high income charitable contribution deduction limitation for three years.

Purpose:

This bill would extend for three years the limitation on charitable contributions deductions for New York State and New York City taxpayers.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would amend section 615(g) of the Tax Law to retain for three additional years the current New York limitation on the itemized charitable contributions deduction for individuals whose New York adjusted gross income is over $10 million in the amount of 25 percent of any charitable contributions deduction allowed under the Internal Revenue Code. Without an amendment to the Tax Law, the deduction for individuals whose New York adjusted gross income is over ten million dollars would rise for taxable years beginning on or after January 1, 2013 to 50 percent of any charitable contributions deduction allowed under the Internal Revenue Code. The bill would also make conforming amendments to the New York City Administrative Code.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-2014 Executive Budget because it would increase All Funds tax receipts by $70 million in SFY 2013-14, $140 million in each of SFYs 2014-15 and 2015-16, and $70 million in SFY 2016-17.

Effective Date:

This bill would take effect immediately upon enactment.

Part E - Close the royalty income loophole.

Purpose:

This bill would amend the royalty expense add-back requirements in the Tax Law by eliminating the income exclusion provisions in these requirements, thereby closing
a loophole that allowed taxpayers to avoid any significant expense

add-back yet qualify for a substantial income exclusion.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The current add-back and exclusion system under the Tax Law and the NYC Administrative Code has been subject to exploitation by taxpayers. Under the current system, the recipient of royalty payments can exclude these payments as long as the payer is also a New York taxpayer. This creates an incentive for taxpayers to take advantage of the income exclusion provision by allowing the income exclusion for a payment received from a related member with a small New York presence (i.e. a very low business allocation percentage BAP), even if the recipient has a large BAP and large royalty income, resulting in significant tax savings.

The provisions of the current statute have also been interpreted by some taxpayers in ways that are inconsistent with the intent of the statute and the Department's interpretation. For example, issues have

been raised regarding eligibility for the income exclusion provision, as well as the scope of the "related members" definition.

The bill would eliminate those inconsistent readings with clear language on the applicability of the required add-back, and the exceptions thereto, in order to prevent tax avoidance while allowing for fair and equitable administration. The bill, which is based upon a Multistate Tax Commission model statute, would modify the royalty income add-back and exclusion provisions of the Tax Law, and in corresponding sections of the NYC Administrative Code, by eliminating the exclusion of royalty income received if the related member who made the royalty payment was required to add back the payment to its income. instead, the bill would create several new exceptions to the add-back requirement. One exception would allow taxpayers to demonstrate that the expense add-back should not apply if the taxpayer's related member paid significant taxes on the royalty payment in other jurisdictions. Another would apply if the related member paid all or part of the royalty payment it received to a third party for a valid business purpose. There would be an additional exception when the related member is organized under the laws of a foreign country that has a tax treaty with the United States. Finally, the bill would allow the commissioner to exempt any taxpayer from the add-back requirement if adding back the expense would not properly reflect the taxpayer's income.

In addition, the bill would amend the definition of 'related member" to be consistent with the term as used elsewhere in the Tax Law, and provide clarification as to which transactions are not subject to the

add-back requirements.

Budget Implications:

Enactment of this bill will increase All Funds revenue by $28 million annually beginning in 2014-15.

Effective Date:

This bill takes effect immediately and applies to taxable years beginning on or after January 1, 2013.

Part F - Extend and enhance the historic commercial properties rehabilitation tax credit.

Purpose:

Extend the enhanced tax credit available for rehabilitation of historic properties through tax years beginning before January 1, 2020, and to make necessary technical corrections to the method of determining eligible census tracts.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The tax credit for rehabilitation of historic properties is now available for general business corporations subject to tax under Article 9-A of the Tax Law and personal income taxpayers subject to tax under Article 22, as well as to banking corporations subject to

tax under Article 32 and insurance corporations subject to tax under Article 33.

The New York State credit is based on the federal credit allowed for the qualified rehabilitation expenditures, as defined by section 47(c)(2) of the Internal Revenue Code (IRC), related to the rehabilitation of the same certified historic structure. The tax credit is allowed in the tax year that the qualified rehabilitation is placed in service under section 167 (relating to depreciation) of the IRC.

While the credit is not currently refundable, the bill would make the credit refundable commencing in tax year 2015. Currently, for tax years beginning on or after January 1, 2010 and before January 1, 2015, the amount of the credit is equal to 100% of the federal credit allowed under section 47 of the IRC for the same tax year for the same certified historic structure located in New York State. However, the total amount of New York State credit allowed cannot exceed $5

million per structure.

This bill would amend each of the Tax Law articles allowing the historic rehabilitation tax credit, to allow the enhanced tax credit of $5,000,000 per structure through tax years 2019 and allow it to revert to the pre-2010 value of $100,000 for subsequent taxable years.

This extension would provide greater certainty to developers who want to commit to historic rehabilitation projects, and the refundability would improve developer financing opportunities.

Sections one through four of the bill would also make needed technical corrections by substituting the 2006-2011 American Community Survey data for the decennial federal census data in calculating the state median family income and removing obsolete references to federal targeted area residences under Section 143(j) of the Internal Revenue Code.

Budget Implications:

Enactment of this bill, while reducing tax revenues by $20 million in SFY 2016-2017 and $30 million annually in each of the next four fiscal years, is a necessary adjunct to economic development and developing a robust economy in New York.

Effective Date:

This bill would take effect immediately and applies to taxable years beginning on and after January 1, 2013.

Part G Establish the Charge NY electric vehicle recharging equipment tax credit.

Purpose:

This bill would provide a tax credit for electric vehicle recharging property.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would create a nonrefundable tax credit under the corporation tax, corporate franchise tax and the personal income tax for the purchase of electric vehicle recharging property, which consists of all the equipment needed to convey electric power from the electric grid or another power source to an onboard vehicle charger. The credit equals, for each installation, the lesser of five thousand dollars or fifty percent of the cost of such property,

Recharging property that has been funded with grants, including grants from the New York State Energy and Research Development Authority or the New York Power Authority, will not qualify for the credit.

This bill would continue to stimulate the developing market for electric vehicles by offering tax credits for the installation of property to be used for recharging electric vehicles until December 31, 2017. The bill offers a comprehensive effort to encourage investment in energy efficient transportation technologies that displace petroleum consumption and reduce emissions of harmful pollutants.

Budget Implications:

Enactment of this bill would have no fiscal impact in 2013-14 and result in All Funds revenue losses of $1 million in each of FY 2014-15 and 2015-16 and $3 million in each of FY 2016-17, 2017-18, and 2018-19.

Effective Date:

This bill would take effect immediately and apply to taxable years beginning on or after January 1, 2013 for property placed in service on or after that date.

Part H - Make tax modernization provisions permanent.

Purpose:

To make permanent tax modernization provisions related to improving electronic filing and payment mandates and sales tax segregated accounts program.

Statement in Support, Summary of Provisions, Existing Law, Prior Legislative History:

a. Electronic Filing Mandates

Part U of Chapter 61, Laws of 2011 improved the administration of the Tax Department's electronic filing and payment mandates by consolidating all preparer and self-filer requirements into one section of the Tax Law (§ 29), extending the e-filing requirements to PIT self-filers who use tax software to prepare their PIT returns, and repealing unnecessary provisions of the Tax Law and the Administrative Code of the
City of New York. These beneficial provisions are set to expire on December 31, 2013, at which time, the law would revert to disparate

sections setting forth e-file mandate requirements at different

threshold requirements than those which would be in place during the 2013 tax filing season.

This bill would make permanent the very important e-file improvement provisions enacted in 2011. The 2011 amendments consolidating the e-file and e-pay requirements into one section of the Tax Law made the requirements more readily understandable and eliminated confusion among self-filers and practitioners that existed when there were two different sets of requirements. To produce further efficiencies and cost savings to the State, the threshold trigger for the preparer e-file requirement was reduced from preparation of 100 tax documents to preparation of 5 tax documents. In 2012, these requirements were changed for those who first become subject to the e-filing requirements after January 1, 2012 and before January 1, 2014 to a tax preparer that prepares authorized tax documents for more than ten different taxpayers. This bill would also keep consistent the terminology used in connection with these requirements.

Extending these provisions will prevent the State from reverting back to the previous thresholds of 100, which would result in a decline of e-filed returns in the 2014 tax filing season and would also maintain the requirement for tax filing seasons beyond tax year 2013 that PIT self-filers using tax software to prepare their returns must e-file them.

Overall, this bill would maintain for future years the cost savings realized by the State by increasing e-filing. E-file and e-pay of taxes create cost and tax administration efficiencies beneficial to both the State and taxpayers. A taxpayer's use of e-file and e-pay reduces the number of errors that may be associated with the filing of a paper return, because an error can be immediately detected and the taxpayer prompted to correct and resubmit the return. The taxpayer also gets an official acknowledgement when the return has been received. E-filed tax returns are processed more quickly than paper, potentially resulting in faster issuance of refunds. Moreover, increased use of e-file and e-pay would increase cost savings to the State, because administrative cost savings accrue with each and every tax document e-filed with the Department. This bill would make permanent these very important provisions, which would otherwise expire on December 31, 2013.

b. Improving Sales Tax Compliance

Part U of Chapter 61, Laws of 2011 amended § 1137 of the Tax Law to authorize the Commissioner to require vendors that failed to collect, truthfully account for, or pay over sales tax monies, or to file

returns as required by law, to take actions the Commissioner deems necessary to ensure that sales tax monies are paid, including giving notice to such vendor requiring more frequent payment of tax. Vendors were also required to set up separate bank account into which only sales tax moneys are deposited at least weekly, and the Department was authorized to debit that account.

The Department implemented this program on a limited basis beginning in July 2011. Initial results showed improved vendor compliance.

The bill would continue an effective tool to ensure that trust tax moneys paid by consumers to vendors are paid promptly to the Department and not diverted for other purposes. The segregated account provisions are currently set to expire December 31, 2013. This bill would make permanent these very important provisions of the Tax Law.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-2014 Executive Budget because it would increase AU Funds receipts by $6 million in SFY 2013-14, and $22 million annually thereafter.

Effective Date:

This bill would take effect immediately upon enactment.

Part I - Establish Tax-Free Sales and the Sale of Alcoholic Beverages at Taste-NY Facilities,

Purpose:

To support the promotion of New Yorks' local-grown and produced products, this bill would exempt from sales and use taxes receipts from sales of tangible personal property and food and drink where the sale is made at a Taste-NY facility and make changes to the Alcoholic Beverage Control Law to allow the sale of alcoholic beverages at these facilities.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would implement a component of a comprehensive strategy including the expansion of markets for our growers and producers, and improving rural economies, by creating a sales tax exemption for sales made at Taste-NY facilities and allow the sale of all types of alcoholic beverages at these facilities. Tangible goods and food and

beverages sold at these facilities would be predominantly New York-made products.

Section 1 states the Legislative intent of the bill to encourage economic development and job creation by the establishment of Taste-NY facilities. These facilities would showcase New York-made products, but would also sell products made outside the State.

Section 2 of the bill would define a Taste-NY facility for sales tax purposes as a facility operated by a person designated by and pursuant to an agreement with a state agency (such OGS), public authority (such as the Thruway Authority or the MTA) or an interstate agency or public corporation created by a compact or agreement with another state or Canada (such as the Port Authority), from which sales are made of tangible personal property or food and drink, whether or not for on premises consumption.

Section 3 of the bill would exempt from sales and use taxes sales made at a Taste-NY facility of tangible personal property.

Section 4 of the bill would exempt from sales and use tax sales made at a Taste-NY facility of food and drink for on-premises consumption and other types of prepared food that would otherwise be subject to sales tax (e.g., food sold in a heated state, sandwiches, food not commonly sold in grocery stores).

Section 5 of the bill would amend the Alcoholic Beverage Control Law by adding a new section 63-b that creates the "special license to sell alcoholic beverages at retail for consumption off the licenses premises." This license will be available only to persons who have been designated to operate a Taste-NY facility pursuant to an agreement with a state agency, public authority, or an interstate agency or public corporation created pursuant to an agreement or compact with another state or the Dominion of Canada. Unlike other retail off-premises licenses, establishments licensed under section 63-b will be able to sell all alcoholic beverages. The new statute also provides that licenses issued under section 63-b would not be subject to certain provisions that govern establishments with off-premises liquor and wine licenses. Specifically, the establishments would not be subject to the "200-Foot Law" (regarding proximity to schools and places of worship) and restrictions on the store's location with respect to public thoroughfares and the number of entrances to the store. The licensees would also be exempt from the "tied house laws" that prohibit retail licensees from having an interest in an entity that manufactures or wholesales alcoholic beverages. Businesses operating under section 63-b would also be able to conduct tastings of the alcoholic beverages that they sell.

Section 6 of the bill would amend section 66 of the Alcoholic Beverage Control Law to provide a $500 annual license fee for a license issued under section 63-b.

Section 7 of the bill would amend section 67 of the Alcoholic Beverage Control Law, which states the duration of licenses to sell liquor, to provide a three-year term for a license issued under section 63-b.

Section 8 of the bill would amend section 56-a of the Alcoholic Beverage Control Law, which sets the fees for filing applications for licenses, to provide for a $200 initial license application fee and a $90 renewal application fee for a license issued under section 63- b.

Section 9 of the bill would amend paragraph a of subdivision 1 of section 101 of the Alcoholic Beverage Control Law to allow manufacturers and wholesalers to have an interest in a business licensed under section 63-b. This provision, together with the exemption contained in section 63-b, will allow a person holding a manufacturing or wholesale license to obtain a retail license under section 63-b.

Section 10 of the bill would provide that if any provision of the bill is finally adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such judgment will not affect, impair or invalidate the remainder of the bill, and the provisions of State law in effect prior to the date on which the bill becomes a law would not be affected by any such judgment.

Section 11 of the bill would provide that it would take effect immediately, provided that the sales tax exemptions created by sections 3 and 4 of the bill would take effect on the first day of a sales tax quarter beginning at least 30 days after the bill becomes a law.

Under existing law, sales of tangible personal property, food or drink for on-premises consumption, and certain other types of prepared foods are subject to sales tax. This is true whether or not the seller is acting under an agreement with the State or one of its agencies or instrumentalities. This bill would exempt these items when sold at a Taste-NY facility operated by a person designated by and pursuant to a written agreement with a state agency, public authority, interstate agency or compact entity. These facilities would also provide a venue to showcase New York-made goods.

Under existing law, the Alcoholic Beverage Control Law provides for four types of retail off-premises licenses: (1) beer only; (2) beer and wine products; (3) liquor and wine; and (4) wine. Each type of

license also carries with it the right to sell cider. Currently, the only licensed establishments where liquor, wine, beer and cider can all be purchased at retail for off-premises consumption are farm wineries, farm distilleries and farm breweries. Those licensees can only sell "New York state labeled" alcoholic beverages. The Alcoholic Beverage Control Law also limits the ability of off-premises retailers to conduct tastings. The "tied house laws" prohibit licensed retailers from having any interest in a business that manufactures or wholesales alcoholic beverages, and licensed manufacturers and wholesalers of alcoholic beverages from having any interest in a retail business. This bill would allow Taste-NY facilities to sell all types of alcoholic beverages and conduct limited tastings.

Budget Implications:

Enactment of this bill is necessary to implement the Taste-NY initiative. It has a minimal impact on sales and use tax receipts and alcohol beverage license fee receipts in SFY 2013-14 and annually thereafter.

Effective Date:

This bill would take effect immediately, provided that the sales tax exemptions created by sections 3 and 4 of the bill would take effect on the first day of a sales tax quarter next commencing at least 30 days after it becomes a law and would apply in accordance with the applicable transitional provisions in sections 1106 and 1217 of the Tax Law.

Part J - IDA reform for State sales tax exemption benefits.

Purpose:

This bill would reform current Industrial Development Authority (IDA) practices of providing financial assistance with respect to State sales and use tax benefits by requiring State approval of such benefits, providing greater oversight of the use of such benefits,

and promoting consistency with State and regional economic development goals.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The bill would make needed changes to the IDA provisions to reform how IDAs provide State sales and use tax benefits to projects and how those projects claim those benefits. The bill would provide that an

IDA cannot grant State sales and use tax exemption benefits for any project or to any agent or project operator unless the agent or project operator has been certified as a participant in the Excelsior Jobs Program, or is a business that would be eligible to participate in such Program. Before an IDA could award state sales and use tax benefits to an IDA project, the Commissioner of Economic Development would need to determine, in consultation with the Regional Economic Development Council, that the benefit plan for that project is consistent with regional economic development strategies. An IDA could not provide State tax benefits greater than those approved by the Commissioner of Economic Development for the project. If the IDA does so, those benefits would be void from the inception, and an agent, project operator, or other person or entity that obtained such benefits would be required to pay such tax benefits to the Tax Commissioner. Currently, IDAs can provide State sales and use tax benefits to projects without State approval.

The bill would also provide that State sales tax benefits could not be taken as up-front exemptions on the purchase of property or services. Rather, the agent or project operator would need to submit a claim for credit or refund to obtain those benefits. The bill would also provide that if an IDA sets up a payment in lieu of taxes (PILOT) agreement for State sales and use taxes, the IDA must remit those payments to the State. If an IDA recaptures State sales and use tax monies from its agent or project operator, it would be required to turn such monies over to the Tax Commissioner as State sales or use taxes. Currently, IDAs are not required to turn over to the State payments in lieu of State sales or use taxes, and an IDA that recovers State tax monies may retain them for itself.

The bill would require an IDA to send a notice to the Tax Department when the IDA's appointment of an agent/project operator has expired or been revoked. Currently, the
IDA must send a statement to the Tax Department that it has appointed the agent/project operator but is not required to give notice that the appointment has expired or was revoked before the original appointment said it would terminate. This provision would help to ensure that IDA agents/project operators cannot make purchases exempt from State or local sales and use taxes after their authority is revoked or expired.

Budget Implications:

Enactment of this bill would increase All Funds sales and use tax receipts by $7 million in SFY 2013-14 and $13 million annually thereafter.

Effective Date:

This bill would take effect immediately and apply to (a) any IDA project established, agent or project operator appointed, financial assistance provided, and agreement regarding payments in lieu of taxes entered into, on or after the bill's effective date, (b) any amendment or revision made on or after the bill's effective date to any project established, agent or project operator appointed, financial assistance provided, or payment in lieu of taxes entered into, prior to that date, (c) any State sales and compensating use tax exemption benefits recovered, recaptured, received, or otherwise obtained by an IDA on or after the bill's effective date, and (d) any payments in lieu of State sales and compensating use taxes that an IDA receives on or after the bill's effective date.

Part K - Make technical amendments to the tax classification of uncompressed natural gas.

Purpose:

This bill would create a sales and use tax exemption, under Article 28 of the Tax Law, for natural gas that is purchased and converted into compressed natural gas (CNG) for use or consumption in the engine of a motor vehicle.

Statement in Support, Summary of Provisions, Existing Law and Prior Legislative History:

Presently, CNG is exempt from motor fuel excise, petroleum business, and State and local sales taxes when sold for consumption or use exclusively in the engine of a motor vehicle. However, under current law, when natural gas is purchased from a supplier in an uncompressed state, the purchaser must pay applicable State and local sales taxes on the purchase of the natural gas from its commodity supplier, even if the purchaser will subsequently convert the natural gas to CNG for use in the engine of a motor vehicle. The legislative intent of the CNG fuel tax exemption is to encourage the development of a non-petroleum fuel market in the state. This bill would remove the unintended sales tax imposition on purchases of uncompressed natural gas intended for conversion into CNG for subsequent self use in the engine of a motor vehicle or sale for use in the engines of motor vehicles.

Section 1 would amend Tax Law § 1115(a)(42) to exempt the purchase from sales and use tax of natural gas to be converted into CNG for use or for sale for use in the engine of a motor vehicle.

Budget Implications:

This bill would decrease All Funds tax receipts by a minimal amount.

Effective Date:

This bill would take effect on the first day of a sales tax quarterly period first beginning after the bill becomes a law.

Part L - Equalize fuel tax treatment for volunteer ambulance services, fire companies, fire departments and rescue squads,

Purpose:

This bill would allow volunteer ambulance services, volunteer fire companies, volunteer fire departments and volunteer rescue squads to claim a reimbursement of the Article 13-A petroleum business tax for fuel used in their vehicles.

Statement in Support, Summary of Provisions, Existing Law and Prior Legislative History:

Presently, volunteer ambulance services, volunteer fire companies, volunteer fire departments, and volunteer rescue squads are allowed to claim a reimbursement of the Article 12-A excise tax and the Article 28 and 29 sales and compensating use taxes for fuel used in their vehicles. This bill would extend the reimbursement to cover the Article 13-A petroleum business tax.

Section 1 would provide the new reimbursement in a new subdivision (p) of Tax Law section 301-c. To qualify, the entity must be the purchaser, user or consumer of the motor fuel or diesel motor fuel and use it in a vehicle owned and operated by it exclusively for its purposes.

Budget Implications:

This would decrease All Fund tax receipts by a minimal amount and have no significant impact on the fiscal plan.

Effective Date:

This bill would take effect on the first day of the first month next occurring 60 days after this bill is enacted.

Part M - Update Criteria for Refusal and Revocation of a Sales Tax Certificate of Authority.

Purpose:

This proposal would amend the Tax Law to create consistency between the grounds for refusal and revocation of a sales tax Certificate of Authority (COA) and clarify the consequences for operating without a valid COA.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Under current law, the grounds for refusal of a COA and the grounds for revoking an existing COA are inconsistent. Certain vendors with large tax liabilities have learned to exploit these loopholes to avoid paying these liabilities and complying with the Tax Law.

Additionally, the Tax Law currently allows the Department to refuse to issue a COA if the business entity (or a sole proprietor) has an unpaid fixed and final liability for any type of tax. However, for "responsible persons" (including officers, directors, partners, members of LLCs, and others responsible for the operation of the business) the Department can only consider unpaid fixed and final

sales and use tax liabilities. This allows a business to apply for a COA without naming a responsible person with other tax debts, but add later that person to the business' tax account.

Existing law also makes it difficult to stop abuses by some of the most egregious repeat tax offenders. A COA can be revoked or denied if the applicant committed a crime under the Tax Law, but not for convictions for tax-related crimes under the Penal Law, federal tax crimes, or tax crimes in other states, and only within 1 year of the conviction. The civil penalties for operating a business without a valid COA have not been increased since they were first enacted in 1985, which greatly reduces their deterrent effect. Moreover, the civil and criminal penalties for operating without a COA make no distinction between willful and negligent violations of this requirement.

To prevent these abuses, the bill would amend Tax Law § 1134(a)(4)(A) and (B) to make grounds for revoking a COA consistent with the grounds denying a COA application. This bill would also allow the Department to refuse to issue a COA for any unpaid tax finally determined to be due from a responsible person, not just for that person's unpaid sales and use taxes as under current law.

The bill would also authorize the Commissioner to refuse or revoke a COA within 5 years of the date the applicant was convicted of a crime under New York Tax or Penal Laws, or the tax or penal laws of.the United States or any other state, where the crime of which the

applicant was convicted would be a crime under the Tax Law if it were committed in New York.

The bill would update Tax Law section 1145(a)(3)(i) so that persons who willfully operate a business without a COA would be subject to stiffer penalties than those who do so for reasons other than willful failure. A business that willfully continues to operate after its application for a COA was denied or revoked would face civil financial penalties of up to $50,000.00. Moreover, Tax Law § 1817 would be amended so that the willful operation of a business required to collect tax where the COA was revoked, suspended, or refused, or where the applicant was notified of the deemed expiration of the COA would be increased from a misdemeanor to a criminal tax fraud act in the fourth degree.

Budget Implications:

Enactment of this bill would increase All Funds receipts by $1 million in SFY 2013-14 and annually thereafter.

Effective Date:

This bill takes effect immediately upon enactment.

Part N - Expand the cigarette and tobacco retailer registration clearance process.

Purpose:

This bill would amend the Tax Law to allow the Department of Taxation and Finance to refuse a Certificate of Registration to retail dealers of cigarettes and tobacco products if they have certain tax liabilities or have been convicted of a tax crime within one year of applying for or renewing a Certificate of Registration.

Statement in Support, Summary of Provisions, Existing Law and Prior Legislative History:

Retail dealers of cigarettes and tobacco products are required to obtain and annually renew a Certificate of Registration under Article 20 of the Tax Law, and are also required to obtain a sales tax Certificate of Authority. However, current law does hot allow the Department to refuse to issue a Certificate of Registration, as it does for a sales tax Certificate of Authority, if any tax finally determined to be due from the applicant (i.e., the business entity) under the Tax Law has not been paid in full; or sales or use taxes due from persons required to collect tax on behalf of this entity, or

another entity for which the person was also required to collect tax, has not been paid in full; or
the applicant or persons required to collect tax 6n behalf of this entity have been convicted of a crime under the Tax Law within a year of submitting their application. This bill would allow the Department to refuse to issue a Certificate of Registration in these instances. Making the grounds for refusal of a Certificate of Registration consistent with the grounds for refusing to issue a sales tax Certificate_of Authority would prevent persons recently convicted of tax crimes from obtaining a Certificate of Registration, enable the Department to efficiently collect on additional past due tax liabilities, and would allow integration of the registration clearance processes.

Section 1 would integrate Tax Law section 1134 (a)(4)(B)(i),(ii),(iii),(iv), and (v) to provide the Department with the discretion to refuse to issue a Certificate of Registration if tax liabilities that are finally determined to be due are unpaid, or if or the applicant or persons required to collect tax on behalf of this entity have been convicted of a crime under the Tax Law within a year of submitting their application. It would also allow the Department to let the applicant know, if the request is provided in writing, the name of the person whose tax liabilities are at issue.

Section 2 would conform the language to allow for the integration of Tax Law section 1134 (a)(4)(B)(i),(ii),(iii),(iv), and (v).

Budget Implications:

Enactment of this bill is necessary to implement the 2013-2014 Executive Budget because it would increase All Funds receipts by $1 million in SFY 2013-14 and annually thereafter.

Effective Date:

This bill would take effect immediately and apply to Certificate of Registration applications filed for calendar year 2014 and thereafter.

Part O - Increase the civil penalty for possessing unstamped cigarettes.

Purpose:

This bill would increase the penalty for possessing or controlling unstamped or unlawfully stamped cigarettes from a maximum of $150 to $600.

Statement in Support, Summary of Provisions, Existing Law

and Prior Legislative History:

The maximum penalty for possessing or controlling unstamped or unlawfully stamped cigarettes under Tax Law section 481(1)(b)(i) has been $150 per carton in excess of five cartoons (or fraction thereof) since 2000. This penalty has not been increased since that time, even though the current cigarette excise tax is almost four times the rate that was imposed in 2000. With the cost of cigarettes reaching $100 per carton in New York, the market for unstamped and, thus, untaxed cigarettes continues to draw people willing to make these sales, even though they are risking civil and criminal penalties for the possibility of making quick, easy money. This bill would increase the penalty to
reflect the increase in the excise tax on cigarettes and to strengthen its deterrent effect in the current environment.

Section 1 would increase the maximum penalty for possessing or controlling unstamped or unlawfully stamped cigarettes under Tax Law section 481(1)(b)(i) from $150 per carton in excess of five cartoons (or fraction thereof) to $600.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget because it would increase All Funds tax receipts by $9 million in SFY 2013-14 and $12 million annually thereafter.

Effective Date:

This bill would take effect on June 1, 2013.

Part P - Suspend delinquent taxpayers' driver's licenses.

Purpose:

This bill would create a new program to aid in the enforcement of past-due tax liabilities by suspending the New York State driver's licenses of taxpayers who owe certain past-due tax liabilities.

Statement in Support, Summary of Provisions, Existing Law,
and Prior Legislative History:

This bill would authorize the Commissioner of Taxation and Finance and the Commissioner of Motor Vehicles to establish a new program to aid in the enforcement of delinquent tax liabilities by suspending a taxpayer's driver's license when that taxpayer owes more than $10,000 in tax liabilities.

This bill is not intended to deny taxpayers the ability to work, pursue educational opportunities or seek medical treatment for themselves or the members of their household. For this reason, a person whose license is suspended as a part of this program may apply for a restricted use license pursuant to the provisions of the Vehicle and Traffic Law. If the only issue leading to the suspension is the taxpayer's unpaid tax liabilities, the Department of Motor Vehicles will be required to issue a restricted use license. Moreover, the license suspension would be lifted once the taxpayer pays their past-due tax liabilities or enters into an installment payment agreement or otherwise makes payment arrangements satisfactory to the Commissioner of Taxation and Finance. Due to certain federal preemption issues, a restricted license is not available to drive a commercial motor vehicle. To protect the ability of taxpayers holding such licenses to earn a living, it is necessary to exclude commercial driving licenses from the scope of the bill.

Protections are added to the Insurance Law to prohibit insurers from using the fact that a taxpayer's license is suspended pursuant to this program from either (a) increasing policy premiums, or (b) using such suspension as a ground to cancel, decline or refuse to issue a motor vehicle insurance policy.

The provisions of this bill are largely based upon a successful motor vehicle license suspension program created by Chapter 81 of the Laws of 1995 to assist in the collection of delinquent child support obligations.

Budget Implications:

Enactment of this bill would increase All Funds tax receipts by $26 million in SFY 201314 and $6 million annually thereafter.

Effective Date:

This bill takes effect immediately upon enactment.

Part Q - Amend wage garnishment.

Purpose:

This bill would authorize the Commissioner of Taxation and Finance to serve income executions (wage garnishments) on individual tax debtors and, if necessary, on their employers without the necessity of filing a warrant.

Statement in Support, Summary of Provisions, Existing Law,

and Prior Legislative History:

This bill would authorize the Commissioner of Taxation and Finance to serve income executions (wage garnishments) on individual tax debtors and, if necessary, on their employers, without having to publicly file a warrant in the appropriate county clerk's office and in the Department of State as is required now. The IRS and the New York State Higher Education Services Corporation have authority to issue wage garnishments without public filing. The Department of Taxation

and Finance (the Department) would continue to publicly file warrants if it chooses to pursue other collection methods permitted for the enforcement of money judgments under the Civil Practice Law and Rules (CPLR).

Historically, a negative credit report only compromised an individual's ability to secure credit. In a current trend, however, credit reports may also be relied upon by insurance carriers to establish premium rates and by employers to assess if a job applicant is worthy of employment. Consequently, a publicly filed tax warrant, which is required by law in order for the Department to undertake any collection method, may be unnecessarily harsh on a taxpayer from whom collection may be made by wage garnishment.

Providing the Department with the authority to garnish wages without filing a warrant will enable the Department to act more quickly to collect taxpayers' debts. The Department would continue to follow the two-step process for income executions spelled out in the CPLR. Service would first be made solely on the taxpayer and the employer would only be served if the taxpayer does not voluntarily pay over the required percentage (not to exceed ten percent) of his or her wages.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-2014 Executive Budget by increasing tax revenues by $10 million annually beginning in SFY 2013-14

Effective Date:

This bill takes effect immediately upon enactment.

Part R - Allow local governments to extend existing sales tax rates without State legislative approval.

Purpose:

This bill would amend the Tax Law to make permanent the authority for counties to impose their current additional rates of sale and compensating use taxes for two-year periods and require counties to adopt those additional rates by a majority vote of the county legislative body. The bill would also conform numerous related Tax Law provisions.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would amend Article 29 of the Tax Law to make permanent the authority for counties to impose their existing additional rates of sales and use taxes and would obviate the need for counties to obtain approval through the State legislative process every two years. Nonetheless, a county would still have to adopt a local enactment by a majority vote of its governing body every two years to impose its additional rate above 3%, just as it must now.

Currently, nearly all counties have authority to impose an additional rate of sales and use taxes, for a two-year period that expires November 30, 2013. Most of these additional county rates are 1%, though some are lower and five, are higher. The bill would not extend or change the additional rate authority of cities, though it recodifies the provisions relating to the five cities that are authorized to impose an additional rate. Additionally, this bill would not change current laws that require counties to adopt home a rule message and obtain approval through the State legislative process before they may increase sales and compensating use taxes above their current additional tax rate.

The bill also amends and recodifies other related provisions of Article 29 of the Tax Law to conform them to the above described provisions.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-2014 Executive Budget. Local sales tax rates should be considered in the context of statewide tax policy, which is part of the State Budget process.

Effective Date:

This bill takes effect immediately upon enactment.

Part S - Eliminate remaining Quick Draw restriction.

Purpose:

This bill would eliminate the restrictions on the sale of Quick Draw tickets in order to increase revenue earned for aid to education in the State.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would increase Quick Draw earnings by eliminating limitations on the locations where Quick Draw may be offered. The restrictions imposed on Quick Draw by the 1995 authorizing legislation were experimental. In practice, the restrictions have proved cumbersome and unnecessary, and have substantially reduced the amount of earnings that would otherwise be generated by the game. New York is the only State with these limitations on Quick Draw style-games.

Revenue from Quick Draw ticket sales increased after the 25% food sales requirement was removed as part of the 2012-13 Enacted Budget. As with the food sales restriction, the 2,500 square foot limitation has the effect of arbitrarily limiting Quick Draw sales. Additionally, the age that a person may play. Quick Draw in any establishment that serves alcoholic beverages should conform to the age restriction for all other Lottery games. Eliminating these restrictions will strengthen the game's ability to produce additional sales and earnings.

The Quick Draw restrictions were intended to protect against the possibility that Quick Draw would be abused by players. However, after more than 15 years' experience, Quick Draw has proved to be no more likely to be abused than other Lottery games. Following the authorization of Quick Draw in 1995, the State authorized video lottery gaming, which offers a much faster paced form of gaming. In this environment, the limitations on Quick Draw are an unnecessary impediment to the further expansion of the game.

Section 1 of the bill would amend Section 1612(a)(1) of the Tax Law to eliminate: (i) the restriction limiting sales of Quick Draw tickets to premises larger than 2,500 square feet, (ii) the restriction requiring that a person must be 21 years of age to play Quick Draw on premises where alcoholic beverages are served, and (iii) an obsolete authorization of emergency rulemaking power.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget because it would increase All Funds revenue by $12 million in SFY 2013-14 and $24 million annually thereafter.

Effective Date:

This bill would take effect immediately upon enactment.

Part T - Extend Monticello Casino and Raceway video lottery terminal venue distribution rates.

Purpose:

This bill would extend for one year the current distribution of video lottery gaming revenue at Monticello Casino and Raceway (Monticello).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would extend for one year the current commission rate paid to Monticello as a video lottery agent. In 2008, Monticello was given a higher commission rate for a five-year period in exchange for opting out of participation in the vendor's capital award program: thus, the five-year rate sunset was applied to coincide with the five year period other facilities were provided for approval of capital expenditures eligible for reimbursement through the program. Chapter 454 of the Laws of 2012 extended the approval period for the vendor's capital award program by one year, and did not anticipate inclusion of Monticello in the program. Since the expiration of Monticello's rate would result in loss of the enhanced commission, but would not provide for participation in the capital award program, this bill would extend Monticello's rate for an additional year to maintain the original framework of Monticello's rate structure.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget because it would decrease All Funds revenue by $3 million in SFY 2013-14.

Effective Date:

This bill would take effect April 1, 2013.

Part U - Make certain tax rates and authorization for account wagering permanent.

Purpose:

This bill would make permanent various provisions of the Racing, Pari-Mutuel Wagering and Breeding (Racing) Law which expire during the 2013-14 fiscal year.

Summary of Provisions, Existing Law, Prior Legislative History, and Statement in Support:

Section 1 would amend Racing Law § 1003(a) to remove the June 30, 2013 expiration date for in-home simulcasting.

Section 2 would amend Racing Law § 1007(3)(d) to make permanent the current percentage of total pools allocated to purses that a track located in Westchester County receives from a franchised corporation, which currently are scheduled to expire on June 30, 2013.

Section 3 would repeal Racing Law § 1014, which is rendered superfluous by the making of Racing Law § 1018 permanent.

Section 4 would amend Racing Law § 1015(1) to make permanent the provisions governing the simulcasting of races conducted at out-of-state harness tracks, which currently are scheduled to expire on June 30, 2013.

Section 5 would amend the opening paragraph of Racing. Law § 1016(1) to make permanent the provisions governing the simulcasting of out-of-state thoroughbred races on any day the Saratoga thoroughbred track is closed, which currently are scheduled to expire on June 30 2013.

Section 6 would amend the opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law to make permanent the current distribution of revenue from out-of-state simulcasting during the Saratoga meet, which expired on September 8, 2012.

Section 7 would amend § 32 of chapter 281 of the Laws of 1994 to make permanent the current amount of off-track betting wagers on New York Racing Association, Inc. (NYRA) pools dedicated to purse enhancement, which currently expire on June 30, 2013.

Section 8 would amend § 54 of chapter 346 of the Laws of 1990 to make permanent binding arbitration for disagreements. These provisions currently expire on June 30, 2013.

Section 9 would amend Racing Law § 238(1)(a) to make permanent the current distribution of revenue from on-track wagering on NYRA races,

which currently is scheduled to expire on December 31, 2013.

Section 10 would repeal Racing Law § 1012(5) to make permanent the authorization for account wagering, which is currently scheduled to expire on June 30, 2013.

Making these provisions permanent would maintain the pari-mutuel betting and simulcasting structure that is currently in place in New York State. The provisions made permanent by sections one through six of this bill were first enacted in 1994 and section seven was enacted in 1990. These provisions were extended numerous times since their original enactment, and most recently in 2012.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-2014 Executive Budget because it maintains the current pari-mutuel betting structure in New York State.

Effective Date:

This bill would take-effect immediately upon enactment.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.

S2609D-2013 Text

S T A T E O F N E W Y O R K

S. 2609--D A. 3009--D

SENATE - ASSEMBLY

January 22, 2013

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to arti cle 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 -- 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 -- 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 the temporary metropolitan transportation business tax surcharge (Part A); to amend the tax law, in relation to the empire state film production credit and the empire state film post production credit; and to amend part Y-1 of chapter 57 of the laws of 2009 amending the tax law relating to the empire state film production credit, in relation to reports (Part B); to amend the urban development corporation act, the tax law and the administrative code of the city of New York, in relation to establishing the New York business incubator and innovation hot spot support act (Part C); to amend the tax law and the administrative code of the city of New York, in relation to extending for three years the charitable contributions deduction limitation (Part D); to amend the tax law and the adminis trative code of the city of New York, in relation to the exclusion of certain royalty payments from the entire net income or other taxable basis of corporations, banking corporations, and insurance corpo rations, from the unrelated business income of corporations, and from the adjusted gross income of individual taxpayers; and to repeal

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

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certain provisions of the tax law relating thereto (Part E); to amend the tax law, in relation to the historic preservation tax credit (Part F); to amend the tax law, in relation to providing a tax credit for electric vehicle recharging property (Part G); to amend chapter 61 of the laws of 2011 amending the real property tax law and other laws relating to establishing standards for electronic real property tax administration, in relation to extending provisions relating to manda tory electronic filing of tax documents and improving sales tax compliance (Part H); intentionally omitted (Part I); to amend the general municipal law, in relation to restrictions on funds of the industrial development agency and to amend the general municipal law and the public authorities law, in relation to industrial development agencies and authorities (Part J); to amend the tax law, in relation to expanding the exemption of CNG in the sales tax to include natural gas purchased and used to produce CNG for use exclusively and directly in the engine of a motor vehicle (Part K); to amend the tax law, in relation to allowing voluntary ambulance services, fire companies, fire departments and rescue squads to claim reimbursement of the

petroleum business tax for fuel used in their vehicles (Part L); intentionally omitted (Part M); intentionally omitted (Part N); to amend the tax law, in relation to increasing the penalty for the possession of unstamped and unlawfully stamped cigarettes (Part O); to amend the tax law and the vehicle and traffic law, in relation to the suspension of drivers' licenses of persons who are delinquent in the payment of past-due tax liabilities (Part P); to amend the tax law, in relation to serving an income execution with respect to individual tax debtors without filing a warrant; and providing for the repeal of such provisions upon the expiration thereof (Part Q); intentionally omitted (Part R); intentionally omitted (Part S); to amend the tax law, in relation to vendor fees paid to vendor tracks (Part T); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simul cast, 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-mu tuel wagering and breeding law and other laws relating to simulcasting and 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 U); to amend the tax law, in relation to the credit for the rehabilitation of historic homes (Part V); to amend the tax law, in relation to allowing certain tax-free interdistributor sales of high way diesel motor fuel (Part W); to amend the tax law, in relation to updating the farming exemption in the highway use tax to reflect current industry practice (Part X); to amend the tax law and the administrative code of the city of New York, in relation to providing a subtraction from income for small businesses and small farms (Part Y); to amend the tax law, in relation to providing tax cuts to manufacturers (Part Z); to amend the tax law, in relation to adding a hire a vet credit (Part AA); to amend the public service law, in relation to extending the temporary state energy and utility conserva tion assessment; and to amend section 6 of part NN of chapter 59 of the laws of 2009 amending the public service law relating to financing the operations of the department of public service, the public service

commission, department support and energy management services provided by other state agencies, increasing the utility assessment cap and the minimum threshold for collection thereunder, and establishing a tempo rary state energy and utility service conservation assessment and providing for the collection thereof, in relation to extending the effectiveness thereof (Part BB); to amend the tax law, in relation to a credit for middle income taxpayers with children (Part CC); to amend the labor law, in relation to the New York youth works tax credit

program (Part DD); to amend the tax law, in relation to adding a mini mum wage reimbursement credit (Part EE); to amend the tax law, in relation to personal income tax rates; to amend section 11 of part A of chapter 56 of the laws of 2011, relating to the tax rates and exclusions under the metropolitan commuter transportation mobility tax, relating to withholding tables and methods for certain tax years; and to amend the administrative code of the city of New York, relating to the amounts of standard deductions (Part FF); to amend the tax law, in relation to the gift for New York state teen health education fund; and to amend the state finance law, in relation to establishing the New York state teen health education fund (Part GG); to amend the state finance law, in relation to eligible businesses participating in the excelsior linked deposit program (Part HH); to amend the New York state urban development corporation act, in relation to small business loan funds for business enterprises that are minority- and women-owned (Part II); and in relation to establishing a New York state innovation capital fund (Part JJ)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM BLY, DO ENACT AS FOLLOWS:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2013-2014 state fiscal year. Each component is wholly contained within a Part identified as Parts A through JJ. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, includ ing the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found.

Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Subdivision 1 of section 183-a of the tax law, as amended by section 1 of part II-1 of chapter 57 of the laws of 2008, is amended to read as follows:

1. The term "corporation" as used in this section shall include an association, within the meaning of paragraph three of subsection (a) of section seventy-seven hundred one of the internal revenue code (includ ing a limited liability company), a publicly traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by

certificates or other written instruments. Every corporation, joint stock company or association formed for or principally engaged in the

conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), express, navigation, pipe line, transfer, baggage express, omnibus, taxicab, telegraph, or telephone business, or formed for or principally engaged in the conduct of two or more such businesses, and every corporation, joint-stock company or association formed for or principally engaged in the conduct of a railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses and which has made an election pursuant to subdivision ten of section one hundred eighty-three of this article, and every other corporation, joint-stock company or association principally engaged in the conduct of a transportation or transmission business, except a corporation, joint-stock company or association formed for or principally engaged in the conduct of a railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses and which has not made the election provided for in subdivision ten of section one hundred eighty-three of this article, and except a corporation, joint-stock company or association principally engaged in the conduct of aviation (including air freight forwarders acting as principal and like indirect air carriers) and except a corporation principally engaged in providing telecommunication services between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing), at least ninety percent of the voting stock of which corporation is owned, directly or indirectly, by air carriers and which corporation's principal function is to fulfill the requirements of (i) the federal aviation administration (or the successor thereto) or (ii) the international civil aviation organization (or the successor thereto), relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing) for the purposes of air safety and navigation and except a corporation, joint-stock company or association which is liable to taxation under article thirty-two of this chapter, shall pay for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in the metropolitan commuter transportation district in such corporate or organized capacity, or of maintaining an office in such district, a tax surcharge for all or any part of its years commencing on or after January first, nineteen hundred eighty-two but ending before December thirty-first, two thousand [~~thirteen~~] EIGHTEEN, which tax surcharge, in addition to the tax imposed by section one hundred eighty-three of this article, shall be computed at the rate of eighteen percent of the tax imposed under such section one hundred eighty-three for such years or

any part of such years ending before December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article, and at the rate of seventeen percent of the tax imposed under such section for such years or any part of such years ending on or after December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article; provided, however, that such rates of tax surcharge shall be applied only to that portion of the tax imposed under section one hundred eighty-three of this article after the deduction of any credits otherwise allowable under this article which is attributable to the taxpayer's business activity carried on within the metropolitan commuter transportation district as so determined in the manner prescribed by the

rules and regulations promulgated by the commissioner; and provided, further, that the tax surcharge imposed by this section shall not be imposed upon any taxpayer for more than [~~three~~] FOUR hundred [~~seventy-two~~] THIRTY-TWO months.

S 2. The opening paragraph of subdivision 1 of section 184-a of the tax law, as amended by section 2 of part II-1 of chapter 57 of the laws of 2008, is amended to read as follows:

The term "corporation" as used in this section shall include an association, within the meaning of paragraph three of subsection (a) of section seventy-seven hundred one of the internal revenue code (including a limited liability company), and a publicly traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof. Every corporation, joint-stock company or association formed for or principally engaged in the conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), express, navigation, pipe line, transfer, baggage express, omnibus, taxicab, telegraph or local telephone business, or formed for or principally engaged in the conduct of two or more such businesses, and every corporation, joint-stock company or association formed for or principally engaged in the conduct of a surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or principally engaged in the conduct of two or more such businesses and which has made an election pursuant to subdivision ten of section one hundred eighty three of this article, and every other corporation, joint-stock company or association formed for or principally engaged in the conduct of a transportation or transmission business (other than a telephone business) except a corporation, joint-stock company or association formed for or principally engaged in the conduct of a surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace

car, sleeping car or trucking business or principally engaged in the conduct of two or more such businesses and which has not made the election provided for in subdivision ten of section one hundred eighty three of this article, and except a corporation, joint-stock company or association principally engaged in the conduct of aviation (including air freight forwarders acting as principal and like indirect air carri ers) and except a corporation principally engaged in providing telecom munication services between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing), at least ninety percent of the voting stock of which corporation is owned, directly or indirectly, by air carriers and which corporation's principal function is to fulfill the requirements of (i) the federal aviation administration (or the successor thereto) or (ii) the international civil aviation organization (or the successor there to), relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing) for the purposes of air safety and navigation and except a corporation, joint stock company or association which is liable to taxation under article thirty-two of this chapter, shall pay for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in the metropolitan commuter transpor tation district in such corporate or organized capacity, or of maintain ing an office in such district, a tax surcharge for all or any part of its taxable years commencing on or after January first, nineteen hundred

eighty-two, but ending before December thirty-first, two thousand [~~thir- teen~~] EIGHTEEN, which tax surcharge, in addition to the tax imposed by section one hundred eighty-four of this article, shall be computed at the rate of eighteen percent of the tax imposed under such section one hundred eighty-four for such taxable years or any part of such taxable years ending before December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this arti cle, and at the rate of seventeen percent of the tax imposed under such section for such taxable years or any part of such taxable years ending on or after December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article; provided, however, that such rates of tax surcharge shall be applied only to that portion of the tax imposed under section one hundred eight y-four of this article after the deduction of any credits otherwise allowable under this article which is attributable to the taxpayer's business activity carried on within the metropolitan commuter transpor tation district; and provided, further, that the tax surcharge imposed by this section on corporations, joint-stock companies and associations formed for or principally engaged in the conduct of telephone or tele graph business shall be computed in accordance with this subdivision and paragraph (c) of subdivision two of this section as if the three-quar

ters of one percent rate of tax provided for in subdivision one of section one hundred eighty-four of this article were applicable to such telephone and telegraph businesses for taxable years commencing on or after January first, nineteen hundred eighty-five and ending on or before December thirty-first, nineteen hundred eighty-nine; and provided, further, that the tax surcharge imposed by this section shall not be imposed upon any taxpayer for more than [~~three~~] FOUR hundred [~~seventy-two~~] THIRTY-TWO months. Provided, however, that for taxable years beginning in two thousand and thereafter, for purposes of this subdivision the tax imposed under section one hundred eighty-four of this article shall be deemed to have been imposed at the rate of three quarters of one percent, except that in the case of a corporation, joint-stock company or association which has made an election pursuant to subdivision ten of section one hundred eighty-three of this article, for purposes of this subdivision the tax imposed under section one hundred eighty-four of this article shall be deemed to have been imposed at the rate of six-tenths of one percent.

S 3. Subparagraph 1 of paragraph (a) of subdivision 1 of section 186-c of the tax law, as amended by section 3 of part II-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(1) Every utility doing business in the metropolitan commuter trans portation district shall pay a tax surcharge, in addition to the tax imposed by section one hundred eighty-six-a of this article, for all or any parts of its taxable years commencing on or after January first, nineteen hundred eighty-two but ending before December thirty-first, two thousand [~~thirteen~~] EIGHTEEN, to be computed at the rate of eighteen percent of the tax imposed under section one hundred eighty-six-a of this article for such taxable years or any part of such taxable years ending before December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article, and at the rate of seventeen percent of the tax imposed under such section for such taxable years or any part of such taxable years ending on or after December thirty-first, nineteen hundred eighty-three after the deduction of credits otherwise allowable under this article except any utility credit provided for by article thirteen-A of this chapter;

provided, however, that such rates of tax surcharge shall be applied only to that portion of the tax imposed under section one hundred eight y-six-a of this article after the deduction of credits otherwise allow able under this article, except any utility credit provided for by arti cle thirteen-A of this chapter, which is attributable to the taxpayer's gross income or gross operating income from business activity carried on within the metropolitan commuter transportation district; and provided, further, that the tax surcharge imposed by this section shall not be

imposed upon any taxpayer for more than [~~three~~] FOUR hundred [~~seventy-two~~] THIRTY-TWO months.

S 4. Subdivision 1 of section 209-B of the tax law, as amended by section 4 of part II-1 of chapter 57 of the laws of 2008, is amended to read as follows:

1. For the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office in the metropolitan commuter transportation district, for all or any part of its taxable year, there is hereby imposed on every corporation, other than a New York

S corporation, subject to tax under section two hundred nine of this article, or any receiver, referee, trustee, assignee or other fiduciary, or any officer or agent appointed by any court, who conducts the business of any such corporation, for the taxable years commencing on or after January first, nineteen hundred eighty-two but ending before December thirty-first, two thousand [~~thirteen~~] EIGHTEEN, a tax surcharge, in addition to the tax imposed under section two hundred nine of this article, to be computed at the rate of eighteen percent of the tax imposed under such section two hundred nine for such taxable years or any part of such taxable years ending before December thirty first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article, and at the rate of seventeen percent of the tax imposed under such section for such taxable years or any part of such taxable years ending on or after December thirty-first, nineteen hundred eighty-three after the deduction of any credits other wise allowable under this article; provided, however, that such rates of tax surcharge shall be applied only to that portion of the tax imposed under section two hundred nine of this article after the deduction of any credits otherwise allowable under this article which is attributable to the taxpayer's business activity carried on within the metropolitan commuter transportation district; and provided, further, that the tax surcharge imposed by this section shall not be imposed upon any taxpayer for more than [~~three~~] FOUR hundred [~~seventy-two~~] THIRTY-TWO months. Provided however, that for taxable years commencing on or after July first, nineteen hundred ninety-eight, such surcharge shall be calculated as if the tax imposed under section two hundred ten of this article were imposed under the law in effect for taxable years commencing on or after July first, nineteen hundred ninety-seven and before July first, nine teen hundred ninety-eight. Provided however, that for taxable years commencing on or after January first, two thousand seven, such surcharge shall be calculated using the highest of the tax bases imposed pursuant to paragraphs (a), (b), (c) or (d) of subdivision one of section two hundred ten of this article and the amount imposed under paragraph (e) of subdivision one of such section two hundred ten, for the taxable

year; and, provided further that, if such highest amount is the tax base imposed under paragraph (a), (b) or (c) of such subdivision, then the surcharge shall be computed as if the tax rates and limitations under such paragraph were the tax rates and limitations under such paragraph

in effect for taxable years commencing on or after July first, nineteen hundred ninety-seven and before July first, nineteen hundred ninety eight.

S 5. Subsection 1 of section 1455-B of the tax law, as amended by section 5 of part II-1 of chapter 57 of the laws of 2008, is amended to read as follows:

1. For the privilege of exercising its franchise or doing business in the metropolitan commuter transportation district in a corporate or organized capacity, there is hereby imposed on every taxpayer subject to tax under this article, other than a New York

S corporation, for the
taxable years commencing on or after January first, nineteen hundred eighty-two but ending before December thirty-first, two thousand [~~thir-teen~~] EIGHTEEN, a tax surcharge, in addition to the tax imposed under section fourteen hundred fifty-one of this article, at the rate of eigh teen percent of the tax imposed under such section fourteen hundred fifty-one of this article, for such taxable years or any part of such taxable years ending before December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article, and at the rate of seventeen percent of the tax imposed under such section for such taxable years or any part of such taxable years ending on or after December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article; provided however, that such rates of tax surcharge shall be applied only to that portion of the tax imposed under section fourteen hundred fifty-one of this article after the deduction of any credits otherwise allowable under this article which is attributable to the taxpayer's business activity carried on within the metropolitan commuter transportation district; and provided, further, that the tax surcharge imposed by this section shall not be imposed upon any taxpayer for more than [~~three~~] FOUR hundred [~~seventy-two~~] THIRTY-TWO months. Provided however, that for taxable years commencing on or after July first, two thousand, such surcharge shall be calculated as if the rate of the basic tax computed under subsection (a) of section fourteen hundred fifty-five of this article was nine percent.

S 6. Paragraphs 1 and 3 of subdivision (a) of section 1505-a of the

tax law, as amended by section 6 of part II-1 of chapter 57 of the laws of 2008, are amended to read as follows:

(1) Every domestic insurance corporation and every foreign or alien insurance corporation, and every life insurance corporation described in subdivision (b) of section fifteen hundred one of this article, for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in the metro politan commuter transportation district in a corporate or organized capacity, or of maintaining an office in the metropolitan commuter transportation district, for all or any part of its taxable years commencing on or after January first, nineteen hundred eighty-two, but ending before December thirty-first, two thousand [~~thirteen~~] EIGHTEEN, except corporations specified in subdivision (c) of section fifteen hundred twelve of this article, shall annually pay, in addition to the taxes otherwise imposed by this article, a tax surcharge on the taxes imposed under this article after the deduction of any credits otherwise allowable under this article as allocated to such district. Such taxes shall be allocated to such district for purposes of computing such tax surcharge upon taxpayers subject to tax under subdivision (b) of section fifteen hundred ten of this article by applying the methodology, proce dures and computations set forth in subdivisions (a) and (b) of section

fifteen hundred four of this article, except that references to terms denoting New York premiums, and total wages, salaries, personal service compensation and commissions within New York shall be read as denoting within the metropolitan commuter transportation district and terms denoting total premiums and total wages, salaries, personal service compensation and commissions shall be read as denoting within the state. If it shall appear to the commissioner that the application of the meth odology, procedures and computations set forth in such subdivisions (a) and (b) does not properly reflect the activity, business or income of a taxpayer within the metropolitan commuter transportation district, then the commissioner shall be authorized, in the commissioner's discretion, to adjust such methodology, procedures and computations for the purpose of allocating such taxes by:

(A) excluding one or more factors therein;
(B) including one or more other factors therein, such as expenses, purchases, receipts other than premiums, real property or tangible personal property; or
(C) any other similar or different method which allocates such taxes by attributing a fair and proper portion of such taxes to the metropol itan commuter transportation district. The commissioner from time to time shall publish all rulings of general public interest with respect to any application of the provisions of the preceding sentence. The commissioner may promulgate rules and regulations to further implement

the provisions of this section.

(3) Such tax surcharge shall be computed at the rate of eighteen percent of the taxes imposed under sections fifteen hundred one and fifteen hundred ten of this article as limited by section fifteen hundred five of this article, as allocated to such district, for such taxable years or any part of such taxable years ending before December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article, at the rate of seventeen percent of the taxes imposed under such sections as limited by section fifteen hundred five of this article, as allocated to such district, for such taxable years or any part of such taxable years ending on or after December thirty-first, nineteen hundred eighty-three and before January first, two thousand three after the deduction of any credits otherwise allowable under this article, and at the rate of seventeen percent of the taxes imposed under sections fifteen hundred one, fifteen hundred two-a, and fifteen hundred ten of this article, as limited or otherwise determined by subdivision (a) or (b) of section fifteen hundred five of this article, as allocated to such district, for such taxable years or any part of such taxable years ending after December thirty-first, two thousand two after the deduction of any credits otherwise allowable under this article; provided, however, that the tax surcharge imposed by this section shall not be imposed upon any taxpayer for more than [~~three~~] FOUR hundred [~~seventy-two~~] THIRTY-TWO months. Provided however, that for taxable years commencing on or after July first, two thousand, and in the case of taxpayers subject to tax under section fifteen hundred two-a of this article, for taxable years of such taxpayers beginning on or after July first, two thousand and before January first, two thousand three, such surcharge shall be calculated as if (i) the rate of the tax computed under paragraph one of subdivision (a) of section fifteen hundred two of this article was nine percent and (ii) the rate of the limitation on tax set forth in section fifteen hundred five of this article for domestic, foreign and alien insurance corpo

rations except life insurance corporations was two and six-tenths percent.

S 7. This act shall take effect immediately.

PART B

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

(3) "Qualified film" means a feature-length film, television film, RELOCATED TELEVISION PRODUCTION, television pilot and/or each episode of

a television series, regardless of the medium by means of which the film, pilot or episode is created or conveyed. "Qualified film" shall not include (i) a documentary film, news or current affairs program, interview or talk program, "how-to" (i.e., instructional) film or program, film or program consisting primarily of stock footage, sporting event or sporting program, game show, award ceremony, film or program intended primarily for industrial, corporate or institutional end-users, fundraising film or program, daytime drama (i.e., daytime "soap opera"), commercials, music videos or "reality" program, or (ii) a production for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with respect to sexually explicit conduct).

S 2. Subdivision (b) of section 24 of the tax law is amended by adding a new paragraph 8 to read as follows:

(8) "RELOCATED TELEVISION PRODUCTION" SHALL MEAN, NOTWITHSTANDING THE LIMITATIONS IN SUBPARAGRAPH (I) OF PARAGRAPH THREE OF THIS SUBDIVISION, A TELEVISION PRODUCTION THAT IS A TALK OR VARIETY PROGRAM THAT FILMED AT LEAST FIVE SEASONS OUTSIDE THE STATE PRIOR TO ITS FIRST RELOCATED SEASON IN NEW YORK, THE EPISODES ARE FILMED BEFORE A STUDIO AUDIENCE OF TWO HUNDRED OR MORE, AND THE RELOCATED TELEVISION PRODUCTION INCURS (I) AT LEAST THIRTY MILLION DOLLARS IN ANNUAL PRODUCTION COSTS IN THE STATE, OR (II) AT LEAST TEN MILLION DOLLARS IN CAPITAL EXPENDITURES AT A QUALIFIED PRODUCTION FACILITY IN THE STATE.

S 3. Paragraph 4 of subdivision (e) of section 24 of the tax law, as added by chapter 268 of the laws of 2012, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an [~~addition~~] ADDITIONAL four hundred twenty million dollars in EACH YEAR STARTING IN two thousand ten[~~, four hundred twenty million dollars in two thousand eleven, four hundred twenty million dollars in two thousand twelve, four hundred twenty million dollars in two thousand thirteen and four hundred twenty million dollars in two thousand fourteen~~] THROUGH TWO THOUSAND NINETEEN provided however, seven million dollars of the annual allo cation shall be available for the empire state film post production credit pursuant to section thirty-one of this [~~chapter~~] ARTICLE IN TWO THOUSAND THIRTEEN AND TWO THOUSAND FOURTEEN AND TWENTY-FIVE MILLION DOLLARS OF THE ANNUAL ALLOCATION SHALL BE AVAILABLE FOR THE EMPIRE STATE FILM POST PRODUCTION CREDIT PURSUANT TO SECTION THIRTY-ONE OF THIS ARTI CLE IN EACH YEAR STARTING IN TWO THOUSAND FIFTEEN THROUGH TWO THOUSAND NINETEEN. This amount shall be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. If the [~~director of the governor's~~

~~office for motion picture and television development~~] COMMISSIONER OF ECONOMIC DEVELOPMENT determines that the aggregate amount of tax credits

available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pend ing applications from eligible applicants for the EMPIRE STATE FILM post production tax credit pursuant to section thirty-one of this [~~chapter~~] ARTICLE is insufficient to utilize the balance of unallocated EMPIRE STATE FILM post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision thirty-six of section two hundred ten and subsection (gg) of section six hundred six of this chapter. ALSO, IF THE COMMISSIONER OF ECONOMIC DEVELOPMENT DETERMINES THAT THE AGGREGATE AMOUNT OF TAX CREDITS AVAILABLE FROM ADDITIONAL POOL 2 FOR THE EMPIRE STATE FILM POST PRODUCTION TAX CREDIT HAVE BEEN PREVIOUSLY ALLOCATED, AND DETERMINES THAT THE PENDING APPLICATIONS FROM ELIGIBLE APPLICANTS FOR THE EMPIRE STATE FILM PRODUCTION TAX CREDIT PURSUANT TO THIS SECTION IS INSUFFICIENT TO UTILIZE THE BALANCE OF UNALLOCATED FILM PRODUCTION TAX CREDITS FROM SUCH POOL, THEN ALL OR PART OF THE REMAINDER, AFTER SUCH PENDING APPLICATIONS ARE CONSIDERED, SHALL BE MADE AVAILABLE FOR ALLOCATION FOR THE EMPIRE STATE FILM POST PRODUCTION CREDIT PURSUANT TO THIS SECTION, SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN AND SUBSECTION (GG) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER. The gover nor's office for motion picture and television development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a quali fied film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of the taxable year the production of the qualified film is complete, or the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development.

S 4. Paragraph 1 of subdivision (b) of section 24 of the tax law, as amended by section 6 of part Q of chapter 57 of the laws of 2010, is amended to read as follows:

(1) "Qualified production costs" means production costs only to the extent such costs are attributable to the use of tangible property or the performance of services within the state directly and predominantly in the production (including pre-production and post production) of a qualified film[~~, provided, however, that qualified production costs~~

~~shall not include post production costs unless the portion of the post production costs paid or incurred that is attributable to the use of tangible property or the performance of services in New York in the production of such qualified film equals or exceeds seventy-five percent of the total post production costs spent within and without New York in the production of such qualified film~~].

S 5. Paragraph 3 of subdivision (a) of section 31 of the tax law, as added by section 12 of part Q of chapter 57 of the laws of 2010, is amended to read as follows:

(3) (I) A taxpayer shall not be eligible for the credit established by this section FOR QUALIFIED POST PRODUCTION COSTS, EXCLUDING THE COSTS FOR VISUAL EFFECTS AND ANIMATION, unless the qualified post production costs, EXCLUDING THE COSTS FOR VISUAL EFFECTS AND ANIMATION, at a quali fied post production facility meet or exceed seventy-five percent of the total post production costs, EXCLUDING THE COSTS FOR VISUAL EFFECTS AND

ANIMATION, paid or incurred in the post production of the qualified film at any post production facility. (II) A TAXPAYER SHALL NOT BE ELIGIBLE FOR THE CREDIT ESTABLISHED BY THIS SECTION FOR QUALIFIED POST PRODUCTION COSTS WHICH ARE COSTS FOR VISUAL EFFECTS OR ANIMATION UNLESS THE QUALI FIED POST PRODUCTION COSTS FOR VISUAL EFFECTS OR ANIMATION AT A QUALI FIED POST PRODUCTION FACILITY MEET OR EXCEED THREE MILLION DOLLARS OR TWENTY PERCENT OF THE TOTAL POST PRODUCTION COSTS FOR VISUAL EFFECTS OR ANIMATION PAID OR INCURRED IN THE POST PRODUCTION OF A QUALIFIED FILM AT ANY POST PRODUCTION FACILITY, WHICHEVER IS LESS. (III) A TAXPAYER MAY CLAIM A CREDIT FOR QUALIFIED POST PRODUCTION COSTS EXCLUDING THE COSTS FOR VISUAL EFFECTS AND ANIMATION, AND FOR QUALIFIED POST PRODUCTION COSTS OF VISUAL EFFECTS AND ANIMATION, PROVIDED THAT THE CRITERIA IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH ARE BOTH SATISFIED. The credit shall be allowed for the taxable year in which the production of such qualified film is completed.

S 5-a. Subdivision (a) of section 31 of the tax law, as added by section 12 of part Q of chapter 57 of the laws of 2010, is amended by adding a new paragraph 5 to read as follows:

(5) IF THE AMOUNT OF THE CREDIT IS AT LEAST ONE MILLION DOLLARS BUT LESS THAN FIVE MILLION DOLLARS, THE CREDIT SHALL BE CLAIMED OVER A TWO YEAR PERIOD BEGINNING IN THE FIRST TAXABLE YEAR IN WHICH THE CREDIT MAY BE CLAIMED AND IN THE NEXT SUCCEEDING TAXABLE YEAR, WITH ONE-HALF OF THE AMOUNT OF CREDIT ALLOWED BEING CLAIMED IN EACH YEAR. IF THE AMOUNT OF THE CREDIT IS AT LEAST FIVE MILLION DOLLARS, THE CREDIT SHALL BE CLAIMED OVER A THREE YEAR PERIOD BEGINNING IN THE FIRST TAXABLE YEAR IN WHICH

THE CREDIT MAY BE CLAIMED AND IN THE NEXT TWO SUCCEEDING TAXABLE YEARS, WITH ONE-THIRD OF THE AMOUNT OF THE CREDIT ALLOWED BEING CLAIMED IN EACH YEAR.

S 6.

Section 3 of part Y-1 of chapter 57 of the laws of 2009, amending the tax law relating to the empire state film production credit, is amended to read as follows:

S 3. A. The governor's office of motion picture and television devel opment shall file a report on a quarterly basis with the director of the division of the budget and the chairmen of the assembly ways and means committee and senate finance committee. The report shall be filed within fifteen days after the close of the calendar quarter. The first report shall cover the calendar quarter that begins April 1, 2009. The report must contain the following information for the calendar quarter:

(1) the total dollar amount of credits allocated during each month of the calendar quarter, broken down by month;
(2) the number of film projects which have been allocated tax credits of less than $1 million per project and the total dollar amount of cred its allocated to those projects;
(3) the number of film projects which have been allocated tax credits of $1 million or more but less than $5 million per project and the total dollar amount of credits allocated to those projects;
(4) the number of film projects which have been allocated tax credits of $5 million or more per project and the total dollar amount of credits allocated to those projects; [~~and~~]
(5) a list of each film project which has been allocated a tax credit and for each of those projects (a) the estimated number of employees associated with the project, (b) the estimated qualified costs for the project, [~~and~~] (c) the estimated total costs of the project, (D) THE CREDIT-ELIGIBLE MAN HOURS FOR EACH PROJECT; AND (E) TOTAL WAGES FOR SUCH CREDIT-ELIGIBLE MAN HOURS FOR EACH PROJECT; AND

(6)(A) THE NAME OF EACH TAXPAYER ALLOCATED A TAX CREDIT FOR EACH PROJECT AND THE COUNTY OF RESIDENCE OR INCORPORATION OF SUCH TAXPAYER OR, IF THE TAXPAYER DOES NOT RESIDE OR IS NOT INCORPORATED IN NEW YORK, THEN THE STATE OF RESIDENCE OR INCORPORATION; PROVIDED HOWEVER, IF THE TAXPAYER CLAIMS A TAX CREDIT BECAUSE THE TAXPAYER IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER

S CORPORATION, THE NAME OF EACH LIMITED LIABILITY COMPA
NY, PARTNERSHIP OR SUBCHAPTER

S CORPORATION EARNING ANY OF THOSE TAX
CREDITS MUST BE INCLUDED IN THE REPORT INSTEAD OF INFORMATION ABOUT THE TAXPAYER CLAIMING THE TAX CREDIT, (B) THE AMOUNT OF TAX CREDIT ALLOCATED TO EACH TAXPAYER; PROVIDED HOWEVER, IF THE TAXPAYER CLAIMS A TAX CREDIT BECAUSE THE TAXPAYER IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PART NER IN A PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER

S CORPORATION, THE
AMOUNT OF TAX CREDIT EARNED BY EACH ENTITY MUST BE INCLUDED IN THE REPORT INSTEAD OF INFORMATION ABOUT THE TAXPAYER CLAIMING THE TAX CRED IT, AND (C) INFORMATION IDENTIFYING THE PROJECT ASSOCIATED WITH EACH TAXPAYER FOR WHICH A TAX CREDIT WAS CLAIMED UNDER SECTION 24 OR SECTION 31, AS ADDED BY CHAPTER 57 OF THE LAWS OF 2010, OF THE TAX LAW, INCLUD ING THE NAME OF THE FILM AND COUNTY IN WHICH THE PROJECT IS LOCATED; AND B. THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT SHALL FILE A REPORT ON A BIENNIAL BASIS WITH THE DIRECTOR OF THE DIVI SION OF THE BUDGET AND THE CHAIRS OF THE ASSEMBLY WAYS AND MEANS COMMIT TEE AND SENATE FINANCE COMMITTEE. THE REPORT SHALL BE FILED WITHIN FIFTEEN DAYS AFTER THE CLOSE OF THE CALENDAR YEAR. THE FIRST REPORT SHALL COVER A TWO YEAR PERIOD THAT BEGINS ON JANUARY FIRST, TWO THOUSAND THIRTEEN. THE REPORT MUST BE PREPARED BY AN INDEPENDENT THIRD PARTY AUDITOR AND INCLUDE: (1) INFORMATION REGARDING THE EMPIRE STATE FILM PRODUCTION CREDIT AND POST PRODUCTION CREDIT PROGRAMS INCLUDING THE EFFICIENCY OF OPERATIONS, RELIABILITY OF FINANCIAL REPORTING, COMPLIANCE WITH LAWS AND REGULATIONS AND DISTRIBUTION OF ASSETS AND FUNDS; (2) AN ECONOMIC IMPACT STUDY PREPARED BY AN INDEPENDENT THIRD PARTY OF THE FILM CREDIT PROGRAMS; AND (3) ANY OTHER INFORMATION AND/OR OTHER STATISTICAL INFORMATION THAT THE COMMISSIONER OF ECONOMIC DEVELOPMENT DEEMS TO BE USEFUL IN ANALYZING THE EFFECTS OF THE PROGRAM.

S 7. Subdivision (a) of section 24 of the tax law is amended by adding a new paragraph 5 to read as follows:

(5) FOR THE PERIOD TWO THOUSAND FIFTEEN THROUGH TWO THOUSAND NINETEEN, IN ADDITION TO THE AMOUNT OF CREDIT ESTABLISHED IN PARAGRAPH TWO OF THIS SUBDIVISION, A TAXPAYER SHALL BE ALLOWED A CREDIT EQUAL TO THE PRODUCT (OR PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNER SHIP) OF TEN PERCENT AND THE AMOUNT OF WAGES OR SALARIES PAID TO INDI VIDUALS DIRECTLY EMPLOYED (EXCLUDING THOSE EMPLOYED AS WRITERS, DIREC TORS, MUSIC DIRECTORS, PRODUCERS AND PERFORMERS, INCLUDING BACKGROUND ACTORS WITH NO SCRIPTED LINES) BY A QUALIFIED FILM PRODUCTION COMPANY OR A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY FOR SERVICES PERFORMED BY THOSE INDIVIDUALS IN ONE OF THE COUNTIES SPECIFIED IN THIS PARAGRAPH IN CONNECTION WITH A QUALIFIED FILM WITH A MINIMUM BUDGET OF FIVE HUNDRED THOUSAND DOLLARS. FOR PURPOSES OF THIS ADDITIONAL CREDIT, THE

SERVICES MUST BE PERFORMED IN ONE OR MORE OF THE FOLLOWING COUNTIES:

ALLEGANY, BROOME, CATTARAUGUS, CAYUGA, CHAUTAUQUA, CHEMUNG, CHENANGO, CLINTON, CORTLAND, DELAWARE, ERIE, ESSEX, FRANKLIN, FULTON, GENESEE, HAMILTON, HERKIMER, JEFFERSON, LEWIS, LIVINGSTON, MADISON, MONROE, MONT GOMERY, NIAGARA, ONEIDA, ONONDAGA, ONTARIO, ORLEANS, OSWEGO, OTSEGO, SCHOHARIE, SCHUYLER, SENECA, ST. LAWRENCE, STEUBEN, TIOGA, TOMPKINS, WAYNE, WYOMING, OR YATES. THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED PURSUANT TO THE AUTHORITY OF THIS PARAGRAPH SHALL BE FIVE MILLION

DOLLARS EACH YEAR DURING THE PERIOD TWO THOUSAND FIFTEEN THROUGH TWO THOUSAND NINETEEN OF THE ANNUAL ALLOCATION MADE AVAILABLE TO THE PROGRAM PURSUANT TO PARAGRAPH FOUR OF SUBDIVISION (E) OF THIS SECTION. SUCH AGGREGATE AMOUNT OF CREDITS SHALL BE ALLOCATED BY THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVELOPMENT AMONG TAXPAYERS IN ORDER OF PRIORITY BASED UPON THE DATE OF FILING AN APPLICATION FOR ALLOCATION OF FILM PRODUCTION CREDIT WITH SUCH OFFICE. IF THE TOTAL AMOUNT OF ALLO CATED CREDITS APPLIED FOR UNDER THIS PARAGRAPH IN ANY YEAR EXCEEDS THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED FOR SUCH YEAR UNDER THIS PARA GRAPH, SUCH EXCESS SHALL BE TREATED AS HAVING BEEN APPLIED FOR ON THE FIRST DAY OF THE NEXT YEAR. IF THE TOTAL AMOUNT OF ALLOCATED TAX CRED ITS APPLIED FOR UNDER THIS PARAGRAPH AT THE CONCLUSION OF ANY YEAR IS LESS THAN FIVE MILLION DOLLARS, THE REMAINDER SHALL BE TREATED AS PART OF THE ANNUAL ALLOCATION MADE AVAILABLE TO THE PROGRAM PURSUANT TO PARA GRAPH FOUR OF SUBDIVISION (E) OF THIS SECTION. HOWEVER, IN NO EVENT MAY THE TOTAL OF THE CREDITS ALLOCATED UNDER THIS PARAGRAPH AND THE CREDITS ALLOCATED UNDER PARAGRAPH FIVE OF SUBDIVISION (A) OF SECTION THIRTY-ONE OF THIS ARTICLE EXCEED FIVE MILLION DOLLARS IN ANY YEAR DURING THE PERI OD TWO THOUSAND FIFTEEN THROUGH TWO THOUSAND NINETEEN.

S 8. Subdivision (a) of section 31 of the tax law, as added by section 12 of Part Q of chapter 57 of the laws of 2010, is amended by adding a new paragraph 5 to read as follows:

(5) FOR THE PERIOD TWO THOUSAND FIFTEEN THROUGH TWO THOUSAND NINETEEN, IN ADDITION TO THE AMOUNT OF CREDIT ESTABLISHED IN PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, A TAXPAYER SHALL BE ALLOWED A CREDIT EQUAL TO THE PRODUCT (OR PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF TEN PERCENT AND THE AMOUNT OF WAGES OR SALA RIES PAID TO INDIVIDUALS DIRECTLY EMPLOYED (EXCLUDING THOSE EMPLOYED AS WRITERS, DIRECTORS, MUSIC DIRECTORS, PRODUCERS AND PERFORMERS, INCLUDING BACKGROUND ACTORS WITH NO SCRIPTED LINES) FOR SERVICES PERFORMED BY THOSE INDIVIDUALS IN ONE OF THE COUNTIES SPECIFIED IN THIS PARAGRAPH IN CONNECTION WITH THE POST PRODUCTION WORK ON A QUALIFIED FILM WITH A MINIMUM BUDGET OF FIVE HUNDRED THOUSAND DOLLARS AT A QUALIFIED POST PRODUCTION FACILITY IN ONE OF THE COUNTIES LISTED IN THIS PARAGRAPH. FOR

PURPOSES OF THIS ADDITIONAL CREDIT, THE SERVICES MUST BE PERFORMED IN ONE OR MORE OF THE FOLLOWING COUNTIES: ALLEGANY, BROOME, CATTARAUGUS, CAYUGA, CHAUTAUQUA, CHEMUNG, CHENANGO, CLINTON, CORTLAND, DELAWARE, ERIE, ESSEX, FRANKLIN, FULTON, GENESEE, HAMILTON, HERKIMER, JEFFERSON, LEWIS, LIVINGSTON, MADISON, MONROE, MONTGOMERY, NIAGARA, ONEIDA, ONONDA GA, ONTARIO, ORLEANS, OSWEGO, OTSEGO, SCHOHARIE, SCHUYLER, SENECA, ST. LAWRENCE, STEUBEN, TIOGA, TOMPKINS, WAYNE, WYOMING, OR YATES. THE AGGRE GATE AMOUNT OF TAX CREDITS ALLOWED PURSUANT TO THE AUTHORITY OF THIS PARAGRAPH SHALL BE FIVE MILLION DOLLARS EACH YEAR DURING THE PERIOD TWO THOUSAND FIFTEEN THROUGH TWO THOUSAND NINETEEN OF THE ANNUAL ALLOCATION MADE AVAILABLE TO THE EMPIRE STATE FILM POST PRODUCTION CREDIT PURSUANT TO PARAGRAPH FOUR OF SUBDIVISION (E) OF SECTION TWENTY-FOUR OF THIS ARTICLE. SUCH AGGREGATE AMOUNT OF CREDITS SHALL BE ALLOCATED BY THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVELOPMENT AMONG TAXPAYERS IN ORDER OF PRIORITY BASED UPON THE DATE OF FILING AN APPLICA TION FOR ALLOCATION OF POST PRODUCTION CREDIT WITH SUCH OFFICE. IF THE TOTAL AMOUNT OF ALLOCATED CREDITS APPLIED FOR UNDER THIS PARAGRAPH IN ANY YEAR EXCEEDS THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED FOR SUCH YEAR UNDER THIS PARAGRAPH, SUCH EXCESS SHALL BE TREATED AS HAVING BEEN APPLIED FOR ON THE FIRST DAY OF THE NEXT YEAR. IF THE TOTAL AMOUNT OF ALLOCATED TAX CREDITS APPLIED FOR UNDER THIS PARAGRAPH AT THE CONCLUSION OF ANY YEAR IS LESS THAN FIVE MILLION DOLLARS, THE REMAINDER SHALL BE

TREATED AS PART OF THE ANNUAL ALLOCATION FOR TWO THOUSAND SEVENTEEN MADE AVAILABLE TO THE EMPIRE STATE FILM POST PRODUCTION CREDIT PURSUANT TO PARAGRAPH FOUR OF SUBDIVISION (E) OF SECTION TWENTY FOUR OF THIS ARTI CLE. HOWEVER, IN NO EVENT MAY THE TOTAL OF THE CREDITS ALLOCATED UNDER THIS PARAGRAPH AND THE CREDITS ALLOCATED UNDER PARAGRAPH FIVE OF SUBDI VISION (A) OF SECTION TWENTY-FOUR OF THIS ARTICLE EXCEED FIVE MILLION DOLLARS IN ANY YEAR DURING THE PERIOD TWO THOUSAND FIFTEEN THROUGH TWO THOUSAND NINETEEN.

S 9. This act shall take effect immediately, provided, however, that sections four and five of this act shall apply to (a) taxpayers submit ting initial applications to the governor's office of motion picture and television development on or after the date this act shall have become a law, and (b) to taxpayers who filed an initial application before this act shall have become a law but who have not yet submitted a final application to the governor's office of motion picture and television development on or before the date this act shall have become a law, provided such taxpayers agree to have the amendments made to section 3 of part Y-1 of chapter 57 of the laws of 2009, amending the tax law relating to the empire state film production credit, which added a new paragraph 6 to subdivision (a) of such section 3 apply to them; and the amendments made to section 3 of part Y-1 of chapter 57 of the laws of 2009, amending the tax law relating to the empire state film production

credit, with the exception of subdivision b of such section, shall only apply to taxpayers submitting initial applications to the governor's office of motion picture and television development on or after the date this act shall become a law.

PART C

Section 1.

Section 1 of chapter 174 of the laws of 1968 constituting the urban development corporation act is amended by adding a new section 16-v to read as follows:

S 16-V. NEW YORK STATE BUSINESS INCUBATOR AND INNOVATION HOT SPOT SUPPORT ACT. 1. (A) THE CORPORATION IS AUTHORIZED, WITHIN AVAILABLE APPROPRIATIONS, TO ISSUE REQUESTS FOR PROPOSALS ONCE PER FISCAL YEAR TO PROVIDE GRANTS PURSUANT TO SUBDIVISIONS FIVE AND SIX OF THIS SECTION FOR THE PURPOSES ESTABLISHED UNDER THIS ACT. THE CORPORATION MAY DESIGNATE ENTITIES, WHICH UPON APPLICATION MEET THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION AS NEW YORK STATE INCUBATORS, AND MAY PROVIDE GRANTS AND ASSISTANCE AS PROVIDED UNDER SUBDIVISIONS FIVE AND SIX OF THIS SECTION TO SUCH DESIGNATED ENTITIES. "NEW YORK STATE INCUBATOR" SHALL MEAN A BUSINESS INCUBATION PROGRAM WHICH ALSO PROVIDES PHYSICAL SPACE OR WHICH IS A VIRTUAL INCUBATION PROGRAM THAT HAS BEEN DESIGNATED UPON APPLICATION BY THE CORPORATION AS A NEW YORK STATE INCUBATOR PURSUANT TO SUBDIVISIONS TWO AND THREE OF THIS SECTION AND WHICH THEREBY BECOMES ELIGIBLE FOR BENEFITS, SUPPORT, SERVICES, AND PROGRAMS AVAILABLE PURSU ANT TO SUCH DESIGNATION. PROVIDED HOWEVER, THAT VIRTUAL INCUBATORS WHICH PROVIDE ASSISTANCE TO ELIGIBLE BUSINESSES NOT IN RESIDENCE IN ONE PHYS ICAL LOCATION, SHALL SUBMIT A PLAN OF OPERATION WHICH SETS FORTH THE MAXIMUM NUMBER OF ELIGIBLE BUSINESSES TO BE SERVED AND THEIR GEOGRAPHIC DISTRIBUTION.

(B) FROM AMONG THE QUALIFIED "NEW YORK STATE INCUBATORS", THE CORPO RATION IS FURTHER AUTHORIZED, WITHIN AVAILABLE APPROPRIATIONS, TO DESIG NATE APPLICANTS AS "NEW YORK STATE INNOVATION HOT SPOTS." AN INCUBATOR RECEIVING A "NEW YORK STATE INNOVATION HOT SPOT" DESIGNATION SHALL BE ELIGIBLE FOR THE BENEFITS UNDER SECTION THIRTY-EIGHT OF THE TAX LAW,

SUBPARAGRAPH EIGHTEEN OF PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THE TAX LAW, SUBDIVISION ELEVEN OF SECTION TWO HUNDRED NINE OF THE TAX LAW, PARAGRAPH THIRTY-NINE OF SUBSECTION (C) OF SECTION SIX HUNDRED TWELVE OF THE TAX LAW, PARAGRAPH ONE OF SUBDIVISION (D) OF SECTION ONE THOUSAND ONE HUNDRED NINETEEN OF THE TAX LAW, AND PARAGRAPH THIRTY-FIVE OF SUBDIVISION (C) OF SECTION 11-1712 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

2. REQUIREMENTS FOR DESIGNATION. (A) AN ENTITY WISHING TO BE DESIG NATED AS A NEW YORK STATE INNOVATION HOT SPOT OR AS A NEW YORK STATE INCUBATOR PURSUANT TO THIS SECTION SHALL BE LOCATED IN NEW YORK STATE AND SHALL HAVE BEEN IN EXISTENCE OR OTHERWISE IN OPERATION FOR A PERIOD OF AT LEAST THREE FISCAL YEARS PRIOR TO THE CURRENT FISCAL YEAR, OR DEMONSTRATE CONTINUITY OF STAFFING, PROGRAM, AND PURPOSE SHOWING CONTIN UATION THROUGH ANOTHER AUSPICE OR GOVERNING ENTITY, AND SHALL HAVE DEMONSTRATED A CONNECTION TO REGIONAL SOURCES OF INNOVATION AND EXPER TISE, AND THAT IT MEETS THE GOALS OF CREATING JOBS AND INCUBATING BUSI NESSES WITH SURVIVAL RATES IN EXCESS OF AVERAGE STARTUPS, AND THAT THE PROGRAM HAS A STRATEGIC PLAN TO CONTINUE TO MEET SUCH GOALS FOR THE THREE YEARS SUCCEEDING DESIGNATION AND THAT COMMITS THE PROGRAM TO IMPLEMENTING BEST PRACTICES. SUCH DEMONSTRATION SHALL INCLUDE A COMMIT MENT BY THE SPONSOR TO CONTINUE TO MAINTAIN THE PROGRAM FOR AT LEAST THREE YEARS AFTER SUCH DESIGNATION, AND TO PROVIDE ANY REPORTING INFOR MATION THAT THE CORPORATION SHALL REQUIRE.

(B) IN DETERMINING WHETHER AN ENTITY SHALL BE DESIGNATED AS A NEW YORK STATE INNOVATION HOT SPOT OR NEW YORK STATE INCUBATOR, THE CORPORATION SHALL REQUIRE THAT THE ENTITY MEET THE REQUIREMENTS OF SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH AND MAY CONSIDER WHETHER THE ENTITY HAS DEVELOPED THE PROGRAMS, SERVICES, AND ATTRIBUTES IN SUBPARAGRAPHS (III) THROUGH (XVI) OF THIS PARAGRAPH:

(I) INSTITUTIONAL STABILITY AND LONG TERM VIABILITY, INDICATED BY:

THE SPONSOR'S COMMITMENT TO FINANCIALLY AND PROGRAMMATICALLY MAINTAINING THE INCUBATOR FOR AT LEAST TWO YEARS IN ADDITION TO THE CURRENT FISCAL YEAR; RECEIPT OF NON-STATE PUBLIC AND PRIVATE GRANT AND/OR OTHER REVENUE SOURCES INCLUDING PROPERTY RENTALS AND PROGRAM FEES THAT ARE OR HAVE PROVEN TO BE PREDICTABLE AND RELIABLE; AND MANAGEABLE DEBT SERVICE;

(II) A STRATEGIC PLAN THAT DESCRIBES THE IMPACT ON THE REGIONAL ENTRE PRENEURIAL ENVIRONMENT THAT THE INCUBATOR IS INTENDED TO HAVE AND COMMITS THE INCUBATOR TO BEST INCUBATION PRACTICES AND DESCRIBES A DEFINED PROCESS THAT ACCELERATES COMMERCIALIZATION AND DEVELOPMENT FOR A CLIENT COMPANY OR ENTITY THROUGH PROVISION OF TECHNICAL ASSISTANCE, DIRECT MENTORSHIP, ENTREPRENEURIAL EDUCATION, AND BUSINESS DEVELOPMENT SERVICES, INCLUDING DEVELOPMENT OF A BUSINESS PLAN AND MARKETS, AID IN DEVELOPMENT OF THE MANAGEMENT TEAM, PRODUCT, CUSTOMERS, AND LOCAL OR REGIONAL SUPPLY CHAIN PARTNERS, ACCESS TO INVESTMENT, AND LAUNCHING OF A SUCCESSFUL BUSINESS WHICH WILL EMPLOY NEW YORKERS;

(III) AN INTEGRATED ARRAY OF SERVICES WHICH INCLUDES MANAGEMENT GUID ANCE, TECHNICAL ASSISTANCE, CONSULTING, MENTORING, BUSINESS PLAN DEVEL OPMENT, AID IN CREATION OF THE BUSINESS ENTITY, AND ONGOING COUNSELING;

(IV) OPPORTUNITIES FOR CLIENTS TO NETWORK, COLLABORATE WITH OTHER BUSINESS PROGRAMS, AND GAIN ACCESS TO SERVICES, INCLUDING THROUGH SUCH PROGRAMS AS THE SMALL BUSINESS DEVELOPMENT CENTER, THE LOCAL OR AREA CHAMBER OF COMMERCE OR OTHER BUSINESS ASSOCIATION, PROGRAMS OF THE SMALL BUSINESS ADMINISTRATION, AND/OR OTHER SIMILAR BUSINESS ORGANIZATIONS, ASSOCIATIONS, AND PROGRAMS;

(V) ACCESS TO CAPITAL VIA REFERRAL OR OTHER ARRANGEMENTS WITH FINAN
CIAL INSTITUTIONS, VENTURE CAPITALISTS, ANGEL INVESTORS, INVESTMENT

FUNDS MANAGED OR FINANCED BY PRIVATE ENTITIES OR STATE OR LOCAL ECONOMIC
DEVELOPMENT ORGANIZATIONS, OR OTHER SIMILAR OR EQUIVALENT CAPITAL SOURC
ES, EVIDENCED BY WRITTEN AGREEMENTS, MEMORANDUMS OF UNDERSTANDING,
LETTERS OF INTENT, OR OTHER ENDORSEMENTS ACCEPTABLE TO THE CORPORATION,
AND INCLUDING READYING CLIENTS FOR FINANCIAL MEETINGS AND INTERVIEWS;
(VI) AID IN ACCESSING MARKETS, VIA BID ASSISTANCE OR ACCESS PROGRAMS
THAT MAY INCLUDE BUT ARE NOT LIMITED TO LITERATURE REVIEW, ESTABLISHMENT
OF A RESOURCE DOCUMENTS ROOM (PHYSICAL OR VIRTUAL), OPPORTUNITY NOTIFI
CATION OF LOCAL, STATE, AND FEDERAL GOVERNMENTAL AND PRIVATE OPPORTU
NITIES, AND IDENTIFICATION OF AND INTRODUCTIONS TO POTENTIAL FIRST
CUSTOMERS;
(VII) PHYSICAL OFFICE SPACE AND/OR LABORATORY SPACE AND/OR MANUFACTUR
ING SPACE UNDER A WRITTEN AGREEMENT FOR A PERIOD NOT TO EXCEED FIVE
YEARS FOR ANY INDIVIDUAL INCUBATOR CLIENT;
(VIII) POLICIES REQUIRING PARTICIPATION BY CLIENTS IN THE INCUBATOR
PROGRAM, INCLUDING DISQUALIFICATION OR SUSPENSION FROM THE PROGRAM FOR
FAILURE TO PARTICIPATE;
(IX) CRITERIA FOR ACCEPTANCE AND GRADUATION FROM THE PROGRAM OR PHYS
ICAL SPACE, AND TERMS AND CONDITIONS FOR ONGOING RELATIONSHIPS, IF ANY,
BETWEEN THE INCUBATOR AND THE CLIENT;
(X) AT LEAST FIFTY PERCENT OF THE TOTAL INCUBATOR BUDGET PROVIDED FROM
SOURCES OTHER THAN TENANT RENTS AND FEES AND IN-KIND SUPPORT FROM THE
SPONSORING ENTITY, AND MUST BE FROM SOURCES OTHER THAN NEW YORK STATE
GOVERNMENT AGENCIES;
(XI) AN INDEPENDENT ADVISORY COUNCIL OR SIMILAR BODY THAT INCLUDES ONE
OR MORE EXECUTIVE OFFICERS OF FIRMS THAT HAVE GRADUATED FROM THE INCUBA
TOR, LOCAL ECONOMIC DEVELOPMENT PROFESSIONALS, AND INDIVIDUALS WITH
BUSINESS AND TECHNOLOGY EXPERTISE IN AREAS APPROPRIATE TO THE SECTOR OR
CONCENTRATION OF CLIENTS, AND THE MISSION AND GOAL OF THE INCUBATOR;
(XII) A PROFESSIONAL MANAGEMENT AND SERVICE DELIVERY TEAM WITH EXPERI
ENCE, EXPERTISE, OR CREDENTIALS IN MANAGEMENT, ENTREPRENEURSHIP, BUSI
NESS DEVELOPMENT, OR OTHER EQUIVALENT AREAS;
(XIII) ACCESS BY CLIENTS TO MENTORING, ADVISORY, OR EDUCATIONAL
SERVICES, INCLUDING CLASSROOM TEACHING, FROM INDIVIDUALS WHO HAVE
SUCCESSFULLY CREATED, GROWN OR MANAGED BUSINESSES OR ARE LAWYERS,
PROFESSIONAL ACCOUNTANTS, OR INDIVIDUALS WHO HAVE BEEN IN BUSINESS AT AN
EXECUTIVE LEVEL FOR AT LEAST FIVE YEARS;
(XIV) EVIDENCE THAT THE INCUBATOR IS A CENTER OF ENTREPRENEURIAL
ACTIVITIES OF A CITY, REGION, OR DISTRESSED PORTION THEREOF, AS DOCU
MENTED BY PROGRAMS AND ACTIVITIES COORDINATED WITH COUNTY OR LOCAL
ECONOMIC DEVELOPMENT ORGANIZATIONS, INVESTOR AND FINANCIAL CLUBS OR
INSTITUTIONS, OR STUDENT OR YOUTH-ORIENTED ENTREPRENEURIAL ACTIVITIES;
(XV) A PARTNERSHIP WITH OTHER INCUBATORS IN THE REGION TO OFFER
SERVICES AND OPPORTUNITIES FOR ENTREPRENEURS AND LEVERAGE REGIONAL

ECONOMIC DEVELOPMENT ASSETS; AND
(XVI) A PLAN TO RECRUIT MINORITY- AND WOMEN-OWNED BUSINESSES FOR LOCATION AND PARTICIPATION WITH THE INCUBATOR PROGRAM.
(C) THE CORPORATION, SUBJECT TO APPROPRIATIONS PROVIDED FOR THIS PURPOSE, MAY APPROVE AND DESIGNATE FIVE NEW YORK STATE INCUBATOR HOT SPOTS IN FISCAL YEAR TWO THOUSAND THIRTEEN-TWO THOUSAND FOURTEEN AND FIVE ADDITIONAL NEW YORK STATE INNOVATION HOT SPOTS IN FISCAL YEAR TWO THOUSAND FOURTEEN-TWO THOUSAND FIFTEEN. SUCH DESIGNEES WILL BE REQUIRED TO DEMONSTRATE AN AFFILIATION WITH AND THE APPLICATION SUPPORT OF AT LEAST ONE COLLEGE, UNIVERSITY OR INDEPENDENT RESEARCH INSTITUTION, AND THAT ITS PROGRAMS AND PURPOSES ARE CONSISTENT WITH REGIONAL ECONOMIC DEVELOPMENT STRATEGIES.

3. DESIGNATION. (A) THE CORPORATION MAY DESIGNATE APPLICANTS THAT MEET THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION AS NEW YORK STATE INNOVATION HOT SPOTS OR AS NEW YORK STATE INCUBATORS.
(B) AS A CONDITION OF MAINTAINING DESIGNATION, EACH INCUBATOR SHALL ANNUALLY SUBMIT TO THE CORPORATION IN A MANNER AND ACCORDING TO A SCHED ULE ESTABLISHED BY THE CORPORATION:

(I) UPDATED INFORMATION REQUESTED BY THE CORPORATION PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION;
(II) ITS STRATEGIC PLAN, AS UPDATED ALONG WITH A BRIEF DESCRIPTION OF ITS SUCCESS IN MEETING THE GOALS OF ITS STRATEGIC PLAN;
(III) A STATEMENT THAT THE ITEMS LISTED IN PARAGRAPH (B) OF SUBDIVI SION TWO OF THIS SECTION AND, IN THE CASE OF NEW YORK STATE INNOVATION HOT SPOTS, PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION ARE STILL APPLICABLE TO THE OPERATIONS OF THE INCUBATOR, OR ANY CHANGE IN APPLICA BILITY;
(IV) A LIST OF BUSINESS ENTERPRISES SERVED BY THE INCUBATOR, AND IN THE CASE OF NEW YORK STATE INNOVATION HOT SPOTS, THOSE CLIENTS CERTIFIED AS A "QUALIFIED ENTITY" ELIGIBLE FOR TAX INCENTIVES UNDER SECTION THIR TY-EIGHT OF THE TAX LAW; AND
(V) SUCH ADDITIONAL INFORMATION AS THE CORPORATION MAY REQUIRE.
(C) THE CORPORATION SHALL DESIGN SIMPLIFIED FORMS TO AID IN THE SUBMISSION OF THE DATA REQUIRED IN THIS SUBDIVISION, WHICH MAY BE SUBMITTED ELECTRONICALLY. SUCH FORMS SHALL STATE THE PURPOSES OF THE REQUIRED DATA SUBMISSIONS.
(D) THE CORPORATION SHALL EVALUATE THE OPERATIONS OF THE NEW YORK STATE INNOVATION HOT SPOT OR THE NEW YORK STATE INCUBATOR USING METHODS INCLUDING BUT NOT LIMITED TO SITE VISITS, REPORTS PURSUANT TO SPECIFIED INFORMATION, AND REVIEW EVALUATIONS. IF THE CORPORATION IS UNSATISFIED WITH THE PROGRESS OF A NEW YORK STATE INNOVATION HOT SPOT OR A NEW YORK STATE INCUBATOR, THE CORPORATION SHALL NOTIFY SUCH INCUBATOR OF THE RESULTS OF ITS EVALUATIONS AND THE FINDINGS OF DEFICIENCIES IN THE INCUBATOR'S OPERATIONS AND SHALL ALLOW SUCH INCUBATOR TO REMEDY SUCH FINDINGS IN A TIMELY MANNER. FOR NEW YORK STATE INNOVATION HOT SPOTS OR

NEW YORK STATE INCUBATORS THAT RECEIVE OPERATING GRANTS PURSUANT TO PARAGRAPH (A) OF SUBDIVISION FIVE OF THIS SECTION, SUCH EVALUATIONS SHALL INCLUDE INDEPENDENT PEER REVIEW AND SHALL TAKE PLACE NO LESS THAN ONCE EVERY THREE YEARS OR MORE FREQUENTLY AT THE DISCRETION OF THE CORPORATION. SUCH INDEPENDENT PEER REVIEW SHALL RESULT IN A WRITTEN REPORT THAT INCLUDES PROGRAMMATIC AND FISCAL EVALUATION OF THE INCU BATION PROGRAM AND RECOMMENDATIONS FOR IMPROVEMENT.

4. AUDIT. THE CORPORATION SHALL HAVE THE AUTHORITY TO AUDIT NEW YORK INNOVATION HOT SPOTS, NEW YORK STATE INCUBATORS AND CLIENTS DESIGNATED BY SUCH HOT SPOTS AS QUALIFIED ENTITIES.

5. GRANTS. (A) OPERATING GRANTS. A PROGRAM DESIGNATED AS A NEW YORK STATE INNOVATION HOT SPOT OR AS A NEW YORK STATE INCUBATOR SHALL BE ELIGIBLE FOR AN OPERATING GRANT IN AN AMOUNT TO BE DETERMINED BY THE CORPORATION FROM FUNDS APPROPRIATED TO THE CORPORATION FOR SUCH PURPOSE, PROVIDED HOWEVER THAT:

(I) ANY SUCH GRANT SHALL BE MATCHED ON A TWO-TO-ONE BASIS BY THE INSTITUTION RECEIVING THE FUNDS AND COLLABORATIVE PARTNERS IN THE FORM OF CASH OR IN-KIND PERSONNEL, EQUIPMENT, MATERIAL DONATIONS, AND OTHER FACILITY AND OPERATIONS EXPENDITURES, PROVIDED THAT NO MORE THAN FIFTY PERCENT OF SUCH MATCH SHALL BE IN-KIND;

(II) A PROGRAM APPLYING FOR A GRANT SHALL DEMONSTRATE FINANCIAL STABILITY AND LONG TERM VIABILITY, AS PROVIDED IN SUBPARAGRAPH (I) OF PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION;

(III) A GRANT RECIPIENT SHALL AGREE TO PROVIDE DATA AS REQUIRED TO THE CORPORATION AND SHALL AGREE TO CONFORM TO BEST PRACTICES AS OUTLINED BY STATE AND/OR NATIONAL BUSINESS INCUBATOR ASSOCIATIONS;

(IV) FAILURE TO ABIDE BY THE REQUIREMENTS OF THIS SUBDIVISION OR TO CURE A DEFAULT AFTER REVIEW AND AGREEMENT WITH THE CORPORATION SHALL RESULT IN LOSS OF THE GRANT AND DISQUALIFICATION OF THE DESIGNEE AS A NEW YORK STATE INNOVATION HOT SPOT OR AS A NEW YORK STATE INCUBATOR; AND

(V) PROVIDED THAT A PORTION OF THE GRANTS SHALL BE AWARDED TO THE NEW YORK STATE INNOVATION HOT SPOTS AND THE NEW YORK STATE INCUBATORS.

(B) THE CORPORATION SHALL MAKE ENTITIES DESIGNATED AS NEW YORK STATE INNOVATION HOT SPOTS OR AS NEW YORK STATE INCUBATORS AWARE OF OPPORTU NITIES FOR FUNDING OR GRANTS BY OR THROUGH THE CORPORATION OR THE DEPARTMENT OF ECONOMIC DEVELOPMENT.

(C) NO DEDUCTION. IN ADDITION TO THE FOREGOING REQUIREMENTS, AN INCU BATOR SPONSOR SHALL AGREE TO DEDICATE ALL FUNDS FROM ANY GRANTS OR SUPPORT RECEIVED PURSUANT TO THIS SUBDIVISION TO THE OPERATIONS OF THE INCUBATOR WITHOUT DEDUCTIONS FOR OVERHEAD, INDIRECT COSTS, OR FACILITIES AND ADMINISTRATION CHARGES OF SUCH SPONSOR.

6. OTHER ASSISTANCE. THE CORPORATION SHALL MAKE SUCH OTHER AID, ASSISTANCE, AND RESOURCES AVAILABLE TO NEW YORK STATE INNOVATION HOT SPOTS AND NEW YORK STATE INCUBATORS AND THEIR CLIENTS AS IT SHALL DEEM USEFUL AND APPROPRIATE FOR THE FURTHERANCE OF THE PURPOSES OF THIS ACT,

INCLUDING WITHOUT LIMITATION TECHNICAL ASSISTANCE, AID IN MARKETING, AID IN REACHING AND PROVIDING ENTREPRENEURSHIP TRAINING OPPORTUNITIES TO SUCH MARGINALIZED GROUPS AS THOSE COMPOSED OF INDIVIDUALS WHO ARE MINORITY, FEMALE, DISABLED, OR POOR, AND OTHERS, CURRICULUM DEVELOPMENT, AND OTHER SERVICES AND RESOURCES. THE CORPORATION SHALL ALSO SEEK ASSISTANCE FROM OTHER STATE AGENCIES IN THE DEVELOPMENT OF PROCUREMENT AND MARKETING RESOURCES AND TRAINING OPPORTUNITIES FOR NEW YORK STATE INNOVATION HOT SPOTS AND NEW YORK STATE INCUBATORS AND THEIR CLIENTS.

7. ASSOCIATION OF INCUBATORS. THE CORPORATION MAY CONSULT WITH A STATEWIDE ENTITY WHICH IS A MEMBERSHIP ASSOCIATION OF INCUBATORS AND OTHERS AND WHICH HAS EXPERTISE IN PROVIDING SERVICES TO INCUBATORS FOR THE PURPOSE OF PROVIDING SERVICES TO ENTITIES DESIGNATED AS NEW YORK STATE INNOVATION HOT SPOTS AND NEW YORK STATE INCUBATORS AND TO ENTITIES SEEKING TO APPLY OR APPLYING TO BECOME NEW YORK STATE INNOVATION HOT SPOTS AND NEW YORK STATE INCUBATORS OR WHICH OTHERWISE ARE INCLUDED AS RECIPIENTS OF SERVICES PURSUANT TO THIS SECTION. SUCH SERVICES SHALL INCLUDE ADVISING CONCERNING BEST PRACTICES OF INCUBATION AND DEVELOPMENT OF PLANS TO INCORPORATE AND INTEGRATE SUCH PRACTICES, DEVELOPMENT OF DATA CONCERNING INCUBATION IN THIS STATE AND RECOMMENDATIONS FOR IMPROVEMENT, AID IN MARKETING AND EVENT SPONSORSHIP, AND SUCH OTHER SERVICES AS THE CORPORATION SHALL DEEM NECESSARY AND APPROPRIATE TO THE STRENGTHENING OF BUSINESS INCUBATION IN THIS STATE.

8. NEW YORK STATE INNOVATION HOT SPOTS MAY CERTIFY CLIENTS WHICH MEET THE REQUIREMENTS OF SUBDIVISION NINE OF THIS SECTION AS QUALIFIED ENTITIES ELIGIBLE FOR NEW YORK STATE INNOVATION HOT SPOT PROGRAM TAX BENEFITS PURSUANT TO SECTION THIRTY-EIGHT OF THE TAX LAW. UNDER NO CIRCUMSTANCE MAY BUSINESS ENTERPRISES OF INCUBATORS DESIGNATED AS NEW YORK STATE INCUBATORS UNDER PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION BE ELIGIBLE FOR TAX BENEFITS UNDER SECTION THIRTY-EIGHT OF THE TAX LAW.

9. "QUALIFIED ENTITY" SHALL MEAN A BUSINESS ENTERPRISE THAT IS:

(I) IN THE FORMATIVE STAGE OF DEVELOPMENT;

(II) LOCATED IN NEW YORK STATE;

(III) EITHER: (A) ANY CORPORATION, EXCEPT A CORPORATION WHICH:

(1) OVER FIFTY PERCENT OF THE NUMBER OF SHARES OF STOCK ENTITLING THE HOLDERS THEREOF TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES IS OWNED OR CONTROLLED, EITHER DIRECTLY OR INDIRECTLY, BY A TAXPAYER SUBJECT TO TAX UNDER THE FOLLOWING PROVISIONS OF THE TAX LAW: ARTICLE NINE-A; SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR OR ONE HUNDRED EIGHTY-FIVE OF ARTICLE NINE; ARTICLE THIRTY-TWO OR ARTICLE THIRTY-THREE; OR

(2) IS SUBSTANTIALLY SIMILAR IN OPERATION AND IN OWNERSHIP TO A BUSINESS ENTITY (OR ENTITIES) TAXABLE OR PREVIOUSLY TAXABLE UNDER THE FOLLOWING PROVISIONS OF THE TAX LAW: ARTICLE NINE-A; SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR, ONE HUNDRED EIGHTY-FIVE

OR FORMER SECTION ONE HUNDRED EIGHTY-SIX OF ARTICLE NINE; ARTICLE THIR TY-TWO; ARTICLE THIRTY-THREE; ARTICLE TWENTY-THREE, OR WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE TWENTY-THREE (AS SUCH ARTICLE WAS IN EFFECT ON JANUARY FIRST, NINETEEN HUNDRED EIGHTY) OR THE INCOME (OR LOSSES) OF WHICH IS (OR WAS) INCLUDABLE UNDER ARTICLE TWENTY-TWO; OR

(B) A SOLE PROPRIETORSHIP, PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, OR NEW YORK SUBCHAPTER

S CORPORATION THAT IS NOT SUBSTANTIALLY SIMILAR IN OPERATION AND IN OWNERSHIP TO A BUSINESS ENTITY (OR ENTITIES) TAXABLE, OR PREVIOUSLY TAXABLE, UNDER ARTICLE NINE-A OF THE TAX LAW, SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR, ONE HUNDRED EIGHTY-FIVE OR FORMER SECTION ONE HUNDRED EIGHTY-SIX OF ARTICLE NINE OF THE TAX LAW, ARTICLE THIRTY-TWO OR THIRTY-THREE OF THE TAX LAW, ARTICLE TWENTY-THREE OF THE TAX LAW OR WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE TWENTY-THREE (AS SUCH ARTICLE WAS IN EFFECT ON JANUARY FIRST, NINETEEN HUNDRED EIGHTY) OR THE INCOME (OR LOSSES) OF WHICH IS (OR WAS) INCLUDABLE UNDER ARTICLE TWENTY-TWO OF THE TAX LAW; AND

(IV) IS CERTIFIED BY A NEW YORK STATE INNOVATION HOT SPOT AS BEING APPROVED TO LOCATE IN, OR BE PART OF A VIRTUAL INCUBATION PROGRAM OPER ATED BY, SUCH NEW YORK INNOVATION HOT SPOT.

10. THE CORPORATION MAY ESTABLISH GUIDELINES CONCERNING THIS PROGRAM TO IMPLEMENT THE PURPOSES OF THIS ACT.

S 2. The tax law is amended by adding a new section 38 to read as follows:

S 38. NEW YORK INNOVATION HOT SPOT PROGRAM TAX BENEFITS. (A) AS USED IN THIS CHAPTER, THE TERMS "NEW YORK STATE INNOVATION HOT SPOT" AND "QUALIFIED ENTITY" SHALL HAVE THE SAME MEANING AS UNDER SECTION SIXTEEN-V OF THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION ACT.

(B) A TAXPAYER UNDER ARTICLE NINE-A OF THIS CHAPTER THAT IS A QUALI FIED ENTITY OF A NEW YORK STATE INNOVATION HOT SPOT SHALL BE SUBJECT ONLY TO THE FIXED DOLLAR MINIMUM TAX, IMPOSED UNDER PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER, FOR FIVE TAXABLE YEARS, BEGINNING WITH THE FIRST TAXABLE YEAR DURING WHICH THE QUALIFIED ENTITY BECOMES A TENANT IN OR PART OF AN INNOVATION HOT SPOT. A TAXPAYER UNDER ARTICLE NINE-A OF THIS CHAPTER THAT IS A CORPORATE PARTNER IN A QUALIFIED ENTITY, OR IS A QUALIFIED ENTITY THAT IS LOCATED BOTH WITHIN AND WITHOUT AN INNOVATION HOT SPOT, SHALL BE ALLOWED ONLY A DEDUCTION FOR THE AMOUNT OF INCOME OR GAIN INCLUDED IN ITS FEDERAL TAXA BLE INCOME TO THE EXTENT THAT THE INCOME OR GAIN IS ATTRIBUTABLE TO THE OPERATIONS AT OR AS PART OF THE INNOVATION HOT SPOT. THE DEDUCTION IS ALLOWED FOR FIVE TAXABLE YEARS, BEGINNING WITH THE FIRST TAXABLE YEAR DURING WHICH THE QUALIFIED ENTITY BECOMES A TENANT IN OR PART OF AN

INNOVATION HOT SPOT.
(C) AN INDIVIDUAL WHO IS THE SOLE PROPRIETOR OF A QUALIFIED ENTITY OR A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A

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S CORPORATION WHERE THE LIMITED LIABILITY COMPANY, PARTNERSHIP, OR

S CORPORATION IS A QUALIFIED ENTITY, THAT IS TAXABLE UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A DEDUCTION FOR THE AMOUNT OF INCOME OR GAIN INCLUDED IN ITS FEDERAL ADJUSTED GROSS INCOME TO THE EXTENT THAT THE INCOME OR GAIN IS ATTRIBUTABLE TO THE OPERATIONS OF A QUALIFIED ENTITY AT OR AS A PART OF A NEW YORK STATE INNOVATION HOT SPOT. THE DEDUCTION IS ALLOWED FOR FIVE TAXABLE YEARS, BEGINNING WITH THE FIRST TAXABLE YEAR DURING WHICH THE QUALIFIED ENTITY BECOMES A TENANT IN OR PART OF AN INNOVATION HOT SPOT.
(D) A QUALIFIED ENTITY THAT IS A TENANT IN OR PART OF A NEW YORK STATE INNOVATION HOT SPOT SHALL BE ELIGIBLE FOR A CREDIT OR REFUND FOR SALES AND USE TAXES IMPOSED ON THE RETAIL SALE OF TANGIBLE PERSONAL PROPERTY OR SERVICES UNDER SUBDIVISIONS (A), (B), AND (C) OF SECTION ELEVEN HUNDRED FIVE AND SECTION ELEVEN HUNDRED TEN OF THIS CHAPTER. THE CREDIT OR REFUND SHALL BE ALLOWED FOR SIXTY MONTHS BEGINNING WITH THE FIRST FULL MONTH AFTER THE QUALIFIED ENTITY BECOMES A TENANT IN AN INCUBATOR HOT SPOT.
(E) A TAXPAYER WHO CLAIMS ANY OF THE TAX BENEFITS DESCRIBED IN THIS SECTION IS NO LONGER ELIGIBLE FOR ANY OTHER NEW YORK STATE EXEMPTIONS, DEDUCTIONS, OR CREDIT OR REFUNDS UNDER THIS CHAPTER TO THE EXTENT THAT ANY SUCH EXEMPTION, DEDUCTION, CREDIT OR REFUND IS ATTRIBUTABLE TO THE BUSINESS OPERATIONS OF A TENANT IN OR AS PART OF THE NEW YORK STATE INNOVATION HOT SPOT. THE ELECTION TO CLAIM THE TAX BENEFITS DESCRIBED IN THIS SECTION IS NOT REVOCABLE.
(F) CROSS-REFERENCES. FOR APPLICATION OF THE TAX BENEFITS PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(I) ARTICLE 9-A, SECTION 208, SUBDIVISION (9), PARAGRAPH (A), SUBPARAGRAPH (18).
(II) ARTICLE 9-A, SECTION 209, SUBDIVISION 11.
(III) ARTICLE 22, SECTION 612, SUBSECTION (C), PARAGRAPH (39).
(IV) ARTICLE 28, SECTION 1119, SUBDIVISION (D).

S 3. Paragraph (a) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 18 to read as follows:

(18) THE AMOUNT OF INCOME OR GAIN INCLUDED IN FEDERAL TAXABLE INCOME OF A TAXPAYER THAT IS A PARTNER IN A QUALIFIED ENTITY OR IS A QUALIFIED

ENTITY THAT IS LOCATED BOTH WITHIN AND WITHOUT A NEW YORK STATE INNO VATION HOT SPOT, TO THE EXTENT THAT THE INCOME OR GAIN IS ATTRIBUTABLE TO THE OPERATIONS OF A QUALIFIED ENTITY AT OR AS PART OF THE NEW YORK STATE INNOVATION HOT SPOT AS PROVIDED IN SECTION THIRTY-EIGHT OF THIS CHAPTER.

S 4.

Section 209 of the tax law is amended by adding a new subdivision 11 to read as follows:

11. EXCEPT AS PROVIDED IN SUBPARAGRAPH EIGHTEEN OF PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, A CORPO RATION THAT IS A QUALIFIED ENTITY OF A NEW YORK STATE INNOVATION HOT SPOT SHALL BE SUBJECT ONLY TO THE FIXED DOLLAR MINIMUM TAX UNDER PARA GRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, AS PROVIDED IN SECTION THIRTY-EIGHT OF THIS CHAPTER.

S 5. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 39 to read as follows:

(39) ANY INCOME OR GAIN, TO THE EXTENT IT IS INCLUDED IN FEDERAL ADJUSTED GROSS INCOME OF AN INDIVIDUAL WHO IS THE SOLE PROPRIETOR OF A QUALIFIED ENTITY OR A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A NEW YORK SUBCHAPTER

S CORPORATION
THAT IS A QUALIFIED ENTITY, ATTRIBUTABLE TO THE OPERATIONS OF A QUALI

FIED ENTITY AT ITS LOCATION IN OR AS PART OF A NEW YORK STATE INNOVATION HOT SPOT, AS PROVIDED IN SECTION THIRTY-EIGHT OF THIS CHAPTER.

S 6. Paragraph 1 of subdivision (d) of section 1119 of the tax law, as added by section 31 of part S-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(1) Subject to the conditions and limitations provided for in this section, a refund or credit will be allowed for taxes imposed on the retail sale of tangible personal property described in subdivision (a) of section eleven hundred five of this article, and on every sale of services described in subdivisions (b) and (c) of such section, and consideration given or contracted to be given for, or for the use of, such tangible personal property or services, where such tangible personal property or services are sold to a qualified empire zone enter

prise OR TO A QUALIFIED ENTITY THAT IS ALSO A TENANT IN OR PART OF A NEW YORK STATE INNOVATION HOT SPOT AS PROVIDED IN SECTION THIRTY-EIGHT OF THIS CHAPTER, provided that (A) such tangible personal property or tangible personal property upon which such a service has been performed or such service (other than a service described in subdivision (b) of section eleven hundred five of this article) is directly and predominantly, or such a service described in clause (A) or (D) of paragraph one of such subdivision (b) of section eleven hundred five of this article is directly and exclusively, used or consumed by (I) such QUALIFIED EMPIRE ZONE enterprise in an area designated as an empire zone pursuant to article eighteen-B of the general municipal law with respect to which such enterprise is certified pursuant to such article eighteen-B, OR (II) SUCH QUALIFIED ENTITY AT ITS LOCATION IN OR AS PART OF A NEW YORK STATE INNOVATION HOT SPOT or (B) such a service described in clause (B) or (C) of paragraph one of subdivision (b) of section eleven hundred five of this article is delivered and billed to (I) such enterprise at an address in such empire zone OR (II) SUCH QUALIFIED ENTITY AT ITS LOCATION IN OR AS PART OF THE NEW YORK STATE INNOVATION HOT SPOT, or (C) the enterprise's place of primary use of the service described in paragraph two of such subdivision (b) of section eleven hundred five is at an address in such empire zone OR AT ITS LOCATION IN OR AS PART OF A NEW YORK STATE INNOVATION HOT SPOT; provided, further, that, in order for a motor vehicle, as defined in subdivision (c) of section eleven hundred seventeen of this article, or tangible personal property related to such a motor vehicle to be found to be used predominantly in such a zone, at least fifty percent of such motor vehicle's use shall be exclusively within such zone or at least fifty percent of such motor vehicle's use shall be in activities originating or terminating in such zone, or both; and either or both such usages shall be computed either on the basis of mileage or hours of use, at the discretion of such enterprise. For purposes of this subdivision, tangible personal property related to such a motor vehicle shall include a battery, diesel motor fuel, an engine, engine components, motor fuel, a muffler, tires and similar tangible personal property used in or on such a motor vehicle.

S 7. Subdivision (c) of section 11-1712 of the administrative code of the city of New York is amended by adding a new paragraph 35 to read as follows:

(35) AS PROVIDED IN SECTION THIRTY-EIGHT OF THE TAX LAW, ANY INCOME OR GAIN, TO THE EXTENT IT IS INCLUDED IN FEDERAL ADJUSTED GROSS INCOME OF AN INDIVIDUAL WHO IS THE SOLE PROPRIETOR OF A QUALIFIED ENTITY OR A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A NEW YORK SUBCHAPTER

S CORPORATION THAT IS A QUALIFIED
ENTITY AS DEFINED IN SECTION SIXTEEN-V OF THE NEW YORK STATE URBAN

DEVELOPMENT CORPORATION ACT ATTRIBUTABLE TO THE OPERATIONS OF SUCH QUAL IFIED ENTITY AT ITS LOCATION IN OR AS PART OF A NEW YORK STATE INNO VATION HOT SPOT, AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTEEN-V OF THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION ACT.

S 8. This act shall take effect immediately.

PART D

Section 1. Subsection (g) of section 615 of the tax law, as added by section 3 of part HH of chapter 57 of the laws of 2010, is amended to read as follows:

(g)(1) With respect to an individual whose New York adjusted gross income is over one million dollars and no more than ten million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine and before two thousand [~~thirteen~~] SIXTEEN. With respect to an individual whose New York adjusted gross income is over one million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning in two thousand nine or after two thousand [~~twelve~~] FIFTEEN.

(2) With respect to an individual whose New York adjusted gross income is over ten million dollars, the New York itemized deduction shall be an amount equal to twenty-five percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine and ending before two thousand [~~thirteen~~] SIXTEEN.

S 2. Subdivision (g) of section 11-1715 of the administrative code of the city of New York, as added by section 7 of part HH of chapter 57 of the laws of 2010, is amended to read as follows:

(g) (1) With respect to an individual whose New York adjusted gross income is over one million dollars but no more than ten million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine and before two thousand [~~thirteen~~] SIXTEEN. With respect to an individual whose New York adjusted gross income is over one million dollars, the New York itemized deduction

shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning in two thousand nine or after two thousand [~~twelve~~] FIFTEEN.

(2) With respect to an individual whose New York adjusted gross income is over ten million dollars, the New York itemized deduction shall be an amount equal to twenty-five percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine AND ENDING BEFORE TWO THOUSAND SIXTEEN.

S 3. This act shall take effect immediately.

PART E

S. 2609--D 24 A. 3009--D

Section 1. Subparagraph 17 of paragraph (a) of subdivision 9 of section 208 of the tax law is REPEALED.

S 2. Paragraph (o) of subdivision 9 of section 208 of the tax law, as amended by section 1 of part M of chapter 686 of the laws of 2003, clause (A) of subparagraph 2 as amended by section 4 of part J of chapter 60 of the laws of 2007, is amended to read as follows:

(o) Related members expense add back [~~and income exclusion~~]. (1) Definitions. (A) Related member [~~or members. For purposes of this paragraph, the term related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under articles nine, nine-A, thirteen, twenty-two, thirty-two, thirty-three or thirty-three-A of this chapter~~]. "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, EXCEPT THAT "FIFTY PERCENT" SHALL BE SUBSTITUTED FOR "TEN PERCENT".

(B) [~~Controlling interest. A controlling interest shall mean (i) in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (ii) in the case of a partnership, association, trust or other entity, thirty percent or more of~~

~~the capital, profits or beneficial interest in such partnership, association, trust or other entity.~~] EFFECTIVE RATE OF TAX. "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY STATE OR U.S. POSSESSION, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY THE STATE OR POSSESSION ON OR MEASURED BY A RELATED MEMBER'S NET INCOME MULTIPLIED BY THE APPORTIONMENT PERCENTAGE, IF ANY, APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURISDICTION. FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY STATE OR U.S. POSSESSION IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID JURISDICTION IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX FOR A JURISDICTION IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR OFFSET BY A CREDIT OR SIMILAR ADJUSTMENT THAT IS DEPENDENT UPON THE RELATED MEMBER EITHER MAINTAINING OR MANAGING INTANGIBLE PROPERTY OR COLLECTING INTEREST INCOME IN THAT JURISDICTION, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY SAID JURISDICTION SHALL BE DECREASED TO REFLECT THE STATUTORY RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY SUCH CREDIT OR SIMILAR ADJUSTMENT.

(C) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner, and [~~includes~~] INCLUDE amounts allowable as interest deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indirectly for, related to or in connection with the acquisition, use, maintenance or

management, ownership, sale, exchange or disposition of such intangible assets.

(D) Valid Business Purpose. A valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(2) Royalty expense add backs. (A) Except where a taxpayer is included in a combined report with a related member pursuant to subdivision four of section two hundred eleven of this article, for the purpose of computing entire net income or other applicable taxable basis, a taxpayer must add back royalty payments [~~to a~~] DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR MORE related [~~member~~] MEMBERS during the taxa

ble year to the extent deductible in calculating federal taxable income.
(B) [~~The add back of royalty payments shall not be required if and to the extent that such payments meet either of the following conditions:~~
~~(i) the related member during the same taxable year directly or indirectly paid or incurred the amount to a person or entity that is not a related member, and such transaction was done for a valid business purpose and the payments are made at arm's length;~~
~~(ii) the royalty payments are paid or incurred to a related member organized under the laws of a country other than the United States, are subject to a comprehensive income tax treaty between such country and the United States, and are taxed in such country at a tax rate at least equal to that imposed by this state.~~
~~(3) Royalty income exclusions. For the purpose of computing entire net income or other taxable basis, a taxpayer shall be allowed to deduct royalty payments directly or indirectly received from a related member during the taxable year to the extent included in the taxpayer's federal taxable income unless such royalty payments would not be required to be added back under subparagraph two of this paragraph or other similar provision in this chapter.~~] EXCEPTIONS. (I) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, MEETS ALL OF THE FOLLOWING REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS STATE OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES OR A FOREIGN NATION OR SOME COMBINATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANSACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.
(II) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, THAT: (I) THE RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN THIS STATE OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES OR SOME COMBINATION THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDIC

TIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT APPLIED TO THE TAXPAYER UNDER SECTION TWO HUNDRED TEN OF THIS ARTICLE FOR THE TAXABLE YEAR.
(III) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, THAT: (I) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGANIZED UNDER THE

LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHENSIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III) THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT IMPOSED BY THIS STATE; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP.

(IV) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER AND THE COMMISSIONER AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

S 3. Paragraph 6 of subdivision (a) of section 292 of the tax law, as amended by section 15 of part M of chapter 686 of the laws of 2003, is amended to read as follows:

(6) Related members expense add back [~~and income exclusion~~]. (A) Definitions. (i) Related member [~~or members. For purposes of this paragraph, the term related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under article nine, nine-A, thirteen, twenty-two, thirty-two, thirty-three or thirty-three-A of this chapter~~]. "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVEN UE CODE, EXCEPT THAT "FIFTY PERCENT" SHALL BE SUBSTITUTED FOR "TEN PERCENT".

(ii) [~~Controlling interest. A controlling interest shall mean (I) in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (II) in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.~~] EFFECTIVE RATE OF TAX. "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY STATE OR U.S. POSSESSION, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY THE STATE OR POSSESSION ON OR MEASURED BY A RELATED MEMBER'S NET INCOME MULTIPLIED BY THE APPORTIONMENT PERCENTAGE,

IF ANY, APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURIS DICTION. FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY STATE OR U.S. POSSESSION IS ZERO WHERE THE RELATED MEMBER'S NET

INCOME TAX LIABILITY IN SAID JURISDICTION IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX FOR A JURISDICTION IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR OFFSET BY A CREDIT OR SIMI LAR ADJUSTMENT THAT IS DEPENDENT UPON THE RELATED MEMBER EITHER MAIN TAINING OR MANAGING INTANGIBLE PROPERTY OR COLLECTING INTEREST INCOME IN THAT JURISDICTION, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY SAID JURISDICTION SHALL BE DECREASED TO REFLECT THE STATUTORY RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY SUCH CREDIT OR SIMILAR ADJUSTMENT.

(iii) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copy rights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner, and [~~includes~~] INCLUDE amounts allowable as interest deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indi rectly for, related to or in connection with the acquisition, use, main tenance or management, ownership, sale, exchange or disposition of such intangible assets.

(iv) Valid business purpose. A valid business purpose is one or more business purposes other than the avoidance or reduction of taxation which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(B) Royalty expense add backs. (i) For the purpose of computing New York unrelated business taxable income, a taxpayer must add back royalty payments [~~to a~~] DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR MORE related [~~member~~] MEMBERS during the taxable year to the extent deductible in calculating federal unrelated business taxable income;

(ii) [~~The add back of royalty payments shall not be required if and to the extent that such payments meet either of the following conditions: (I) the related member during the same taxable year directly or indi- rectly paid or incurred the amount to a person or entity that is not a related member, and such transaction was done for a valid business and the payments are made at arm's length;~~

~~(II) the royalty payments are paid or incurred to a related member organized under the laws of a country other than the United States, are subject to a comprehensive income tax treaty between such country and the United States, and are taxed in such country at a tax rate at least equal to that imposed by this state.~~

~~(C) Royalty income exclusions. For the purpose of computing New York unrelated business taxable income, a taxpayer shall be allowed to deduct royalty payments directly or indirectly received from a related member during the taxable year to the extent included in the taxpayer's federal taxable income unless such royalty payments would not be required to be added back under subparagraph (B) of this paragraph or other similar provision in this chapter.~~] EXCEPTIONS. (I) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT

THAT THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, MEETS ALL OF THE FOLLOWING REQUIREMENTS: (A) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS STATE OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES OR A FOREIGN NATION OR SOME COMBINATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (B) THE RELATED MEMBER DURING THE SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (C) THE TRANSACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

(II) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, THAT: (A) THE RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN THIS STATE OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES OR SOME COMBINATION THEREOF; (B) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (C) THE AGGREGATE EFFEC TIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDICTIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT APPLIED TO THE TAXPAYER UNDER SECTION TWO HUNDRED NINETY OF THIS ARTICLE FOR THE TAXABLE YEAR.

(III) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, THAT: (A) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGANIZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (B) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHENSIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (C) THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (D) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT IMPOSED BY

THIS STATE; AND (E) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP.

(IV) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER AND THE COMMISSIONER AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

S 4. Paragraph 19 of subsection (c) of section 612 of the tax law is REPEALED.

S 5. Subsection (r) of section 612 of the tax law, as amended by section 3 of part M of chapter 686 of the laws of 2003, is amended to read as follows:

(r) Related members expense add back [~~and income exclusion~~]. (1) Definitions. (A) Related member [~~or members. For purposes of this subsection, the term related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a~~

~~controlling interest in another entity. Such entity or entities may include all taxpayers under article nine, nine-A, thirteen, twenty-two, thirty-two, thirty-three or thirty-three-A of this chapter~~]. "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, EXCEPT THAT "FIFTY PERCENT" SHALL BE SUBSTITUTED FOR "TEN PERCENT".

(B) [~~Controlling interest. A controlling interest shall mean (i) in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (ii) in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.~~] EFFECTIVE RATE OF TAX. "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY STATE OR U.S. POSSESSION, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY THE STATE OR POSSESSION ON OR MEASURED BY A RELATED MEMBER'S NET INCOME MULTIPLIED BY THE APPORTIONMENT PERCENTAGE,

IF ANY, APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURIS DICTION. FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY STATE OR U.S. POSSESSION IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID JURISDICTION IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX FOR A JURISDICTION IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR OFFSET BY A CREDIT OR SIMI LAR ADJUSTMENT THAT IS DEPENDENT UPON THE RELATED MEMBER EITHER MAIN TAINING OR MANAGING INTANGIBLE PROPERTY OR COLLECTING INTEREST INCOME IN THAT JURISDICTION, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY SAID JURISDICTION SHALL BE DECREASED TO REFLECT THE STATUTORY RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY SUCH CREDIT OR SIMILAR ADJUSTMENT.

(C) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner, and [~~includes~~] INCLUDE amounts allowable as inter est deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indirectly for, related to or in connection with the acquisition, use, maintenance or management, ownership, sale, exchange or disposition of such intangible assets.

(D) Valid business purpose. A valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(2) Royalty expense add backs. (A) For the purpose of computing New York adjusted gross income, a taxpayer must add back royalty payments [~~to a~~] DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR MORE

related [~~member~~] MEMBERS during the taxable year to the extent deduct ible in calculating federal taxable income.

(B) [~~The add back of royalty payments shall not be required if and to the extent that such payments meet either of the following conditions: (i) the related member during the same taxable year directly or indi- rectly paid or incurred the amount to a person or entity that is not a related member, and such transaction was done for a valid business and the payments are made at arm's length;~~]

~~(ii) the royalty payments are paid or incurred to a related member organized under the laws of a country other than the United States, are subject to a comprehensive income tax treaty between such country and the United States, and are taxed in such country at a tax rate at least equal to that imposed by this state.~~

~~(3) Royalty income exclusions. For the purpose of computing New York adjusted gross income, a taxpayer shall be allowed to deduct royalty payments directly or indirectly received from a related member during the taxable year to the extent included in the taxpayer's federal taxable income unless such royalty payments would not be required to be added back under paragraph two of this subsection or other similar provision in this chapter.~~] EXCEPTIONS. (I) THE ADJUSTMENT REQUIRED IN THIS SUBSECTION SHALL NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, MEETS ALL OF THE FOLLOWING REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS STATE OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES OR A FOREIGN NATION OR SOME COMBINATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANSACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

(II) THE ADJUSTMENT REQUIRED IN THIS SUBSECTION SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, THAT: (I) THE RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN THIS STATE OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES OR SOME COMBINATION THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDICTIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT APPLIED TO THE TAXPAYER UNDER SECTION SIX HUNDRED ONE OF THIS ARTICLE FOR THE TAXABLE YEAR.

(III) THE ADJUSTMENT REQUIRED IN THIS SUBSECTION SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, THAT: (I) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGANIZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHENSIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III) THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS TAXED IN SUCH COUNTRY AT AN EFFECTIVE TAX RATE AT LEAST EQUAL TO THAT IMPOSED BY THIS STATE; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR

INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP. (IV) THE ADJUSTMENT REQUIRED IN THIS SUBSECTION SHALL NOT APPLY IF THE TAXPAYER AND THE COMMISSIONER AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

S 6. Paragraph 17 of subsection (e) of section 1453 of the tax law is REPEALED.

S 7. Subsection (r) of section 1453 of the tax law, as amended by section 5 of part M of chapter 686 of the laws of 2003, subparagraph (A) of paragraph 2 as amended by section 5 of part J of chapter 60 of the laws of 2007, is amended to read as follows:

(r) Related members expense add back [~~and income exclusion~~]. (1) Definitions. (A) Related member [~~or members. For purposes of this subsection, the term related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under article nine, nine-A, thirteen, twenty-two, thirty-two, thirty-three or thirty-three-A of this chapter~~]. "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, EXCEPT THAT "FIFTY PERCENT" SHALL BE SUBSTITUTED FOR "TEN PERCENT".

(B) [~~Controlling interest. A controlling interest shall mean (i) in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (ii) in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.~~] EFFECTIVE RATE OF TAX. "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY STATE OR U.S. POSSESSION, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY THE STATE OR POSSESSION ON OR MEASURED BY A RELATED MEMBER'S NET INCOME MULTIPLIED BY THE APPORTIONMENT PERCENTAGE, IF ANY, APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURISDICTION. FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS

TO ANY STATE OR U.S. POSSESSION IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID JURISDICTION IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX FOR A JURISDICTION IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR OFFSET BY A CREDIT OR SIMI LAR ADJUSTMENT THAT IS DEPENDENT UPON THE RELATED MEMBER EITHER MAIN TAINING OR MANAGING INTANGIBLE PROPERTY OR COLLECTING INTEREST INCOME IN THAT JURISDICTION, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY SAID JURISDICTION SHALL BE DECREASED TO REFLECT THE STATUTORY RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY SUCH CREDIT OR SIMILAR ADJUSTMENT.

(C) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner, and [~~includes~~] INCLUDE amounts allowable as inter est deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indirectly for, related to or in connection with the acquisition, use, maintenance or management, ownership, sale, exchange or disposition of such intangible assets.

(D) Valid business purpose. A valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(2) Royalty expense add backs. (A) Except where a taxpayer is included in a combined return with a related member pursuant to subsection (f) of section fourteen hundred sixty-two of this article, for the purpose of computing entire net income, a taxpayer must add back royalty payments [~~to a~~] DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR MORE related [~~member~~] MEMBERS during the taxable year to the extent deduct ible in calculating federal taxable income.

(B) [~~The add back of royalty payments shall not be required if and to the extent that such payments meet either of the following conditions: (i) the related member during the same taxable year directly or indi- rectly paid or incurred the amount to a person or entity that is not a related member, and such transaction was done for a valid business and the payments are made at arm's length;~~

~~(ii) the royalty payments are paid or incurred to a related member organized under the laws of a country other than the United States, are subject to a comprehensive income tax treaty between such country and the United States, and are taxed in such country at a tax rate at least equal to that imposed by this state.~~

~~(3) Royalty income exclusions. For the purpose of computing entire net income, a taxpayer shall be allowed to deduct royalty payments directly or indirectly received from a related member during the taxable year to the extent included in the taxpayer's federal taxable income unless such royalty payments would not be required to be added back under paragraph two of this subsection or other similar provision in this chapter.~~]

EXCEPTIONS. (I) THE ADJUSTMENT REQUIRED IN THIS SUBSECTION SHALL NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTAB LISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS STATE OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES OR A FOREIGN NATION OR SOME COMBINA TION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANS ACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

(II) THE ADJUSTMENT REQUIRED IN THIS SUBSECTION SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, THAT: (I) THE RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN THIS STATE OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES OR SOME COMBINATION THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDIC TIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT APPLIED TO THE TAXPAYER UNDER SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE FOR THE TAXABLE YEAR.

(III) THE ADJUSTMENT REQUIRED IN THIS SUBSECTION SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, THAT: (I) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGANIZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHEN SIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III) THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT

IMPOSED BY THIS STATE; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSI NESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP. (IV) THE ADJUSTMENT REQUIRED IN THIS SUBSECTION SHALL NOT APPLY IF THE TAXPAYER AND THE COMMISSIONER AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

S 8. Paragraph 14 of subdivision (b) of section 1503 of the tax law, as amended by section 7 of part M of chapter 686 of the laws of 2003, clause (i) of subparagraph (B) as amended by section 6 of part J of chapter 60 of the laws of 2007, is amended to read as follows:

(14) Related members expense add back [~~and income exclusion~~]. (A) Definitions. (i) Related member [~~or members. For purposes of this paragraph, the term related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under article nine, nine-A, thirteen, twenty-two, thirty-two, thirty-three or thirty-three-A of this chapter~~]. "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVEN UE CODE, EXCEPT THAT "FIFTY PERCENT" SHALL BE SUBSTITUTED FOR "TEN PERCENT".
(ii) [~~Controlling interest. A controlling interest shall mean (I) in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (II) in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.~~] EFFECTIVE RATE OF TAX. "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY STATE OR U.S. POSSESSION, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY THE STATE OR POSSESSION ON OR MEASURED BY A RELATED MEMBER'S NET INCOME MULTIPLIED BY THE APPORTIONMENT PERCENTAGE, IF ANY, APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURIS DICTION. FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY STATE OR U.S. POSSESSION IS ZERO WHERE THE RELATED MEMBER'S NET

INCOME TAX LIABILITY IN SAID JURISDICTION IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX FOR A JURISDICTION IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR OFFSET BY A CREDIT OR SIMI LAR ADJUSTMENT THAT IS DEPENDENT UPON THE RELATED MEMBER EITHER MAIN TAINING OR MANAGING INTANGIBLE PROPERTY OR COLLECTING INTEREST INCOME IN THAT JURISDICTION, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY SAID JURISDICTION SHALL BE DECREASED TO REFLECT THE STATUTORY RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY SUCH CREDIT OR SIMILAR ADJUSTMENT.

(iii) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copy rights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner, and [~~includes~~] INCLUDE amounts allowable as interest deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indi rectly for, related to or in connection with the acquisition, use, main tenance or management, ownership, sale, exchange or disposition of such intangible assets.

(iv) Valid business purpose. A valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(B) Royalty expense add backs. (i) Except where a taxpayer is included in a combined return with a related member pursuant to subdivision (f) of section fifteen hundred fifteen of this article, for the purpose of computing entire net income, a taxpayer must add back royalty payments [~~to a~~] DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR MORE related [~~member~~] MEMBERS during the taxable year to the extent deduct ible in calculating federal taxable income.

(ii) [~~The add back of royalty payments shall not be required if and to the extent that such payments meet either of the following conditions: (I) the related member during the same taxable year directly or indi- rectly paid or incurred the amount to a person or entity that is not a related member, and such transaction was done for a valid business and the payments are made at arm's length;~~

~~(II) the royalty payments are paid or incurred to a related member organized under the laws of a country other than the United States, are~~

~~subject to a comprehensive income tax treaty between such country and the United States, and are taxed in such country at a tax rate at least equal to that imposed by this state.~~

~~(C) Royalty income exclusions. For the purpose of computing entire net income, a taxpayer shall be allowed to deduct royalty payments directly or indirectly received from a related member during the taxable year to the extent included in the taxpayer's federal taxable income unless such royalty payments would not be required to be added back under subparagraph (B) of this paragraph or other similar provision in this chapter.~~]

EXCEPTIONS. (I) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(A) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS STATE OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES OR A FOREIGN NATION OR SOME COMBINATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (B) THE RELATED MEMBER DURING THE SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (C) THE TRANSACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

(II) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, THAT: (A) THE RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN THIS STATE OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES OR SOME COMBINATION THEREOF; (B) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (C) THE AGGREGATE EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDICTIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT APPLIED TO THE TAXPAYER UNDER SECTION FIFTEEN HUNDRED TWO, FIFTEEN HUNDRED TWO-A, OR FIFTEEN HUNDRED TWO-B OF THIS ARTICLE FOR THE TAXABLE YEAR.

(III) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER, THAT: (A) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGANIZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (B) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHENSIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (C) THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (D) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT IMPOSED BY THIS STATE; AND (E) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP.

(IV) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE

TAXPAYER AND THE COMMISSIONER AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

S 9. Subdivision (e) of section 11-506 of the administrative code of the city of New York, as added by section 17 of part M of chapter 686 of

the laws of 2003 and as relettered by chapter 633 of the laws of 2005, is amended to read as follows:

(e) Related members expense add back [~~and income exclusion~~]. (1) Definitions. (A) Related member [~~or members. For purposes of this subdivision, the term related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under this title~~]. "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, EXCEPT THAT "FIFTY PERCENT" SHALL BE SUBSTITUTED FOR "TEN PERCENT".
(B) [~~Controlling interest. A controlling interest shall mean (i) in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (ii) in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.~~] EFFECTIVE RATE OF TAX. "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY CITY, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY THE CITY ON OR MEASURED BY A RELATED MEMBER'S NET INCOME MULTIPLIED BY THE APPORTIONMENT PERCENTAGE, IF ANY, APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURISDICTION. FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY CITY IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID CITY IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX FOR A CITY IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR OFFSET BY A CREDIT OR SIMILAR ADJUSTMENT THAT IS DEPENDENT UPON THE RELATED MEMBER EITHER

MAINTAINING OR MANAGING INTANGIBLE PROPERTY OR COLLECTING INTEREST INCOME IN THAT CITY, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY SAID CITY SHALL BE DECREASED TO REFLECT THE STATUTORY RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY SUCH CREDIT OR SIMILAR ADJUSTMENT.

(C) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner of finance, and [~~includes~~] INCLUDE amounts allowable as interest deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indi rectly for, related to or in connection with the acquisition, use, main tenance or management, ownership, sale, exchange or disposition of such intangible assets.

(D) Valid business purpose. A valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of

the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(2) Royalty expense add backs. (A) For the purpose of computing unin corporated business entire net income, a taxpayer must add back royalty payments [~~to a~~] DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR MORE related [~~member~~] MEMBERS during the taxable year to the extent deductible in calculating federal taxable income.

(B) [~~The add back of royalty payments shall not be required if and to the extent that such payments meet either of the following conditions: (i) the related member during the same taxable year directly or indirectly paid or incurred the amount to a person or entity that is not a related member, and such transaction was done for a valid business and the payments are made at arm's length;~~

~~(ii) the royalty payments are paid or incurred to a related member organized under the laws of a country other than the United States, are subject to a comprehensive income tax treaty between such country and the United States, and are taxed in such country at a tax rate at least equal to that imposed by this state.~~

~~(3) Royalty income exclusions. For the purpose of computing unincorporated business entire net income, a taxpayer shall be allowed to deduct royalty payments directly or indirectly received from a related member during the taxable year to the extent included in the taxpayer's federal taxable income unless such royalty payments would not be required to be~~

~~added back under paragraph two of this subdivision or other similar provision in this chapter.~~] EXCEPTIONS. (I) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, MEETS ALL OF THE FOLLOWING REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES OR A FOREIGN NATION OR SOME COMBINATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANSACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

(II) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES, OR SOME COMBINATION THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDIC TIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT APPLIED TO THE TAXPAYER UNDER SECTION 11-503 OF THIS CHAPTER FOR THE TAXABLE YEAR.

(III) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGAN IZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHEN

SIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III) THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT IMPOSED BY THIS CITY; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSI NESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP.

(IV) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY IF THE TAXPAYER AND THE COMMISSIONER OF FINANCE AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER OF FINANCE MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

S 10. Paragraph (n) of subdivision 8 of section 11-602 of the adminis trative code of the city of New York, as amended by section 19 of part M of chapter 686 of the laws of 2003, is amended to read as follows:

(n) Related members expense add back [~~and income exclusion~~]. (1) Definitions. (A) Related member [~~or members. For purposes of this paragraph, the term related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under this title~~]. "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, EXCEPT THAT "FIFTY PERCENT" SHALL BE SUBSTITUTED FOR "TEN PERCENT".
(B) [~~Controlling interest. A controlling interest shall mean (i) in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (ii) in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.~~] EFFECTIVE RATE OF TAX. "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY CITY, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY THE CITY ON OR MEASURED BY A RELATED MEMBER'S NET INCOME MULTIPLIED BY THE APPORTIONMENT PERCENTAGE, IF ANY, APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURISDICTION. FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY CITY IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID CITY IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX FOR A CITY IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR OFFSET BY A CREDIT OR SIMILAR ADJUSTMENT THAT IS DEPENDENT UPON THE RELATED MEMBER EITHER MAINTAINING OR MANAGING INTANGIBLE PROPERTY OR COLLECTING INTEREST INCOME IN THAT CITY, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY SAID CITY SHALL BE DECREASED TO REFLECT THE STATUTORY RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY SUCH CREDIT OR SIMILAR ADJUSTMENT.

(C) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale,

exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner of finance, and [~~includes~~] INCLUDE amounts allowable as interest deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indi rectly for, related to or in connection with the acquisition, use, main tenance or management, ownership, sale, exchange or disposition of such intangible assets.

(D) Valid business purpose. A valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(2) Royalty expense add backs. (A) For the purpose of computing entire net income or other applicable taxable basis, a taxpayer must add back royalty payments [~~to a~~] DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR MORE related [~~member~~] MEMBERS during the taxable year to the extent deductible in calculating federal taxable income.

(B) [~~The add back of royalty payments shall not be required if and to the extent that such payments meet either of the following conditions: (i) the related member during the same taxable year directly or indi- rectly paid or incurred the amount to a person or entity that is not a related member, and such transaction was done for a valid business purpose and the payments are made at arm's length; (ii) the royalty payments are paid or incurred to a related member organized under the laws of a country other than the United States, are subject to a comprehensive income tax treaty between such country and the United States, and are taxed in such country at a tax rate at least equal to that imposed by this state. (3) Royalty income exclusions. For the purpose of computing entire net income or other taxable basis, a taxpayer shall be allowed to deduct royalty payments directly or indirectly received from a related member during the taxable year to the extent included in the taxpayer's federal taxable income unless such royalty payments would not be required to be added back under subparagraph two of this paragraph or other similar provision in this chapter.~~] EXCEPTIONS. (I) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, MEETS ALL OF THE FOLLOWING REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES OR A FOREIGN NATION OR SOME COMBINATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID,

ACCRUED OR INCURRED SUCH PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANSACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

(II) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES, OR SOME COMBINATION THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDICTIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT APPLIED TO THE TAXPAYER UNDER SECTION 11-604 OF THIS SUBCHAPTER FOR THE TAXABLE YEAR.

(III) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGANIZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHENSIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III) THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT IMPOSED BY THIS CITY; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP.

(IV) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER AND THE COMMISSIONER OF FINANCE AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER OF FINANCE MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

S 11. Subdivision (q) of section 11-641 of the administrative code of the city of New York, as added by section 21 of part M of chapter 686 of the laws of 2003, is amended to read as follows:

(q) Related members expense add back [~~and income exclusion~~]. (1) Definitions. (A) Related member [~~or members. For purposes of this subdivision, the term related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or~~

~~other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under this title~~]. "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, EXCEPT THAT "FIFTY PERCENT" SHALL BE SUBSTITUTED FOR "TEN PERCENT".

(B) [~~Controlling interest. A controlling interest shall mean (i) in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (ii) in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.~~] EFFECTIVE RATE OF TAX. "EFFECTIVE RATE

OF TAX" MEANS, AS TO ANY CITY, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY THE CITY ON OR MEASURED BY A RELATED MEMBER'S NET INCOME MULTIPLIED BY THE APPORTIONMENT PERCENTAGE, IF ANY, APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURISDICTION. FOR PURPOSES OF THIS DEFI NITION, THE EFFECTIVE RATE OF TAX AS TO ANY CITY IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID CITY IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX FOR A CITY IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR OFFSET BY A CREDIT OR SIMILAR ADJUSTMENT THAT IS DEPENDENT UPON THE RELATED MEMBER EITHER MAINTAINING OR MANAGING INTANGIBLE PROPERTY OR COLLECTING INTEREST INCOME IN THAT CITY, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY SAID CITY SHALL BE DECREASED TO REFLECT THE STATUTORY RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY SUCH CREDIT OR SIMILAR ADJUSTMENT.

(C) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner of finance, and [~~includes~~] INCLUDE amounts allowable as interest deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indi rectly for, related to or in connection with the acquisition, use, main tenance or management, ownership, sale, exchange or disposition of such intangible assets.

(D) Valid business purpose. A valid business purpose is one or more

business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(2) Royalty expense add backs. (A) For the purpose of computing entire net income, a taxpayer must add back royalty payments [~~to a~~] DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR MORE related [~~member~~] MEMBERS during the taxable year to the extent deductible in calculating federal taxable income.

(B) [~~The add back of royalty payments shall not be required if and to the extent that such payments meet either of the following conditions:~~

~~(i) the related member during the same taxable year directly or indirectly paid or incurred the amount to a person or entity that is not a related member, and such transaction was done for a valid business and the payments are made at arm's length;~~

~~(ii) the royalty payments are paid or incurred to a related member organized under the laws of a country other than the United States, are subject to a comprehensive income tax treaty between such country and the United States, and are taxed in such country at a tax rate at least equal to that imposed by this state.~~

~~(3) Royalty income exclusions. For the purpose of computing entire net income, a taxpayer shall be allowed to deduct royalty payments directly or indirectly received from a related member during the taxable year to~~

~~the extent included in the taxpayer's federal taxable income unless such royalty payments would not be required to be added back under paragraph two of this subdivision or other similar provision in this chapter.~~] EXCEPTIONS. (I) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTAB LISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, MEETS ALL OF THE FOLLOWING REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES OR A FOREIGN NATION OR SOME COMBI NATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANS ACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

(II) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN

THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES, OR SOME COMBINATION THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDICTIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT APPLIED TO THE TAXPAYER UNDER SECTION 11-643.5 OF THIS PART FOR THE TAXABLE YEAR.

(III) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGANIZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHENSIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III) THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT IMPOSED BY THIS CITY; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP.

(IV) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY IF THE TAXPAYER AND THE COMMISSIONER OF FINANCE AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER OF FINANCE MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

S 12. Subdivision (t) of section 11-1712 of the administrative code of the city of New York, as added by section 26 of part M of chapter 686 of the laws of 2003, is amended to read as follows:

(t) Related members expense add back [~~and income exclusion~~]. (1) Definitions. (A) Related member [~~or members. For purposes of this subdivision, the term related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such~~

~~person, corporation or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under this title~~]. "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, EXCEPT

THAT "FIFTY PERCENT" SHALL BE SUBSTITUTED FOR "TEN PERCENT".

(B) [~~Controlling interest. A controlling interest shall mean (i) in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (ii) in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.~~] EFFECTIVE RATE OF TAX. "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY CITY, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY THE CITY ON OR MEASURED BY A RELATED MEMBER'S NET INCOME MULTIPLIED BY THE APPORTIONMENT PERCENTAGE, IF ANY, APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURISDICTION. FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY CITY IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID CITY IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX FOR A CITY IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR OFFSET BY A CREDIT OR SIMILAR ADJUSTMENT THAT IS DEPENDENT UPON THE RELATED MEMBER EITHER MAINTAINING OR MANAGING INTANGIBLE PROPERTY OR COLLECTING INTEREST INCOME IN THAT CITY, THE MAXIMUM STATUTORY RATE OF TAX IMPOSED BY SAID CITY SHALL BE DECREASED TO REFLECT THE STATUTORY RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY SUCH CREDIT OR SIMILAR ADJUSTMENT.

(C) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the state commissioner of taxation and finance, and [~~includes~~] INCLUDE amounts allowable as interest deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indirectly for, related to or in connection with the acquisition, use, maintenance or management, ownership, sale, exchange or disposition of such intangible assets.

(D) Valid business purpose. A valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(2) Royalty expense add backs. (A) For the purpose of computing city adjusted gross income, a taxpayer must add back royalty payments [~~to a~~] DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR MORE related

[~~member~~] MEMBERS during the taxable year to the extent deductible in calculating federal taxable income.

(B) [~~The add back of royalty payments shall not be required if and to the extent that such payments meet either of the following conditions: (i) the related member during the same taxable year directly or indirectly paid or incurred the amount to a person or entity that is not a related member, and such transaction was done for a valid business and the payments are made at arm's length; (ii) the royalty payments are paid or incurred to a related member organized under the laws of a country other than the United States, are subject to a comprehensive income tax treaty between such country and the United States, and are taxed in such country at a tax rate at least equal to that imposed by this state. (3) Royalty income exclusions. (A) For the purpose of computing city adjusted gross income, a taxpayer shall be allowed to deduct royalty payments directly or indirectly received from a related member during the taxable year to the extent included in the taxpayer's federal taxable income unless such royalty payments would not be required to be added back under paragraph two of this subdivision or other similar provision in this title.~~] EXCEPTIONS. (I) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, MEETS ALL OF THE FOLLOWING REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES OR A FOREIGN NATION OR SOME COMBINATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANSACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

(II) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES, OR SOME COMBINATION THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDICTIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT APPLIED TO THE TAXPAYER UNDER SECTION 11-1701 OF THIS CHAPTER FOR THE TAXABLE YEAR.

(III) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE

ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGAN IZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHEN SIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III) THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT IMPOSED BY THIS CITY; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR

INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSI NESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP. (IV) THE ADJUSTMENT REQUIRED IN THIS SUBDIVISION SHALL NOT APPLY IF THE TAXPAYER AND THE COMMISSIONER OF FINANCE AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER OF FINANCE MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

S 13. This act shall take effect immediately and shall apply to taxa ble years beginning on or after January 1, 2013.

PART F

Section 1. Subparagraph (A) of paragraph 1, and paragraphs 4 and 5 of subsection (oo) of section 606 of the tax law, subparagraph (A) of para graph 1 as amended by chapter 472 of the laws of 2010 and paragraph 4 as amended and paragraph 5 as added by chapter 239 of the laws of 2009, are amended to read as follows:

(A) For taxable years beginning on or after January first, two thou sand ten and before January first, two thousand [~~fifteen~~] TWENTY, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a) (2) of section 47 of the federal internal revenue code with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand [~~fifteen~~] TWENTY, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a)(2) of section 47 of the federal internal revenue code with respect to a certified historic structure located within the state; provided,

however, the credit shall not exceed one hundred thousand dollars.

(4) If the amount of the credit [~~allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years, and may be applied against the taxpayer's tax for such year or years~~] ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

(5) To be eligible for the credit allowable under this subsection the rehabilitation project shall be in whole or in part [~~a targeted area residence within the meaning of section 143(j) of the internal revenue code or~~] located within a census tract which is identified as being at or below one hundred percent of the state median family income [~~in the most recent federal census~~] AS CALCULATED AS OF JANUARY FIRST OF EACH YEAR USING THE MOST RECENT FIVE YEAR ESTIMATE FROM THE AMERICAN COMMUNI TY SURVEY PUBLISHED BY THE UNITED STATES CENSUS BUREAU.

S 2. Subparagraph (A) of paragraph 1, and paragraphs 4 and 5 of subdi vision 40 of section 210 of the tax law, subparagraph (A) of paragraph 1 and paragraph 4 as amended and paragraph 5 as added by chapter 472 of the laws of 2010, are amended to read as follows:

(A) For taxable years beginning on or after January first, two thou sand ten and before January first, two thousand [~~fifteen~~] TWENTY, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a) (2) of section 47 of the federal internal revenue code with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand [~~fifteen~~] TWENTY, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a)(2) of section 47 of the federal internal revenue code with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed one hundred thousand dollars.

(4) The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the higher of the amounts prescribed in paragraphs (c) and (d) of subdivision one of this section. However, if the amount of the credit [~~allowable under this subdivision for any taxable year shall exceed the taxpayer's tax for~~

~~such year, the excess may be carried over to the following year or years, and may be deducted from the taxpayer's tax for such year or years~~] ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

(5) To be eligible for the credit allowable under this subdivision, the rehabilitation project shall be in whole or in part [~~a targeted area residence within the meaning of section 143(j) of the internal revenue code or~~] located within a census tract which is identified as being at or below one hundred percent of the state median family income [~~in the most recent federal census~~] AS CALCULATED AS OF JANUARY FIRST OF EACH YEAR USING THE MOST RECENT FIVE YEAR ESTIMATE FROM THE AMERICAN COMMUNI TY SURVEY PUBLISHED BY THE UNITED STATES CENSUS BUREAU.

S 3. Subparagraph (A) of paragraph 1, and paragraphs 4 and 5 of subsection (u) of section 1456 of the tax law, as added by chapter 472 of the laws of 2010, are amended to read as follows:

(A) For taxable years beginning on or after January first, two thou sand ten and before January first, two thousand [~~fifteen~~] TWENTY, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a)(2) of section 47 of the federal internal revenue code with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand [~~fifteen~~] TWENTY, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a)(2) of section 47 of the federal internal revenue code with respect

to a certified historic structure located within the state. Provided, however, the credit shall not exceed one hundred thousand dollars.

(4) The credit allowed under this subsection for any taxable year shall not reduce the tax to less than the dollar amount fixed as a mini mum tax by subsection (b) of section fourteen hundred fifty-five of this article. [~~If the amount of credit allowable under this subsection for any taxable year reduces the tax to such amount, the excess may be carried over to the following year or years, and may be deducted from the taxpayer's tax for such year or years.~~] HOWEVER, IF THE AMOUNT OF

CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

(5) To be eligible for the credit allowable under this subsection the rehabilitation project shall be in whole or in part [~~a targeted area residence within the meaning of section 143(j) of the internal revenue code or~~] located within a census tract which is identified as being at or below one hundred percent of the state median family income [~~in the most recent federal census~~] AS CALCULATED AS OF JANUARY FIRST OF EACH YEAR USING THE MOST RECENT FIVE YEAR ESTIMATE FROM THE AMERICAN COMMUNI TY SURVEY PUBLISHED BY THE UNITED STATES CENSUS BUREAU.

S 4. Subparagraph (A) of paragraph 1, and paragraphs 4 and 5 of subdi vision (y) of section 1511 of the tax law, as added by chapter 472 of the laws of 2010, are amended to read as follows:

(A) For taxable years beginning on or after January first, two thou sand ten and before January first, two thousand [~~fifteen~~] TWENTY, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a)(2) of section 47 of the federal internal revenue code with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand [~~fifteen~~] TWENTY, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a)(2) of section 47 of the federal internal revenue code with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed one hundred thousand dollars.

(4) The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the minimum fixed by paragraph four of subdivision (a) of section fifteen hundred two or section fifteen hundred two-a of this article, whichever is applicable. [~~If the amount of the credit allowable under this subdivi- sion for any taxable year reduces the tax to such amount, the excess may be carried over to the following year or years, and may be deducted from the taxpayer's tax for such year or years.~~] HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND

EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF

SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

(5) To be eligible for the credit allowable under this subdivision, the rehabilitation project shall be in whole or in part [~~a targeted area residence within the meaning of section 143(j) of the internal revenue code or~~] located within a census tract which is identified as being at or below one hundred percent of the state median family income [~~in the most recent federal census~~] AS CALCULATED AS OF JANUARY FIRST OF EACH YEAR USING THE MOST RECENT FIVE YEAR ESTIMATE FROM THE AMERICAN COMMUNI TY SURVEY PUBLISHED BY THE UNITED STATES CENSUS BUREAU.

S 5. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2013; provided however the amendments to paragraph 4 of subsection (oo) of section 606 of the tax law made by section one of this act, the amendments to paragraph 4 of subdivision 40 of section 210 of the tax law made by section two of this act, the amendments to paragraph 4 of subsection (u) of section 1456 of the tax law made by section three of this act and the amendments to paragraph 4 of subdivision (y) of section 1511 of the tax law made by section four of this act shall take effect January 1, 2015 and shall apply to taxable years beginning on and after January 1, 2015 for quali fied rehabilitation placed in service on or after January 1, 2015.

PART G

Section 1.

Section 187-b of the tax law, as amended by section 14 of part W-1 of chapter 109 of the laws of 2006, is amended to read as follows:

S 187-b. Alternative fuels [~~credit~~] AND ELECTRIC VEHICLE RECHARGING PROPERTY CREDIT. 1. General. A taxpayer shall be allowed a credit, to be credited against the taxes imposed under sections one hundred eighty three, one hundred eighty-four, and one hundred eighty-five of this article. Such credit, to be computed as hereinafter provided, shall be allowed for alternative fuel vehicle refueling AND ELECTRIC VEHICLE RECHARGING property placed in service during the taxable year. Provided, however, that the amount of such credit allowable against the tax imposed by section one hundred eighty-four of this article shall be the excess of the credit allowed by this section over the amount of such credit allowable against the tax imposed by section one hundred eighty

three of this article.

2. Alternative fuel vehicle refueling property AND ELECTRIC VEHICLE RECHARGING PROPERTY. The credit under this section for alternative fuel vehicle refueling AND ELECTRIC VEHICLE RECHARGING property shall equal FOR EACH INSTALLATION OF PROPERTY THE LESSER OF FIVE THOUSAND DOLLARS OR fifty percent of the cost of any such property:

(a) which is located in this state; [~~and~~]

(b) [~~for which a credit is allowed under section thirty C of the internal revenue code but not including alternative fuel vehicle refueling property relating to a qualified hybrid vehicle as such vehicle is defined in subparagraph (B) of paragraph three of subsection (p) of section six hundred six of this chapter~~] WHICH CONSTITUTES ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY; AND

(C) FOR WHICH NONE OF THE COST HAS BEEN PAID FOR FROM THE PROCEEDS OF GRANTS, INCLUDING GRANTS FROM THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY OR THE NEW YORK POWER AUTHORITY.

3. Definitions. (a) The term "alternative fuel vehicle refueling prop erty" MEANS ALL OF THE EQUIPMENT NEEDED TO DISPENSE ANY FUEL AT LEAST EIGHTY-FIVE PERCENT OF THE VOLUME OF WHICH CONSISTS OF ONE OR MORE OF THE FOLLOWING: NATURAL GAS, LIQUIFIED NATURAL GAS, LIQUIFIED PETROLEUM, OR HYDROGEN.

(B) THE TERM "ELECTRIC VEHICLE RECHARGING PROPERTY" means [~~any such property which is qualified within the meaning of section thirty C of the internal revenue code, but shall not include alternative fuel vehicle refueling property relating to a qualified hybrid vehicle as such vehicle is defined in subparagraph (B) of paragraph three of subsection (p) of section six hundred six of this chapter~~] ALL THE EQUIPMENT NEEDED TO CONVEY ELECTRIC POWER FROM THE ELECTRIC GRID OR ANOTHER POWER SOURCE TO AN ONBOARD VEHICLE ENERGY STORAGE SYSTEM.

[~~(b) The term "qualified hybrid vehicle" shall have the same meaning as provided for under subparagraph (B) of paragraph three of subsection (p) of section six hundred six of this chapter.~~]

4. Carryovers. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three or one hundred eighty-five of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

5. Credit recapture[~~; Alternative fuel vehicle refueling property~~]. If, at any time before the end of its recovery period, alternative fuel vehicle refueling OR ELECTRIC VEHICLE RECHARGING property ceases to be qualified, a recapture amount must be added back in the year in which

such cessation occurs.
(i) Cessation of qualification. Alternative fuel vehicle refueling property OR ELECTRIC VEHICLE RECHARGING PROPERTY ceases to be qualified if:

(I) the property no longer qualifies as [~~property described in section thirty-C of the internal revenue code~~] ALTERNATIVE FUEL VEHICLE REFUEL ING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY; or
(II) fifty percent or more of the use of the property in a taxable year is other than a trade or business in this state; or
(III) the taxpayer receiving the credit under this section sells or disposes of the property and knows or has reason to know that the prop erty will be used in a manner described in this subparagraph.
(ii) Recapture amount. The recapture amount is equal to the credit allowable under this section multiplied by a fraction, the numerator of which is the total recovery period for the property minus the number of recovery years prior to, but not including, the recapture year, and the denominator of which is the total recovery period.
6. Termination. The credit allowed by subdivision two of this section shall not apply in taxable years beginning after December thirty-first, two thousand [~~ten~~] SEVENTEEN.

S 2. Subdivision 24 of section 210 of the tax law, as amended by section 15 of part W-1 of chapter 109 of the laws of 2006, is amended to read as follows:

24. Alternative fuels AND ELECTRIC VEHICLE RECHARGING PROPERTY credit.
(a) General. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article for alter native fuel vehicle refueling AND ELECTRIC VEHICLE RECHARGING property placed in service during the taxable year.

(b) Alternative fuel vehicle refueling property AND ELECTRIC VEHICLE RECHARGING PROPERTY. The credit under this subdivision for alternative fuel vehicle refueling AND ELECTRIC VEHICLE RECHARGING property shall equal FOR EACH INSTALLATION OF PROPERTY THE LESSER OF FIVE THOUSAND DOLLARS OR fifty percent of the cost of any such property:

(i) which is located in this state; [~~and~~]
(ii) [~~for which a credit is allowed under section thirty-C of the internal revenue code but not including alternative fuel refueling prop- erty relating to a qualified hybrid vehicle as such vehicle is defined in subparagraph (B) of paragraph three of subsection (p) of section six hundred six of this chapter~~] WHICH CONSTITUTES ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY; AND
(III) FOR WHICH NONE OF THE COST HAS BEEN PAID FOR FROM THE PROCEEDS

OF GRANTS, INCLUDING GRANTS FROM THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY OR THE NEW YORK POWER AUTHORITY.

(c) Definitions. (I) The term "alternative fuel vehicle refueling property" MEANS ALL OF THE EQUIPMENT NEEDED TO DISPENSE ANY FUEL AT LEAST EIGHTY-FIVE PERCENT OF THE VOLUME OF WHICH CONSISTS OF ONE OR MORE OF THE FOLLOWING: NATURAL GAS, LIQUIFIED NATURAL GAS, LIQUIFIED PETROLE UM, OR HYDROGEN.

(II) THE TERM "ELECTRIC VEHICLE RECHARGING PROPERTY" means [~~any such property which is qualified within the meaning of section thirty C of the internal revenue code but shall not include alternative fuel vehicle refueling property relating to a qualified hybrid vehicle as such vehicle is defined in subparagraph (B) of paragraph three of subsection (p) of section six hundred six of this chapter~~] ALL OF THE EQUIPMENT NEEDED TO CONVEY ELECTRIC POWER FROM THE ELECTRIC GRID OR ANOTHER POWER SOURCE TO AN ONBOARD VEHICLE ENERGY STORAGE SYSTEM.

(d) Carryovers. In no event shall the credit under this subdivision be allowed in an amount which will reduce the tax payable to less than the higher of the amounts prescribed in paragraphs (c) and (d) of subdivi sion one of this section. Provided, however, that if the amount of cred it allowable under this subdivision for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(e) Credit recapture. [~~(i) Alternative fuel vehicle refueling property.~~] If, at any time before the end of its recovery period, alternative fuel vehicle refueling OR ELECTRIC VEHICLE RECHARGING property ceases to be qualified, a recapture amount must be added back in the year in which such cessation occurs.

(A) Alternative fuel vehicle refueling OR ELECTRIC VEHICLE RECHARGING property ceases to be qualified if:

(1) the property no longer qualifies as [~~property described in section thirty C of the internal revenue code~~] ALTERNATIVE FUEL VEHICLE REFUEL ING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY; or

(2) fifty percent or more of the use of the property in a taxable year is other than in a trade or business in this state; or

(3) the taxpayer receiving the credit under this subdivision sells or disposes of the property and knows or has reason to know that the prop erty will be used in a manner described in clauses one and two of this subparagraph.

(B) Recapture amount. The recapture amount is equal to the credit allowable under this subdivision multiplied by a fraction, the numerator of which is the total recovery period for the property minus the number

of recovery years prior to, but not including, the recapture year, and the denominator of which is the total recovery period.

(f) [~~Affiliates. (i) If a credit under this subdivision is allowed to~~

~~a taxpayer with respect to a taxable year, the action taken by such taxpayer which resulted in such credit being allowed thereto may, at the election of the taxpayer and an affiliate thereof, be ascribed to such affiliate. Where such affiliate, based on such ascription, is allowed such credit and deducts from the tax otherwise due the amount of such credit, such credit shall be deemed in all respects to have been allowed to such affiliate, provided that any action or inaction by the taxpayer which constitutes an event of recapture described in paragraph (e) of this subdivision shall be ascribed to the affiliate and shall constitute an event of recapture with respect to the credit allowed to the affiliate pursuant to this subdivision.~~

~~(ii) Notwithstanding any other provision of law to the contrary, in the case of the credit provided for under this subdivision being allowed to, or asserted to be allowed to, an affiliate, pursuant to subparagraph (i) of this paragraph, the commissioner shall have the same powers with respect to examining the books and records of the taxpayer, and have such other powers of investigation with respect to the taxpayer, as are afforded under this chapter with respect to a taxpayer which has deducted the credit allowed under this section from tax otherwise due, as if it were the taxpayer which had deducted such credit from tax otherwise due.~~

~~(iii) The term "affiliate" shall mean a corporation substantially all the capital stock of which is owned or controlled either directly or indirectly by the taxpayer, or which owns or controls either directly or indirectly substantially all the capital stock of the taxpayer, or substantially all the capital stock of which is owned or controlled either directly or indirectly by interests which own or control either directly or indirectly substantially all the capital stock of the taxpayer.~~

~~(g)~~] Termination. The credit allowed by paragraph (b) of this subdivision shall not apply in taxable years beginning after December thirty first, two thousand [~~ten~~] SEVENTEEN.

S 3. Subsection (p) of section 606 of the tax law, as amended by section 16 of part W-1 of chapter 109 of the laws of 2006, is amended to read as follows:

(p) Alternative fuels AND ELECTRIC VEHICLE RECHARGING PROPERTY credit.

(1) General. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article, for alternative fuel vehicle refueling AND ELECTRIC VEHICLE RECHARGING property placed in service during the taxable year.

(2) Alternative fuel vehicle refueling property AND ELECTRIC VEHICLE RECHARGING PROPERTY. The credit under this subsection for [~~clean-fuel vehicle refueling~~] ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING property shall equal FOR EACH INSTALLATION OF PROPERTY THE LESSER OF FIVE THOUSAND DOLLARS OR fifty percent of the cost of any such property

(A) which is located in this state [~~and~~];
(B) [~~for which a credit is allowed under section thirty C of the internal revenue code but not including alternative fuel vehicle refueling property relating to a qualified hybrid vehicle as such vehicle is defined in subparagraph (B) of paragraph three of this subsection~~] WHICH CONSTITUTES ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY; AND

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(C) FOR WHICH NONE OF THE COST HAS BEEN PAID FOR FROM THE PROCEEDS OF GRANTS, INCLUDING GRANTS FROM THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY OR THE NEW YORK POWER AUTHORITY.
(3) Definitions. (A) The term "alternative fuel vehicle refueling property" MEANS ALL OF THE EQUIPMENT NEEDED TO DISPENSE ANY FUEL AT LEAST EIGHTY-FIVE PERCENT OF THE VOLUME OF WHICH CONSISTS OF ONE OR MORE OF THE FOLLOWING: NATURAL GAS, LIQUIFIED NATURAL GAS, LIQUIFIED PETROLE UM, OR HYDROGEN; AND
(B) THE TERM "ELECTRIC VEHICLE RECHARGING PROPERTY" means [~~any such property which is qualified within the meaning of section thirty C of the internal revenue code, but such term shall not include alternative fuel vehicle refueling property relating to a qualified hybrid vehicle as such vehicle is defined in subparagraph (B) of this paragraph~~] ALL THE EQUIPMENT NEEDED TO CONVEY ELECTRIC POWER FROM THE ELECTRIC GRID OR ANOTHER POWER SOURCE TO AN ONBOARD VEHICLE ENERGY STORAGE SYSTEM.
[~~(B) The term "qualified hybrid vehicle" means a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law,, that:~~
~~(i) draws propulsion energy from both~~
~~(a) an internal combustion engine (or heat engine that uses combustible fuel); and~~
~~(b) an energy storage device; and~~
~~(ii) employs a regenerative vehicle braking system that recovers waste energy to charge such energy storage device.~~]
(4) Carryovers. If the amount of credit allowable under this subsection shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.
(5) Credit recapture. (A) [~~Vehicles.~~
~~(i) If, within three full years from the date a qualified hybrid vehicle or a vehicle of which alternative fuel vehicle property is a part is placed in service, such qualified hybrid vehicle or vehicle of which alternative fuel vehicle property is a part~~] IF, AT ANY TIME BEFORE THE END OF ITS RECOVERY PERIOD, ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY ceases to be qualified, a recap ture amount must be added back in the tax year in which such cessation occurs.
[~~(ii)~~] (B) Cessation of qualification. [~~(I) A qualified hybrid vehicle ceases to be qualified if~~

~~(a) it is modified by the taxpayer so that it no longer meets the requirements of a qualified hybrid vehicle as defined in subparagraph (B) of paragraph three of this subsection.~~

~~(b) the taxpayer receiving the credit under this subsection sells or disposes of the vehicle and knows or has reason to know that the vehicle will be so modified.~~

~~(B) Alternative fuel vehicle refueling property. (i) If, at any time before the end of its recovery period, alternative fuel vehicle refueling property ceases to be qualified, a recapture amount must be added back in the year in which such cessation occurs.~~

~~(ii) Cessation of qualification. Clean-fuel vehicle refueling~~] ALTER NATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING property ceases to be qualified if:

[~~(I)~~] (I) the property no longer qualifies as [~~property described in section thirty-C of the internal revenue code~~] ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY, or

[~~(II)~~] (II) fifty percent or more of the use of the property in a taxable year is other than in a trade or business in this state, or

[~~(III)~~] (III) the taxpayer receiving the credit under this subsection sells or disposes of the property and knows or has reason to know that the property will be used in a manner described in [~~item (I)~~] CLAUSE (I) or [~~(II)~~] (II) of this [~~clause~~] SUBPARAGRAPH.

[~~(iii)~~] (C) Recapture amount. The recapture amount is equal to the credit allowable under this subsection multiplied by a fraction, the numerator of which is the total recovery period for the property minus the number of recovery years prior to, but not including, the recapture year, and the denominator of which is the total recovery period.

(6) Termination. The credit allowed by [~~paragraph two of~~] this subsection shall not apply in taxable years beginning after December thirty-first, two thousand [~~ten~~] SEVENTEEN.

S 4. Clause (ix) of subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law, as amended by section 7 of part C-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(ix) Alternative fuels AND ELECTRIC VEHICLE RECHARGING PROPERTY credit under subsection (p)	[~~Cost~~] AMOUNT OF CREDIT under subdivision twenty-four of section two hundred ten

S 5. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2013 for property placed in service on or after such date.

PART H

Section 1.

Section 23 of part U of chapter 61 of the laws of 2011 amending the real property tax law and other laws relating to establishing standards for electronic real property tax administration, as amended by section 1 of part G of chapter 59 of the laws of 2012, is amended to read as follows:

S 23. This act shall take effect immediately; provided, however, that:

(a) the amendments to section 29 of the tax law made by section thirteen of this act shall apply to tax documents filed or required to be filed on or after the sixtieth day after which this act shall have become a law and shall expire and be deemed repealed December 31, [~~2013~~] 2016, provided however that the amendments to paragraph 4 of subdivision (a) of section 29 of the tax law and paragraph 2 of subdivision (e) of section 29 of the tax law made by section thirteen of this act with regard to individual taxpayers shall take effect September 15, 2011 but only if the commissioner of taxation and finance has reported in the report required by section seventeen-b of this act that the percentage of individual taxpayers electronically filing their 2010 income tax returns is less than eighty-five percent; provided that the commissioner of taxation and finance shall notify the legislative bill drafting commission of the date of the issuance of such report in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law;

(b) sections fourteen, fifteen, sixteen and seventeen of this act shall take effect September 15, 2011 but only if the commissioner of taxation and finance has reported in the report required by section

seventeen-b of this act that the percentage of individual taxpayers electronically filing their 2010 income tax returns is less than eighty-five percent;

(c) sections fourteen-a and fifteen-a of this act shall take effect September 15, 2011 and expire and be deemed repealed December 31, 2012 but shall take effect only if the commissioner of taxation and finance has reported in the report required by section seventeen-b of this act that the percentage of individual taxpayers electronically filing their 2010 income tax returns is eighty-five percent or greater;

(d) sections fourteen-b, fifteen-b, sixteen-a and seventeen-a of this

act shall take effect January 1, [~~2014~~] 2017 but only if the commissioner of taxation and finance has reported in the report required by section seventeen-b of this act that the percentage of individual taxpayers electronically filing their 2010 income tax returns is less than eighty-five percent; and

(e) sections twenty-one and twenty-one-a of this act shall expire and be deemed repealed December 31, [~~2013~~] 2016.

S 2. This act shall take effect immediately.

PART I

Intentionally omitted

PART J

Section 1.

Section 862 of the general municipal law, as added by chapter 1030 of the laws of 1969, is amended to read as follows:

S 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

(2) (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, NO FINANCIAL ASSISTANCE OF THE AGENCY SHALL BE PROVIDED IN RESPECT OF ANY PROJECT WHERE FACILITIES OR PROPERTY THAT ARE PRIMARILY USED IN MAKING RETAIL SALES TO CUSTOMERS WHO PERSONALLY VISIT SUCH FACILITIES CONSTITUTE MORE THAN ONE-THIRD OF THE TOTAL PROJECT COST. FOR THE PURPOSES OF THIS ARTICLE, "RETAIL SALES" SHALL MEAN: (I) SALES BY A REGISTERED VENDOR UNDER ARTICLE TWENTY-EIGHT OF THE TAX LAW PRIMARILY ENGAGED IN THE RETAIL SALE OF TANGIBLE PERSONAL PROPERTY, AS DEFINED IN SUBPARAGRAPH (I) OF PARAGRAPH FOUR OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE OF THE TAX LAW; OR (II) SALES OF A SERVICE TO SUCH CUSTOMERS. EXCEPT, HOWEVER, THAT TOURISM DESTINATION PROJECTS SHALL NOT BE PROHIBITED BY THIS SUBDIVISION. FOR THE PURPOSE OF THIS PARAGRAPH, "TOURISM DESTINATION" SHALL MEAN A LOCATION OR FACILITY WHICH IS LIKELY TO ATTRACT A SIGNIFICANT NUMBER OF VISITORS FROM OUTSIDE THE ECONOMIC DEVELOPMENT REGION AS ESTABLISHED BY SECTION TWO HUNDRED THIRTY OF THE

ECONOMIC DEVELOPMENT LAW, IN WHICH THE PROJECT IS LOCATED.

(B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI SION, FINANCIAL ASSISTANCE MAY, HOWEVER, BE PROVIDED TO A PROJECT WHERE FACILITIES OR PROPERTY THAT ARE PRIMARILY USED IN MAKING RETAIL SALES OF GOODS OR SERVICES TO CUSTOMERS WHO PERSONALLY VISIT SUCH FACILITIES TO OBTAIN SUCH GOODS OR SERVICES CONSTITUTE MORE THAN ONE-THIRD OF THE TOTAL PROJECT COST, WHERE: (I) THE PREDOMINANT PURPOSE OF THE PROJECT WOULD BE TO MAKE AVAILABLE GOODS OR SERVICES WHICH WOULD NOT, BUT FOR THE PROJECT, BE REASONABLY ACCESSIBLE TO THE RESIDENTS OF THE CITY, TOWN, OR VILLAGE WITHIN WHICH THE PROPOSED PROJECT WOULD BE LOCATED BECAUSE OF A LACK OF REASONABLY ACCESSIBLE RETAIL TRADE FACILITIES OFFERING SUCH GOODS OR SERVICES; OR (II) THE PROJECT IS LOCATED IN A HIGHLY DISTRESSED AREA.

(C) WITH RESPECT TO PROJECTS AUTHORIZED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, NO PROJECT SHALL BE APPROVED UNLESS THE AGENCY SHALL FIND AFTER THE PUBLIC HEARING REQUIRED BY SECTION EIGHT HUNDRED FIFTY-NINE-A OF THIS TITLE THAT UNDERTAKING THE PROJECT WILL SERVE THE PUBLIC PURPOSES OF THIS ARTICLE BY PRESERVING PERMANENT, PRIVATE SECTOR JOBS OR INCREASING THE OVERALL NUMBER OF PERMANENT, PRIVATE SECTOR JOBS IN THE STATE. WHERE THE AGENCY MAKES SUCH A FINDING, PRIOR TO PROVIDING FINANCIAL ASSISTANCE TO THE PROJECT BY THE AGENCY, THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY FOR WHOSE BENEFIT THE AGENCY WAS CREATED SHALL CONFIRM THE PROPOSED ACTION OF THE AGENCY.

S 2. The general municipal law is amended by adding a new section 875 to read as follows:

S 875. SPECIAL PROVISIONS APPLICABLE TO STATE SALES AND COMPENSATING USE TAXES AND CERTAIN TYPES OF FACILITIES. 1. FOR PURPOSES OF THIS SECTION: "STATE SALES AND USE TAXES" MEANS SALES AND COMPENSATING USE TAXES AND FEES IMPOSED BY ARTICLE TWENTY-EIGHT OR TWENTY-EIGHT-A OF THE TAX LAW BUT EXCLUDING SUCH TAXES IMPOSED IN A CITY BY SECTION ELEVEN HUNDRED SEVEN OR ELEVEN HUNDRED EIGHT OF SUCH ARTICLE TWENTY-EIGHT. "IDA" MEANS AN INDUSTRIAL DEVELOPMENT AGENCY ESTABLISHED BY THIS ARTICLE OR AN INDUSTRIAL DEVELOPMENT AUTHORITY CREATED BY THE PUBLIC AUTHORITIES LAW. "COMMISSIONER" MEANS THE COMMISSIONER OF TAXATION AND FINANCE.

2. AN IDA SHALL KEEP RECORDS OF THE AMOUNT OF STATE AND LOCAL SALES AND USE TAX EXEMPTION BENEFITS PROVIDED TO EACH PROJECT AND EACH AGENT OR PROJECT OPERATOR AND SHALL MAKE SUCH RECORDS AVAILABLE TO THE COMMIS SIONER UPON REQUEST. SUCH IDA SHALL ALSO, WITHIN THIRTY DAYS OF PROVID ING FINANCIAL ASSISTANCE TO A PROJECT THAT INCLUDES ANY AMOUNT OF STATE SALES AND USE TAX EXEMPTION BENEFITS, REPORT TO THE COMMISSIONER THE AMOUNT OF SUCH BENEFITS FOR SUCH PROJECT, THE PROJECT TO WHICH THEY ARE

BEING PROVIDED, TOGETHER WITH SUCH OTHER INFORMATION AND SUCH SPECIFICI TY AND DETAIL AS THE COMMISSIONER MAY PRESCRIBE. THIS REPORT MAY BE MADE IN CONJUNCTION WITH THE STATEMENT REQUIRED BY SUBDIVISION NINE OF SECTION EIGHT HUNDRED SEVENTY-FOUR OF THIS TITLE OR IT MAY BE MADE AS A SEPARATE REPORT, AT THE DISCRETION OF THE COMMISSIONER. AN IDA THAT FAILS TO MAKE SUCH RECORDS AVAILABLE TO THE COMMISSIONER OR TO FILE SUCH REPORTS SHALL BE PROHIBITED FROM PROVIDING STATE SALES AND USE TAX EXEMPTION BENEFITS FOR ANY PROJECT UNLESS AND UNTIL SUCH IDA COMES INTO COMPLIANCE WITH ALL SUCH REQUIREMENTS.

3. (A) AN IDA SHALL INCLUDE WITHIN ITS RESOLUTIONS AND PROJECT DOCU MENTS ESTABLISHING ANY PROJECT OR APPOINTING AN AGENT OR PROJECT OPERA TOR FOR ANY PROJECT THE TERMS AND CONDITIONS IN THIS SUBDIVISION, AND EVERY AGENT, PROJECT OPERATOR OR OTHER PERSON OR ENTITY THAT SHALL ENJOY STATE SALES AND USE TAX EXEMPTION BENEFITS PROVIDED BY AN IDA SHALL AGREE TO SUCH TERMS AS A CONDITION PRECEDENT TO RECEIVING OR BENEFITING FROM SUCH STATE SALES AND USE EXEMPTIONS BENEFITS.

(B) THE IDA SHALL RECOVER, RECAPTURE, RECEIVE, OR OTHERWISE OBTAIN FROM AN AGENT, PROJECT OPERATOR OR OTHER PERSON OR ENTITY STATE SALES AND USE EXEMPTIONS BENEFITS TAKEN OR PURPORTED TO BE TAKEN BY ANY SUCH PERSON TO WHICH THE PERSON IS NOT ENTITLED OR WHICH ARE IN EXCESS OF THE AMOUNTS AUTHORIZED OR WHICH ARE FOR PROPERTY OR SERVICES NOT AUTHORIZED OR TAKEN IN CASES WHERE SUCH AGENT OR PROJECT OPERATOR, OR OTHER PERSON OR ENTITY FAILED TO COMPLY WITH A MATERIAL TERM OR CONDITION TO USE PROPERTY OR SERVICES IN THE MANNER REQUIRED BY THE PERSON'S AGREEMENT WITH THE IDA. SUCH AGENT OR PROJECT OPERATOR, OR OTHER PERSON OR ENTITY SHALL COOPERATE WITH THE IDA IN ITS EFFORTS TO RECOVER, RECAPTURE, RECEIVE, OR OTHERWISE OBTAIN SUCH STATE SALES AND USE EXEMPTIONS BENE FITS AND SHALL PROMPTLY PAY OVER ANY SUCH AMOUNTS TO THE IDA THAT IT REQUESTS. THE FAILURE TO PAY OVER SUCH AMOUNTS TO THE IDA SHALL BE GROUNDS FOR THE COMMISSIONER TO ASSESS AND DETERMINE STATE SALES AND USE TAXES DUE FROM THE PERSON UNDER ARTICLE TWENTY-EIGHT OF THE TAX LAW, TOGETHER WITH ANY RELEVANT PENALTIES AND INTEREST DUE ON SUCH AMOUNTS.

(C) IF AN IDA RECOVERS, RECAPTURES, RECEIVES, OR OTHERWISE OBTAINS, ANY AMOUNT OF STATE SALES AND USE TAX EXEMPTION BENEFITS FROM AN AGENT, PROJECT OPERATOR OR OTHER PERSON OR ENTITY, THE IDA SHALL, WITHIN THIRTY DAYS OF COMING INTO POSSESSION OF SUCH AMOUNT, REMIT IT TO THE COMMIS SIONER, TOGETHER WITH SUCH INFORMATION AND REPORT THAT THE COMMISSIONER DEEMS NECESSARY TO ADMINISTER PAYMENT OVER OF SUCH AMOUNT. AN IDA SHALL JOIN THE COMMISSIONER AS A PARTY IN ANY ACTION OR PROCEEDING THAT THE IDA COMMENCES TO RECOVER, RECAPTURE, OBTAIN, OR OTHERWISE SEEK THE RETURN OF, STATE SALES AND USE TAX EXEMPTION BENEFITS FROM AN AGENT, PROJECT OPERATOR OR OTHER PERSON OR ENTITY.

(D) AN IDA SHALL PREPARE AN ANNUAL COMPLIANCE REPORT DETAILING ITS TERMS AND CONDITIONS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION AND ITS ACTIVITIES AND EFFORTS TO RECOVER, RECAPTURE, RECEIVE, OR OTHERWISE OBTAIN STATE SALES AND USE EXEMPTIONS BENEFITS DESCRIBED IN PARAGRAPH

(B) OF THIS SUBDIVISION, TOGETHER WITH SUCH OTHER INFORMATION AS THE COMMISSIONER AND THE COMMISSIONER OF ECONOMIC DEVELOPMENT MAY REQUIRE. THE REPORT REQUIRED BY THIS SUBDIVISION SHALL BE FILED WITH THE COMMISSIONER, THE DIRECTOR OF THE DIVISION OF THE BUDGET, THE COMMISSIONER OF ECONOMIC DEVELOPMENT, THE STATE COMPTROLLER, THE GOVERNING BODY OF THE MUNICIPALITY FOR WHOSE BENEFIT THE AGENCY WAS CREATED, AND MAY BE INCLUDED WITH THE ANNUAL FINANCIAL STATEMENT REQUIRED BY PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED FIFTY-NINE OF THIS TITLE. SUCH REPORT REQUIRED BY THIS SUBDIVISION SHALL BE FILED REGARDLESS OF WHETHER THE IDA IS REQUIRED TO FILE SUCH FINANCIAL STATEMENT DESCRIBED BY SUCH PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED FIFTY-NINE. THE FAILURE TO FILE OR SUBSTANTIALLY COMPLETE THE REPORT REQUIRED BY THIS SUBDIVISION SHALL BE DEEMED TO BE THE FAILURE TO FILE OR SUBSTANTIALLY COMPLETE THE STATEMENT REQUIRED BY SUCH PARAGRAPH (B) OF SUBDIVISION ONE OF SUCH SECTION EIGHT HUNDRED FIFTY-NINE, AND THE CONSEQUENCES SHALL BE THE SAME AS PROVIDED IN PARAGRAPH (E) OF SUBDIVISION ONE OF SUCH SECTION EIGHT HUNDRED FIFTY-NINE.

(E) THIS SUBDIVISION SHALL APPLY TO ANY AMOUNTS OF STATE SALES AND USE TAX EXEMPTION BENEFITS THAT AN IDA RECOVERS, RECAPTURES, RECEIVES, OR OTHERWISE OBTAINS, REGARDLESS OF WHETHER THE IDA OR THE AGENT, PROJECT OPERATOR OR OTHER PERSON OR ENTITY CHARACTERIZES SUCH BENEFITS RECOVERED, RECAPTURED, RECEIVED, OR OTHERWISE OBTAINED, AS A PENALTY OR LIQUIDATED OR CONTRACT DAMAGES OR OTHERWISE. THE PROVISIONS OF THIS SUBDIVISION SHALL ALSO APPLY TO ANY INTEREST OR PENALTY THAT THE IDA IMPOSES ON ANY SUCH AMOUNTS OR THAT ARE IMPOSED ON SUCH AMOUNTS BY OPERATION OF LAW OR BY JUDICIAL ORDER OR OTHERWISE. ANY SUCH AMOUNTS OR

PAYMENTS THAT AN IDA RECOVERS, RECAPTURES, RECEIVES, OR OTHERWISE OBTAINS, TOGETHER WITH ANY INTEREST OR PENALTIES THEREON, SHALL BE DEEMED TO BE STATE SALES AND USE TAXES AND THE IDA SHALL RECEIVE ANY SUCH AMOUNTS OR PAYMENTS, WHETHER AS A RESULT OF COURT ACTION OR OTHERWISE, AS TRUSTEE FOR AND ON ACCOUNT OF THE STATE.

4. THE COMMISSIONER SHALL DEPOSIT AND DISPOSE OF ANY AMOUNT OF ANY PAYMENTS OR MONEYS RECEIVED FROM OR PAID OVER BY AN IDA OR FROM OR BY ANY PERSON OR ENTITY, OR RECEIVED PURSUANT TO AN ACTION OR PROCEEDING COMMENCED BY AN IDA, TOGETHER WITH ANY INTEREST OR PENALTIES THEREON, PURSUANT TO SUBDIVISION THREE OF THIS SECTION, AS STATE SALES AND USE TAXES IN ACCORD WITH THE PROVISIONS OF ARTICLE TWENTY-EIGHT OF THE TAX LAW. THE AMOUNT OF ANY SUCH PAYMENTS OR MONEYS, TOGETHER WITH ANY INTEREST OR PENALTIES THEREON, SHALL BE ATTRIBUTED TO THE TAXES IMPOSED BY SECTIONS ELEVEN HUNDRED FIVE AND ELEVEN HUNDRED TEN, ON THE ONE HAND, AND SECTION ELEVEN HUNDRED NINE OF THE TAX LAW, ON THE OTHER HAND, OR TO ANY LIKE TAXES OR FEES IMPOSED BY SUCH ARTICLE, BASED ON THE PROPORTION THAT THE RATES OF SUCH TAXES OR FEES BEAR TO EACH OTHER, UNLESS THERE IS EVIDENCE TO SHOW THAT ONLY ONE OR THE OTHER OF SUCH TAXES OR FEES WAS IMPOSED OR RECEIVED OR PAID OVER.

5. THE STATEMENT THAT AN IDA IS REQUIRED BY SUBDIVISION NINE OF

SECTION EIGHT HUNDRED SEVENTY-FOUR OF THIS ARTICLE TO FILE WITH THE COMMISSIONER SHALL NOT BE CONSIDERED AN EXEMPTION OR OTHER CERTIFICATE OR DOCUMENT UNDER ARTICLE TWENTY-EIGHT OR TWENTY-NINE OF THE TAX LAW. THE IDA SHALL NOT REPRESENT TO ANY AGENT, PROJECT OPERATOR, OR OTHER PERSON OR ENTITY THAT A COPY OF SUCH STATEMENT MAY SERVE AS A SALES OR USE TAX EXEMPTION CERTIFICATE OR DOCUMENT. NO AGENT OR PROJECT OPERATOR MAY TENDER A COPY OF SUCH STATEMENT TO ANY PERSON REQUIRED TO COLLECT SALES OR USE TAXES AS THE BASIS TO MAKE ANY PURCHASE EXEMPT FROM TAX. NO SUCH PERSON REQUIRED TO COLLECT SALES OR USE TAXES MAY ACCEPT SUCH A STATEMENT IN LIEU OF COLLECTING ANY TAX REQUIRED TO BE COLLECTED. THE CIVIL AND CRIMINAL PENALTIES FOR MISUSE OF A COPY OF SUCH STATEMENT AS AN EXEMPTION CERTIFICATE OR DOCUMENT OR FOR FAILURE TO PAY OR COLLECT TAX SHALL BE AS PROVIDED IN THE TAX LAW. IN ADDITION, THE USE BY AN IDA OR AGENT, PROJECT OPERATOR, OR OTHER PERSON OR ENTITY OF SUCH STATEMENT, OR THE IDA'S RECOMMENDATION OF THE USE OR TENDERING OF SUCH STATEMENT, AS SUCH AN EXEMPTION CERTIFICATE OR DOCUMENT SHALL BE DEEMED TO BE, UNDER ARTICLES TWENTY-EIGHT AND THIRTY-SEVEN OF THE TAX LAW, THE ISSU ANCE OF A FALSE OR FRAUDULENT EXEMPTION CERTIFICATE OR DOCUMENT WITH INTENT TO EVADE TAX.

6. THE COMMISSIONER IS HEREBY AUTHORIZED TO AUDIT THE RECORDS, ACTIONS, AND PROCEEDINGS OF AN IDA AND OF ITS AGENTS AND PROJECT OPERA TORS TO ENSURE THAT THE IDA AND ITS AGENTS AND PROJECT OPERATORS COMPLY WITH ALL THE REQUIREMENTS OF THIS SECTION. ANY INFORMATION THE COMMIS SIONER FINDS IN THE COURSE OF SUCH AUDIT MAY BE USED BY THE COMMISSIONER TO ASSESS AND DETERMINE STATE AND LOCAL TAXES OF THE IDA'S AGENT OR PROJECT OPERATOR.

7. IN ADDITION TO ANY OTHER REPORTING OR FILING REQUIREMENTS AN IDA HAS UNDER THIS ARTICLE OR OTHER LAW, AN IDA SHALL ALSO REPORT AND MAKE AVAILABLE ON THE INTERNET, WITHOUT CHARGE, COPIES OF ITS RESOLUTIONS AND AGREEMENTS APPOINTING AN AGENT OR PROJECT OPERATOR OR OTHERWISE RELATED TO ANY PROJECT IT ESTABLISHES. IT SHALL ALSO PROVIDE, WITHOUT CHARGE, COPIES OF ALL SUCH REPORTS AND INFORMATION TO A PERSON WHO ASKS FOR IT IN WRITING OR IN PERSON. THE IDA MAY, AT THE REQUEST OF ITS AGENT OR PROJECT OPERATOR DELETE FROM ANY SUCH COPIES POSTED ON THE INTERNET OR PROVIDED TO A PERSON DESCRIBED IN THE PRIOR SENTENCE PORTIONS OF ITS

RECORDS THAT ARE SPECIFICALLY EXEMPTED FROM DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

8. IN CONSULTATION WITH THE COMMISSIONER OF ECONOMIC DEVELOPMENT, THE COMMISSIONER OF TAXATION AND FINANCE IS HEREBY AUTHORIZED TO ADOPT RULES AND REGULATIONS AND TO ISSUE PUBLICATIONS AND OTHER GUIDANCE IMPLEMENT ING THE PROVISIONS OF THIS SECTION AND OF THE OTHER SECTIONS OF THIS ARTICLE RELATING TO ANY STATE OR LOCAL TAX OR FEE, OR EXEMPTION OR EXCLUSION THEREFROM, THAT THE COMMISSIONER ADMINISTERS AND THAT MAY BE AFFECTED BY ANY PROVISION OF THIS ARTICLE, AND ANY SUCH RULES AND REGU LATIONS OF THE COMMISSIONER SHALL HAVE THE SAME FORCE AND EFFECT WITH RESPECT TO SUCH TAXES AND FEES, OR AMOUNTS MEASURED IN RESPECT OF THEM,

AS IF THEY HAD BEEN ADOPTED BY THE COMMISSIONER PURSUANT TO THE AUTHORI TY OF THE TAX LAW.

9. TO THE EXTENT THAT A PROVISION OF THIS SECTION CONFLICTS WITH A PROVISION OF ANY OTHER SECTION OF THIS ARTICLE, THE PROVISIONS OF THIS SECTION SHALL CONTROL.

S 3. The public authorities law is amended by adding a new section 1963-b to read as follows:

S 1963-B. SPECIAL PROVISIONS APPLICABLE TO STATE SALES AND COMPENSAT ING USE TAXES AND CERTAIN TYPES OF FACILITIES. THE PROVISIONS OF SECTION EIGHT HUNDRED SEVENTY-FIVE OF THE GENERAL MUNICIPAL LAW SHALL APPLY TO THE PROVISIONS OF THIS TITLE AND TO THE AUTHORITY CREATED BY THIS TITLE WITH THE SAME FORCE AND EFFECT AS IF THE PROVISIONS OF SUCH SECTION EIGHT HUNDRED SEVENTY-FIVE HAD BEEN INCORPORATED IN FULL INTO THIS TITLE AND HAD EXPRESSLY REFERRED TO THE PROVISIONS OF THIS TITLE AND TO SUCH AUTHORITY, WITH SUCH CHANGES TO SUCH SECTION AS ARE NECESSARY TO REFER TO THE PROVISIONS OF THIS TITLE AND TO THE AUTHORITY CREATED BY THIS TITLE.

S 4. The public authorities law is amended by adding a new section 2326-a to read as follows:

S 2326-A. SPECIAL PROVISIONS APPLICABLE TO STATE SALES AND COMPENSAT ING USE TAXES AND CERTAIN TYPES OF FACILITIES. THE PROVISIONS OF SECTION EIGHT HUNDRED SEVENTY-FIVE OF THE GENERAL MUNICIPAL LAW SHALL APPLY TO THE PROVISIONS OF THIS TITLE AND TO THE AUTHORITY CREATED BY THIS TITLE WITH THE SAME FORCE AND EFFECT AS IF THE PROVISIONS OF SUCH SECTION EIGHT HUNDRED SEVENTY-FIVE HAD BEEN INCORPORATED IN FULL INTO THIS TITLE AND HAD EXPRESSLY REFERRED TO THE PROVISIONS OF THIS TITLE AND TO SUCH AUTHORITY, WITH SUCH CHANGES TO SUCH SECTION AS ARE NECESSARY TO REFER TO THE PROVISIONS OF THIS TITLE AND TO THE AUTHORITY CREATED BY THIS TITLE.

S 5. Subdivision 3 of section 810 of the general municipal law, as amended by chapter 356 of the laws of 1993, is amended to read as follows:

3. The term "local officer or employee" shall mean the heads (other than local elected officials) of any agency, department, division, coun cil, board, commission, or bureau of a political subdivision and their deputies and assistants, and the officers and employees of such agen

cies, departments, divisions, boards, bureaus, commissions or councils who hold policy-making positions, as annually determined by the appointing authority and set forth in a written instrument which shall be filed with the appropriate body during the month of February; except that the term "local officer or employee" shall not mean a judge, justice, officer or employee of the unified court system. Members, officers, and employees of each industrial development agency and authority ESTABLISHED BY THIS CHAPTER OR CREATED BY THE PUBLIC AUTHORITIES LAW shall be

deemed officers or employees of the county, city, village, or town for whose benefit such agency or authority is established OR CREATED.

S 6. Subdivision 4 of section 854 of the general municipal law, as amended by chapter 478 of the laws of 2011, is amended to read as follows:

(4) "Project" - shall mean any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside or partially within and partially outside the municipality for whose benefit the agency was created, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes or other economically sound purposes identified and called for to implement a state designated urban cultural park management plan as provided in title G of the parks, recreation and historic preservation law and which may include or mean an industrial pollution control facility, a recreation facility, educational or cultural facility, a horse racing facility, a railroad facility or an automobile racing facility, provided, however, no agency shall use its funds OR PROVIDE FINANCIAL ASSISTANCE in respect of any project wholly or partially outside the municipality for whose benefit the agency was created without the prior consent thereto by the governing body or bodies of all the other municipalities in which a part or parts of the project is, or is to be, located, AND SUCH PORTION OF THE PROJECT LOCATED OUTSIDE SUCH MUNICIPALITY FOR WHOSE BENEFIT THE AGENCY WAS CREATED SHALL BE CONTIGUOUS WITH THE PORTION OF THE PROJECT INSIDE SUCH MUNICIPALITY.

S 7.

Section 883 of the general municipal law, as added by chapter 356 of the laws of 1993, is amended to read as follows:

S 883. Conflicts of interest. All members, officers, and employees of an agency or INDUSTRIAL DEVELOPMENT authority ESTABLISHED BY THIS CHAPTER OR CREATED BY THE PUBLIC AUTHORITIES LAW shall be subject to the provisions of article eighteen of this chapter.

S 8. Subdivision 9 of section 874 of the general municipal law, as added by section 1 of subpart C of part

S of chapter 57 of the laws of 2010, is amended to read as follows:

(9) (A) Within thirty days of the date that the agency designates a project operator or other person to act as agent of the agency for purposes of providing financial assistance consisting of any sales and compensating use tax exemption to such person, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the agency, setting forth the taxpayer identification number of each such agent, giving a brief description of the property and/or services intended to be exempted from such taxes as a result of such appointment as agent, indicating the agency's rough estimate of the value of the property and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.
(B) WITHIN THIRTY DAYS OF THE DATE THAT THE AGENCY'S DESIGNATION DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION HAS BEEN AMENDED, TERMINATED, BEEN REVOKED, OR BECOME INVALID OR INEFFECTIVE FOR ANY REASON, THE AGENCY SHALL FILE A STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE RELATING THERETO, ON A FORM AND IN SUCH MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE, IDENTIFYING EACH SUCH AGENT

SO NAMED BY THE AGENCY IN THE ORIGINAL DESIGNATION AND SETTING FORTH THE TAXPAYER IDENTIFICATION NUMBER AND OTHER IDENTIFYING INFORMATION OF EACH SUCH AGENT, THE DATE AS OF WHICH THE ORIGINAL DESIGNATION WAS AMENDED, TERMINATED, REVOKED, OR BECAME INVALID OR INEFFECTIVE AND THE REASON THEREFOR, TOGETHER WITH A COPY OF THE ORIGINAL DESIGNATION.

S 9. Subdivision 4 of section 1963 of the public authorities law, as added by section 2 of subpart C of part

S of chapter 57 of the laws of 2010, is amended to read as follows;
4. (A) Within thirty days of the date that the authority designates a

project operator or other person to act as agent of the authority for purposes of providing financial assistance consisting of any sales and compensating use tax exemption to such person, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the authority, setting forth the taxpayer identification number of each such agent, giving a brief description of the property and/or services intended to be exempted from such taxes as a result of such appointment as agent, indicating the authority's rough estimate of the value of the property and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.
(B) WITHIN THIRTY DAYS OF THE DATE THAT THE AUTHORITY'S DESIGNATION DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION HAS BEEN AMENDED, TERMI NATED, BEEN REVOKED, OR BECOME INVALID OR INEFFECTIVE FOR ANY REASON, THE AUTHORITY SHALL FILE A STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE RELATING THERETO, ON A FORM AND IN SUCH MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE, IDENTIFYING EACH SUCH AGENT SO NAMED BY THE AUTHORITY IN THE ORIGINAL DESIGNATION AND SETTING FORTH THE TAXPAYER IDENTIFICATION NUMBER AND OTHER IDENTIFYING INFORMATION OF EACH SUCH AGENT, THE DATE AS OF WHICH THE ORIGINAL DESIGNATION WAS AMENDED, TERMINATED, REVOKED, OR BECAME INVALID OR INEFFECTIVE AND THE REASON THEREFOR, TOGETHER WITH A COPY OF THE ORIGINAL DESIGNATION.

S 10. Subdivision 4 of section 2326 of the public authorities law, as added by section 3 of subpart C of part

S of chapter 57 of the laws of
2010, is amended to read as follows:

4. (A) Within thirty days of the date that the authority designates a project operator or other person to act as agent of the authority for purposes of providing financial assistance consisting of any sales and compensating use tax exemption to such person, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the authority, setting forth the taxpayer identification number of each such agent, giving a brief description of the property and/or services intended to be exempted from such taxes as a result of such appointment as agent, indicating the authority's rough estimate of the value of the property and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.
(B) WITHIN THIRTY DAYS OF THE DATE THAT THE AUTHORITY'S DESIGNATION DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION HAS BEEN AMENDED, TERMI NATED, BEEN REVOKED, OR BECOME INVALID OR INEFFECTIVE FOR ANY REASON,

THE AUTHORITY SHALL FILE A STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE RELATING THERETO, ON A FORM AND IN SUCH MANNER AS IS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE, IDENTIFYING EACH SUCH AGENT

SO NAMED BY THE AUTHORITY IN THE ORIGINAL DESIGNATION AND SETTING FORTH THE TAXPAYER IDENTIFICATION NUMBER AND OTHER IDENTIFYING INFORMATION OF EACH SUCH AGENT, THE DATE AS OF WHICH THE ORIGINAL DESIGNATION WAS AMENDED, TERMINATED, REVOKED, OR BECAME INVALID OR INEFFECTIVE AND THE REASON THEREFOR, TOGETHER WITH A COPY OF THE ORIGINAL DESIGNATION.

S 11. Severability. If any provision of this act shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the provision directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provision had not been included in this act.

S 12. This act shall take effect immediately and shall apply to (a) any project established, agent or project operator appointed on or after the date this act shall have become a law and any financial assistance or agreement regarding payments in lieu of taxes provided thereto, (b) any amendment or revision involving additional funds or benefits made on or after the date this act shall have become a law to any project established, agent or project operator appointed, financial assistance provided, or payment in lieu of taxes entered into, prior to that date, and (c) any state sales and compensating use tax exemption benefits and any payments in lieu of state sales and compensating use taxes recovered, recaptured, received, or otherwise obtained by an industrial development agency established by the general municipal law or an industrial development authority created by title 11 or title 15 of article 8 of the public authorities law on or after such date.

PART K

Section 1. Paragraph 42 of subdivision (a) of section 1115 of the tax law, as added by section 11 of part W-1 of chapter 109 of the laws of 2006, is amended to read as follows:

(42) E85, CNG or hydrogen, for use or consumption directly and exclusively in the engine of a motor vehicle AND NATURAL GAS PURCHASED AND CONVERTED INTO CNG, FOR USE OR FOR SALE FOR USE OR CONSUMPTION DIRECTLY AND EXCLUSIVELY IN THE ENGINE OF A MOTOR VEHICLE.

S 2. This act shall take effect on the first day of a sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, next commencing after this act shall have become a law and shall apply in accordance with the applicable transitional provisions in sections 1106 and 1217 of the tax law; provided, however, that the amendments to paragraph 42 of subdivision (a) of section 1115 of the tax law made by section one of this act shall not affect the repeal of such paragraph and shall be deemed repealed therewith.

PART L

Section 1.

Section 301-c of the tax law is amended by adding a new subdivision (p) to read as follows:

(P) REIMBURSEMENT FOR MOTOR FUEL AND DIESEL MOTOR FUEL USED BY A VOLUNTARY AMBULANCE SERVICE, AS DEFINED IN SECTION THREE THOUSAND ONE OF THE PUBLIC HEALTH LAW, A FIRE COMPANY OR A FIRE DEPARTMENT, AS DEFINED IN SECTION THREE OF THE VOLUNTEER FIREFIGHTERS' BENEFIT LAW, OR A VOLUNTEER RESCUE SQUAD SUPPORTED IN WHOLE OR IN PART BY TAX MONIES, WHERE ANY SUCH ENTITY IS THE PURCHASER, USER OR CONSUMER OF MOTOR FUEL OR DIESEL

MOTOR FUEL IN A VEHICLE OWNED AND OPERATED BY SUCH ENTITY AND USED EXCLUSIVELY FOR SUCH ENTITY'S PURPOSES. A PURCHASER SHALL BE ELIGIBLE FOR REIMBURSEMENT OF THE TAX IMPOSED PURSUANT TO THIS ARTICLE IF (1) ANY TAX IMPOSED PURSUANT TO THIS ARTICLE HAS BEEN PAID WITH RESPECT TO SUCH GALLONAGE AND THE ENTIRE AMOUNT OF SUCH TAX HAS BEEN ABSORBED BY SUCH PURCHASER, AND (2) SUCH PURCHASER POSSESSES DOCUMENTARY PROOF SATISFACTORY TO THE COMMISSIONER EVIDENCING THE ABSORPTION BY SUCH PURCHASER OF THE ENTIRE AMOUNT OF SUCH TAX. PROVIDED, THAT THE COMMISSIONER SHALL REQUIRE SUCH DOCUMENTARY PROOF TO QUALIFY FOR ANY REIMBURSEMENT PROVIDED HEREUNDER AS THE COMMISSIONER DEEMS APPROPRIATE.

S 2. This act shall take effect on the first day of the first month next succeeding the sixtieth day after it shall have become a law.

PART M

Intentionally omitted

PART N

Intentionally omitted

PART O

Section 1. Subparagraph (i) of paragraph (b) of subdivision 1 of section 481 of the tax law, as amended by chapter 604 of the laws of

2008, is amended to read as follows:

(i) In addition to any other penalty imposed by this article, the commissioner may (A) impose a penalty of not more than [~~one~~] SIX hundred [~~fifty~~] dollars for each two hundred cigarettes, or fraction thereof, in excess of one thousand cigarettes in unstamped or unlawfully stamped packages in the possession or under the control of any person or (B) impose a penalty of not more than two hundred dollars for each ten unaf fixed false, altered or counterfeit cigarette tax stamps, imprints or impressions, or fraction thereof, in the possession or under the control of any person. In addition, the commissioner may impose a penalty of not more than seventy-five dollars for each fifty cigars or one pound of tobacco, or fraction thereof, in excess of two hundred fifty cigars or five pounds of tobacco in the possession or under the control of any person and a penalty of not more than one hundred fifty dollars for each fifty cigars or pound of tobacco, or fraction thereof, in excess of five hundred cigars or ten pounds of tobacco in the possession or under the control of any person, with respect to which the tobacco products tax has not been paid or assumed by a distributor or tobacco products deal er; provided, however, that any such penalty imposed shall not exceed seven thousand five hundred dollars in the aggregate. The commissioner may impose a penalty of not more than seventy-five dollars for each fifty cigars or one pound of tobacco, or fraction thereof, in excess of fifty cigars or one pound of tobacco in the possession or under the control of any tobacco products dealer or distributor appointed by the commissioner, and a penalty of not more than one hundred fifty dollars for each fifty cigars or pound of tobacco, or fraction thereof, in excess of two hundred fifty cigars or five pounds of tobacco in the possession or under the control of any such dealer or distributor, with respect to which the tobacco products tax has not been paid or assumed by a distributor or a tobacco products dealer; provided, however, that

any such penalty imposed shall not exceed fifteen thousand dollars in the aggregate.

S 2. This act shall take effect June 1, 2013.

PART P

Section 1. The tax law is amended by adding a new section 171-v to read as follows:

S 171-V. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH THE SUSPEN SION OF DRIVERS' LICENSES. (1) THE COMMISSIONER SHALL ENTER INTO A WRIT

TEN AGREEMENT WITH THE COMMISSIONER OF MOTOR VEHICLES, WHICH SHALL SET FORTH THE PROCEDURES FOR THE TWO DEPARTMENTS TO COOPERATE IN A PROGRAM TO IMPROVE TAX COLLECTION THROUGH THE SUSPENSION OF DRIVERS' LICENSES OF TAXPAYERS WITH PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF TEN THOUSAND DOLLARS. FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES" SHALL MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER, OR ANY PENALTY OR INTEREST DUE ON THESE AMOUNTS OWED BY AN INDIVIDUAL WITH A NEW YORK DRIVER'S LICENSE, THE TERM "DRIVER'S LICENSE" MEANS ANY LICENSE ISSUED BY THE DEPARTMENT OF MOTOR VEHICLES, EXCEPT FOR A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION FIVE HUNDRED ONE-A OF THE VEHICLE AND TRAFFIC LAW, AND THE TERM "PAST-DUE TAX LIABILITIES" MEANS ANY TAX LIABILITY OR LIABILITIES WHICH HAVE BECOME FIXED AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO ADMINISTRATIVE OR JUDICIAL REVIEW.

(2) THE AGREEMENT SHALL INCLUDE THE FOLLOWING PROVISIONS:

(A) THE PROCEDURES BY WHICH THE DEPARTMENT SHALL NOTIFY THE COMMIS SIONER OF MOTOR VEHICLES OF TAXPAYERS WITH PAST-DUE TAX LIABILITIES, INCLUDING THE PROCEDURES BY WHICH THE DEPARTMENT AND THE DEPARTMENT OF MOTOR VEHICLES SHALL SHARE THE INFORMATION NECESSARY TO IDENTIFY INDI VIDUALS WITH PAST-DUE TAX LIABILITIES, WHICH SHALL INCLUDE A TAXPAYER'S NAME, SOCIAL SECURITY NUMBER, AND ANY OTHER INFORMATION NECESSARY TO ENSURE THE PROPER IDENTIFICATION OF THE TAXPAYER;

(B) THE PROCEDURES BY WHICH THE COMMISSIONER SHALL NOTIFY THE DEPART MENT OF MOTOR VEHICLES THAT A TAXPAYER HAS SATISFIED HIS OR HER PAST-DUE TAX LIABILITIES, OR HAS ENTERED INTO AN INSTALLMENT PAYMENT AGREEMENT OR HAS OTHERWISE MADE PAYMENT ARRANGEMENTS SATISFACTORY TO THE COMMISSION ER, SO THAT THE SUSPENSION OF THE TAXPAYER'S DRIVER'S LICENSE MAY BE LIFTED; AND

(C) ANY OTHER MATTER THE DEPARTMENT AND THE DEPARTMENT OF MOTOR VEHI CLES SHALL DEEM NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

(3) THE DEPARTMENT SHALL PROVIDE NOTICE TO THE TAXPAYER OF HIS OR HER INCLUSION IN THE LICENSE SUSPENSION PROGRAM NO LATER THAN SIXTY DAYS PRIOR TO THE DATE THE DEPARTMENT INTENDS TO INFORM THE COMMISSIONER OF MOTOR VEHICLES OF THE TAXPAYER'S INCLUSION. HOWEVER, NO SUCH NOTICE SHALL BE ISSUED TO A TAXPAYER WHOSE WAGES ARE BEING GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF PAST-DUE TAX LIABILITIES OR PAST-DUE CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT ARREARS. NOTICE SHALL BE PROVIDED BY FIRST CLASS MAIL TO THE TAXPAYER'S LAST KNOWN ADDRESS AS SUCH ADDRESS APPEARS IN THE ELECTRONIC SYSTEMS OR RECORDS OF THE DEPART MENT. SUCH NOTICE SHALL INCLUDE:

(A) A CLEAR STATEMENT OF THE PAST-DUE TAX LIABILITIES ALONG WITH A STATEMENT THAT THE DEPARTMENT SHALL PROVIDE TO THE DEPARTMENT OF MOTOR VEHICLES THE TAXPAYER'S NAME, SOCIAL SECURITY NUMBER AND ANY OTHER IDEN TIFYING INFORMATION NECESSARY FOR THE PURPOSE OF SUSPENDING HIS OR HER DRIVER'S LICENSE PURSUANT TO THIS SECTION AND SUBDIVISION FOUR-F OF

SECTION FIVE HUNDRED TEN OF THE VEHICLE AND TRAFFIC LAW SIXTY DAYS AFTER THE MAILING OR SENDING OF SUCH NOTICE TO THE TAXPAYER;

(B) A STATEMENT THAT THE TAXPAYER MAY AVOID SUSPENSION OF HIS OR HER LICENSE BY FULLY SATISFYING THE PAST-DUE TAX LIABILITIES OR BY MAKING PAYMENT ARRANGEMENTS SATISFACTORY TO THE COMMISSIONER, AND INFORMATION AS TO HOW THE TAXPAYER CAN PAY THE PAST-DUE TAX LIABILITIES TO THE DEPARTMENT, ENTER INTO A PAYMENT ARRANGEMENT OR REQUEST ADDITIONAL INFORMATION;

(C) A STATEMENT THAT THE TAXPAYER'S RIGHT TO PROTEST THE NOTICE IS LIMITED TO RAISING ISSUES SET FORTH IN SUBDIVISION FIVE OF THIS SECTION;

(D) A STATEMENT THAT THE SUSPENSION OF THE TAXPAYER'S DRIVER'S LICENSE SHALL CONTINUE UNTIL THE PAST-DUE TAX LIABILITIES ARE FULLY PAID OR THE TAXPAYER MAKES PAYMENT ARRANGEMENTS SATISFACTORY TO THE COMMISSIONER; AND

(E) ANY OTHER INFORMATION THAT THE COMMISSIONER DEEMS NECESSARY.

(4) AFTER THE EXPIRATION OF THE SIXTY DAY PERIOD, IF THE TAXPAYER HAS NOT CHALLENGED THE NOTICE PURSUANT TO SUBDIVISION FIVE OF THIS SECTION AND THE TAXPAYER HAS FAILED TO SATISFY THE PAST-DUE TAX LIABILITIES OR MAKE PAYMENT ARRANGEMENTS SATISFACTORY TO THE COMMISSIONER, THE DEPART MENT SHALL NOTIFY THE DEPARTMENT OF MOTOR VEHICLES, IN THE MANNER AGREED UPON BY THE TWO AGENCIES, THAT THE TAXPAYER'S DRIVER'S LICENSE SHALL BE SUSPENDED PURSUANT TO SUBDIVISION FOUR-F OF SECTION FIVE HUNDRED TEN OF THE VEHICLE AND TRAFFIC LAW; PROVIDED, HOWEVER, IN ANY CASE WHERE A TAXPAYER FAILS TO COMPLY WITH THE TERMS OF A CURRENT PAYMENT ARRANGEMENT MORE THAN ONCE WITHIN A TWELVE MONTH PERIOD, THE COMMISSIONER SHALL IMMEDIATELY NOTIFY THE DEPARTMENT OF MOTOR VEHICLES THAT THE TAXPAYER'S DRIVER'S LICENSE SHALL BE SUSPENDED.

(5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS SPECIF ICALLY PROVIDED HEREIN, THE TAXPAYER SHALL HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR TO ANY OTHER LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE DEPARTMENT OF MOTOR VEHICLES REGARDING A NOTICE ISSUED BY THE DEPARTMENT PURSUANT TO THIS SECTION AND THE REFERRAL BY THE DEPARTMENT OF ANY TAXPAYER WITH PAST-DUE TAX LIABILITIES TO THE DEPART MENT OF MOTOR VEHICLES PURSUANT TO THIS SECTION FOR THE PURPOSE OF SUSPENDING THE TAXPAYER'S DRIVER'S LICENSE. A TAXPAYER MAY ONLY CHAL LENGE SUCH SUSPENSION OR REFERRAL ON THE GROUNDS THAT (I) THE INDIVIDUAL TO WHOM THE NOTICE WAS PROVIDED IS NOT THE TAXPAYER AT ISSUE; (II) THE PAST-DUE TAX LIABILITIES WERE SATISFIED; (III) THE TAXPAYER'S WAGES ARE BEING GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE PAST-DUE TAX LIABILITIES AT ISSUE OR FOR PAST-DUE CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT ARREARS; (IV) THE TAXPAYER'S WAGES ARE BEING GARNISHED FOR THE PAYMENT OF PAST-DUE CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT ARREARS PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE THOUSAND TWO HUNDRED FORTY-ONE OF THE CIVIL PRACTICE LAW AND RULES; (V) THE TAXPAYER'S DRIVER'S LICENSE IS A COMMERCIAL DRIVER'S LICENSE AS DEFINED IN SECTION FIVE HUNDRED ONE-A OF THE VEHICLE AND TRAFFIC LAW; OR (VI) THE DEPARTMENT INCORRECTLY FOUND THAT THE TAXPAYER HAS FAILED TO COMPLY WITH THE TERMS OF A PAYMENT ARRANGEMENT MADE WITH

THE COMMISSIONER MORE THAN ONCE WITHIN A TWELVE MONTH PERIOD FOR THE PURPOSES OF SUBDIVISION THREE OF THIS SECTION.

HOWEVER, NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT A TAXPAYER FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS ELIGIBLE PURSUANT TO THAT SUBDIVISION, OR ESTABLISHING TO THE DEPARTMENT THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED

BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978 (TITLE ELEVEN OF THE UNITED STATES CODE).

(6) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, THE DEPARTMENT MAY DISCLOSE TO THE DEPARTMENT OF MOTOR VEHICLES THE INFORMATION DESCRIBED IN THIS SECTION THAT, IN THE DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE PROPER IDENTIFICATION OF A TAXPAYER REFERRED TO THE DEPARTMENT OF MOTOR VEHICLES FOR THE PURPOSE OF SUSPENDING THE TAXPAYER'S DRIVER'S LICENSE PURSUANT TO THIS SECTION AND SUBDIVISION FOUR-F OF SECTION FIVE HUNDRED TEN OF THE VEHICLE AND TRAFFIC LAW. THE DEPARTMENT OF MOTOR VEHICLES MAY NOT REDISCLOSE THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE PURPOSE OF INFORMING THE TAXPAYER THAT HIS OR HER DRIVER'S LICENSE HAS BEEN SUSPENDED.

(7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

S 2.

Section 510 of the vehicle and traffic law is amended by adding a new subdivision 4-f to read as follows:

4-F. SUSPENSION FOR FAILURE TO PAY PAST-DUE TAX LIABILITIES. (1) THE COMMISSIONER SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE COMMISSIONER OF TAXATION AND FINANCE, AS PROVIDED IN SECTION ONE HUNDRED SEVENTY-ONE-V OF THE TAX LAW, WHICH SHALL SET FORTH THE PROCEDURES FOR SUSPENDING THE DRIVERS' LICENSES OF INDIVIDUALS WHO HAVE FAILED TO SATISFY PAST-DUE TAX LIABILITIES AS SUCH TERMS ARE DEFINED IN SUCH SECTION.

(2) UPON RECEIPT OF NOTIFICATION FROM THE DEPARTMENT OF TAXATION AND FINANCE THAT AN INDIVIDUAL HAS FAILED TO SATISFY PAST-DUE TAX LIABILITIES, OR TO OTHERWISE MAKE PAYMENT ARRANGEMENTS SATISFACTORY TO THE COMMISSIONER OF TAXATION AND FINANCE, OR HAS FAILED TO COMPLY WITH THE TERMS OF SUCH PAYMENT ARRANGEMENTS MORE THAN ONCE WITHIN A TWELVE MONTH PERIOD, THE COMMISSIONER OR HIS OR HER AGENT SHALL SUSPEND THE LICENSE OF SUCH PERSON TO OPERATE A MOTOR VEHICLE. IN THE EVENT SUCH PERSON IS

UNLICENSED, SUCH PERSON'S PRIVILEGE OF OBTAINING A LICENSE SHALL BE SUSPENDED. SUCH SUSPENSION SHALL TAKE EFFECT NO LATER THAN FIFTEEN DAYS FROM THE DATE OF THE NOTICE THEREOF PROVIDED TO THE PERSON WHOSE LICENSE OR PRIVILEGE OF OBTAINING A LICENSE IS TO BE SUSPENDED, AND SHALL REMAIN IN EFFECT UNTIL SUCH TIME AS THE COMMISSIONER IS ADVISED THAT THE PERSON HAS SATISFIED HIS OR HER PAST-DUE TAX LIABILITIES, OR HAS OTHERWISE MADE PAYMENT ARRANGEMENTS SATISFACTORY TO THE COMMISSIONER OF TAXATION AND FINANCE.

(3) FROM THE TIME THE COMMISSIONER IS NOTIFIED BY THE DEPARTMENT OF TAXATION AND FINANCE UNDER THIS SECTION, THE COMMISSIONER SHALL BE RELIEVED FROM ALL LIABILITY TO SUCH PERSON WHICH MAY OTHERWISE ARISE UNDER THIS SECTION, AND SUCH PERSON SHALL HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR TO ANY OTHER LEGAL RECOURSE AGAINST THE COMMISSIONER TO RECOVER SUCH DRIVING PRIVILEGES AS AUTHORIZED BY THIS SECTION. IN ADDITION, NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SUCH PERSON SHALL HAVE NO RIGHT TO A HEARING OR APPEAL PURSUANT TO THIS CHAP TER WITH RESPECT TO A SUSPENSION OF DRIVING PRIVILEGES AS AUTHORIZED BY THIS SECTION.

(4) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPART MENT SHALL FURNISH THE DEPARTMENT OF TAXATION AND FINANCE WITH THE INFORMATION NECESSARY FOR THE PROPER IDENTIFICATION OF AN INDIVIDUAL REFERRED TO THE DEPARTMENT FOR THE PURPOSE OF DRIVER'S LICENSE SUSPEN

SION PURSUANT TO THIS SECTION AND SECTION ONE HUNDRED SEVENTY-ONE-V OF THE TAX LAW. THIS SHALL INCLUDE THE INDIVIDUAL'S NAME, SOCIAL SECURITY NUMBER AND ANY OTHER INFORMATION THE COMMISSIONER OF MOTOR VEHICLES DEEMS NECESSARY.

(5) ANY PERSON WHOSE DRIVER'S LICENSE IS SUSPENDED PURSUANT TO PARA GRAPH TWO OF THIS SUBDIVISION MAY APPLY FOR THE ISSUANCE OF A RESTRICTED USE LICENSE AS PROVIDED IN SECTION FIVE HUNDRED THIRTY OF THIS TITLE.

S 3. Subdivision 7 of section 511 of the vehicle and traffic law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

7. Exceptions. When a person is convicted of a violation of subdivi sion one [~~of~~] OR two of this section, and the suspension was issued pursuant to (A) subdivision four-e of section five hundred ten of this article due to a support arrears, OR (B) SUBDIVISION FOUR-F OF SECTION FIVE HUNDRED TEN OF THE ARTICLE DUE TO PAST-DUE TAX LIABILITIES, the mandatory penalties set forth in subdivision one or two of this section shall not be applicable if, on or before the return date or subsequent adjourned date, such person presents proof that such support arrears OR PAST-DUE TAX LIABILITIES have been satisfied as shown by certified check, notice issued by the court ordering the suspension, or notice from a support collection unit OR DEPARTMENT OF TAXATION AND FINANCE AS APPLICABLE. The sentencing court shall take the satisfaction of arrears

OR THE PAYMENT OF THE PAST-DUE TAX LIABILITIES into account when imposing a sentence for any such conviction. FOR LICENSES SUSPENDED FOR NON PAYMENT OF PAST-DUE TAX LIABILITIES, THE COURT SHALL ALSO TAKE INTO CONSIDERATION PROOF, IN THE FORM OF A NOTICE FROM THE DEPARTMENT OF TAXATION AND FINANCE, THAT SUCH PERSON HAS MADE PAYMENT ARRANGEMENTS THAT ARE SATISFACTORY TO THE COMMISSIONER OF TAXATION AND FINANCE.

S 4.

Section 530 of the vehicle and traffic law is amended by adding a new subdivision 5-b to read as follows:

(5-B) ISSUANCE OF A RESTRICTED LICENSE SHALL NOT BE DENIED TO ANY PERSON WHOSE LICENSE IS SUSPENDED PURSUANT TO SUBDIVISION FOUR-F OF SECTION FIVE HUNDRED TEN OF THIS TITLE FOR ANY REASON OTHER THAN SUCH PERSON'S FAILURE TO OTHERWISE HAVE A VALID OR RENEWABLE DRIVER'S LICENSE. THE RESTRICTIONS ON THE TYPES OF VEHICLES WHICH MAY BE OPERATED WITH A RESTRICTED LICENSE CONTAINED IN SUCH SUBDIVISION FIVE OF THIS SECTION SHALL NOT BE APPLICABLE TO A RESTRICTED LICENSE ISSUED TO A PERSON PURSUANT TO SUBDIVISION FOUR-F OF SECTION FIVE HUNDRED TEN OF THIS TITLE. THE ISSUANCE OF A RESTRICTED LICENSE ISSUED AS A RESULT OF A SUSPENSION UNDER SUBDIVISION FOUR-F OF SECTION FIVE HUNDRED TEN OF THIS TITLE SHALL NOT IN ANY WAY AFFECT A PERSON'S ELIGIBILITY FOR A RESTRICTED LICENSE AT SOME FUTURE TIME.

S 5. This act shall take effect immediately; provided, however, that the department of taxation and finance and the department of motor vehicles shall have up to six months after this act shall have become a law to execute the written agreement and implement the necessary procedures as described in sections one and two of this act.

PART Q

Section 1. The tax law is amended by adding a new section 174-c to read as follows:

S 174-C. SERVICE OF INCOME EXECUTION WITHOUT FILING A WARRANT. 1. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, IF ANY INDIVIDUAL LIABLE FOR THE PAYMENT OF ANY TAX OR OTHER IMPOSITION ADMINISTERED BY THE COMMISSIONER, INCLUDING ANY ADDITIONS TO TAX, PENALTIES AND INTEREST IN CONNECTION THEREWITH, FAILS TO PAY OR TO COLLECT OR PAY OVER THE SAME

WITHIN TWENTY-ONE CALENDAR DAYS AFTER NOTICE AND DEMAND THEREFOR IS

GIVEN TO SUCH INDIVIDUAL (TEN BUSINESS DAYS IF THE AMOUNT FOR WHICH SUCH NOTICE AND DEMAND IS MADE EQUALS OR EXCEEDS ONE HUNDRED THOUSAND DOLLARS), THE COMMISSIONER IS AUTHORIZED TO SERVE AN INCOME EXECUTION ON THE INDIVIDUAL OR ON THE PERSON FROM WHOM THE INDIVIDUAL IS RECEIVING, OR WILL RECEIVE, MONEY, WITHOUT FILING A WARRANT IN THE OFFICE OF THE CLERK OF THE APPROPRIATE COUNTY OR IN THE DEPARTMENT OF STATE AS PROVIDED FOR IN THIS CHAPTER. FOR PURPOSES OF SERVING AN INCOME EXECUTION PURSUANT TO THIS SECTION, THE COMMISSIONER SHALL, IN THE RIGHT OF THE PEOPLE OF THE STATE OF NEW YORK, BE DEEMED TO HAVE OBTAINED JUDG MENT AGAINST THE INDIVIDUAL FOR THE TAX OR OTHER IMPOSITION, AND THE ADDITIONS TO TAX, PENALTIES AND INTEREST IN CONNECTION THEREOF, AND THERE SHALL BE A LIEN ON THE AMOUNT OF THE INDIVIDUAL'S INCOME THAT MAY BE GARNISHED. IF THE COMMISSIONER CHOOSES TO SERVE AN INCOME EXECUTION WITHOUT FILING A WARRANT PURSUANT TO THIS SECTION, THE COMMISSIONER MUST SERVE THE INCOME EXECUTION WITHIN SIX YEARS AFTER THE FIRST DATE A WARRANT COULD BE FILED PURSUANT TO SECTION ONE HUNDRED SEVENTY-FOUR-B OF THIS ARTICLE. WHEN SERVING AN INCOME EXECUTION WITHOUT THE FILING OF A WARRANT, THE COMMISSIONER SHALL FOLLOW THE PROCEDURES SET FORTH IN SECTION FIVE THOUSAND TWO HUNDRED THIRTY-ONE OF THE CIVIL PRACTICE LAW AND RULES, WITH THE REFERENCES IN SUCH SECTION TO "SHERIFF" TO BE READ AS REFERRING TO THE COMMISSIONER OR THE DEPARTMENT. THE INCOME EXECUTION SHALL SPECIFY THE NAME AND ADDRESS OF THE PERSON FROM WHOM THE TAXPAYER IS RECEIVING OR WILL RECEIVE MONEY; THE AMOUNT OF MONEY, THE FREQUENCY OF ITS PAYMENT AND THE AMOUNT OF THE INSTALLMENTS TO BE COLLECTED THEREFROM; AND SHALL CONTAIN A NOTICE TO THE TAXPAYER THAT THE TAXPAYER SHALL COMMENCE PAYMENT OF THE INSTALLMENTS SPECIFIED IN THE NOTICE WITHIN A SPECIFIED PERIOD OF TIME THAT IS NO LESS THAN TWENTY-ONE DAYS AFTER THE NOTICE IS MAILED TO THE TAXPAYER, AND THAT, UPON THE TAXPAYER'S DEFAULT, THE EXECUTION WILL BE SERVED UPON THE PERSON FROM WHOM THE TAXPAYER IS RECEIVING OR WILL RECEIVE MONEY. SUCH INCOME EXECUTION SHALL CONTINUE TO BE IN EFFECT UNTIL SUCH LIABILITY IS SATIS FIED OR UNTIL TWENTY YEARS FROM THE FIRST DATE A WARRANT COULD BE FILED BY THE COMMISSIONER PURSUANT TO SECTION ONE HUNDRED SEVENTY-FOUR-B OF THIS ARTICLE, WHETHER OR NOT A WARRANT IS FILED FOR THAT LIABILITY.

2. THE PROVISIONS OF THIS SECTION SHALL BE IN ADDITION TO THE PROCE DURES RELATING TO COLLECTION OR ADMINISTRATION PROVIDED WITH RESPECT TO ANY TAX OR OTHER IMPOSITION ADMINISTERED BY THE COMMISSIONER. WHERE A PROVISION OF THIS SECTION IS INCONSISTENT WITH ANY SUCH PROVISION WITH RESPECT TO SUCH TAX OR OTHER IMPOSITION, THE PROVISIONS OF THIS SECTION WILL APPLY. NOTHING IN THIS SECTION SHALL PREVENT THE COMMISSIONER FROM TIMELY FILING A WARRANT IN ORDER TO PURSUE ANY OF THE COLLECTION METHODS AUTHORIZED UNDER ARTICLE FIFTY-TWO OF THE CIVIL PRACTICE LAW AND RULES.

3. THE COMMISSIONER SHALL PERIODICALLY, BUT NO LESS FREQUENTLY THAN QUARTERLY, ELECTRONICALLY FILE WITH THE DEPARTMENT OF STATE A LIST OF THE NAMES OF THE TAXPAYERS WHO HAVE BEEN SERVED WITH INCOME EXECUTIONS UNDER THE AUTHORITY OF THIS SECTION DURING THAT PERIOD. THE COMMISSIONER SHALL ALSO INCLUDE IN THIS LIST THE NAMES OF TAXPAYERS WHOSE INCOME EXECUTIONS ARE CANCELLED OR DISCHARGED DURING THAT PERIOD. THE DEPART MENT OF STATE SHALL UPON RECEIPT POST SUCH A LIST TO THEIR WEBSITE.

S 2. This act shall take effect immediately and shall expire and be deemed repealed on and after April 1, 2015.

PART R

Intentionally omitted

PART S

Intentionally omitted

PART T

Section 1. Clause (F) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by section 6 of part K of chapter 57 of the laws of 2010, is amended to read as follows:

(F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subparagraph, when a vendor track, is located in Sullivan county and within sixty miles from any gaming facility in a contiguous state such vendor fee shall, for a period of [~~five~~] SIX years commencing April first, two thousand eight, be at a rate of forty-one percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, after which time such rate shall be as for all tracks in clause (C) of this subparagraph.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2013.

PART U

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part O of chapter 59 of the laws of 2012, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the board for a license so to do. Applications for licenses shall be in such form as may be prescribed by the board and shall contain such information or other material or evidence as the board may require. No license shall be issued by the board authorizing the simulcast transmission of thorough bred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility per year

payable by the licensee to the board for deposit into the general fund. Except as provided herein, the board shall not approve any application to conduct simulcasting into individual or group residences, homes or other areas for the purposes of or in connection with pari-mutuel wager ing. The board may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or asso ciation; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with section one thousand fifteen, one thousand sixteen and one thousand seventeen of this article; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the

distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties, if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the board. For purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nineteen hundred ninety-five, may, and all its terms, be extended until June thirtieth, two thousand [~~thirteen~~] FOURTEEN; provided, however, that any party to such agreement may elect to termi nate such agreement upon conveying written notice to all other parties of such agreement at least forty-five days prior to the effective date of the termination, via registered mail. Any party to an agreement receiving such notice of an intent to terminate, may request the board to mediate between the parties new terms and conditions in a replacement agreement between the parties as will permit continuation of an in-home experiment until June thirtieth, two thousand [~~thirteen~~] FOURTEEN; and (iv) no in-home simulcasting in the thoroughbred special betting district shall occur without the approval of the regional thoroughbred track.

S 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as amended by section 2 of part O of chapter 59 of the laws of 2012, is amended to read as follows:

(iii) Of the sums retained by a receiving track located in Westchester county on races received from a franchised corporation, for the period commencing January first, two thousand eight and continuing through June thirtieth, two thousand [~~thirteen~~] FOURTEEN, the amount used exclusively for purses to be awarded at races conducted by such receiving track shall be computed as follows: of the sums so retained, two and one-half percent of the total pools. Such amount shall be increased or decreased in the amount of fifty percent of the difference in total commissions determined by comparing the total commissions available after July twen ty-first, nineteen hundred ninety-five to the total commissions that would have been available to such track prior to July twenty-first, nineteen hundred ninety-five.

S 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by section 3 of part O of chapter 59 of the laws of 2012, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is conducting a race meet ing in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [~~thirteen~~] FOURTEEN and on any day regardless of whether or not a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack after June thirtieth, two thousand [~~thirteen~~] FOURTEEN. On any day on which a franchised corporation has not scheduled a racing program but a thoroughbred racing corporation located within the state is conducting racing, every off track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that have entered into a written agreement with such facility's representative horsemen's organization, as approved by the board), one thousand eight, or one thousand nine of this article shall be authorized to accept

wagers and display the live simulcast signal from thoroughbred tracks located in another state or foreign country subject to the following provisions:

S 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part O of chapter 59 of the laws of 2012, is amended to read as follows:

1. The provisions of this section shall govern the simulcasting of

races conducted at harness tracks located in another state or country during the period July first, nineteen hundred ninety-four through June thirtieth, two thousand [~~thirteen~~] FOURTEEN. This section shall super sede all inconsistent provisions of this chapter.

S 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part O of chapter 59 of the laws of 2012, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is not conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [~~thirteen~~] FOURTEEN. Every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven that have entered into a written agreement with such facility's representative horsemen's organ ization as approved by the board, one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live full-card simulcast signal of thoroughbred tracks (which may include quarter horse or mixed meetings provided that all such wagering on such races shall be construed to be thoroughbred races) located in another state or foreign country, subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article:

S 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part O of chapter 59 of the laws of 2012, is amended to read as follows:

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

in accordance with section one thousand seven of this article.

S 7.

Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part O of chapter 59 of the laws of 2012, is amended to read as follows:

S 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed

repealed on July 1, [~~2013~~] 2014; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

S 8.

Section 54 of chapter 346 of the laws of 1990, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, as amended by section 8 of part O of chapter 59 of the laws of 2012, is amended to read as follows:

S 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [~~2013~~] 2014; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

S 9. Paragraph (a) of subdivision 1 of section 238 of the racing,

pari-mutuel wagering and breeding law, as amended by section 9 of part O of chapter 59 of the laws of 2012, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such fran chised corporation of between twelve to seventeen per centum of the total deposits in pools resulting from on-track regular bets, and four teen to twenty-one per centum of the total deposits in pools resulting from on-track multiple bets and fifteen to twenty-five per centum of the total deposits in pools resulting from on-track exotic bets and fifteen to thirty-six per centum of the total deposits in pools resulting from on-track super exotic bets, plus the breaks. The retention rate to be established is subject to the prior approval of the racing and wagering board. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, the following

percentages of the total pool for regular and multiple bets five per centum of regular bets and four per centum of multiple bets plus twenty per centum of the breaks; for exotic wagers seven and one-half per centum plus twenty per centum of the breaks, and for super exotic bets seven and one-half per centum plus fifty per centum of the breaks. For the period June first, nineteen hundred ninety-five through September ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be three per centum and such tax on multiple wagers shall be two and one half per centum, plus twenty per centum of the breaks. For the period September tenth, nineteen hundred ninety-nine through March thirty first, two thousand one, such tax on all wagers shall be two and six tenths per centum and for the period April first, two thousand one

through December thirty-first, two thousand [~~thirteen~~] FOURTEEN, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thir ty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April first, two thousand one through December thirty-first, two thousand [~~thirteen~~] FOURTEEN, such payment shall be seven-tenths of one per centum of such pools.

S 10. Subdivision 5 of section 1012 of the racing, pari-mutuel wager ing and breeding law, as amended by section 10 of part O of chapter 59 of the laws of 2012, is amended to read as follows:

5. The provisions of this section shall expire and be of no further force and effect after June thirtieth, two thousand [~~thirteen~~] FOURTEEN.

S 11. This act shall take effect immediately.

PART V

Section 1. Subparagraphs (A) and (B) of paragraph 2 of subsection (pp) of section 606 of the tax law, as amended by chapter 472 of the laws of 2010, are amended to read as follows:

(A) With respect to any particular residence of a taxpayer, the credit allowed under paragraph one of this subsection shall not exceed fifty thousand dollars for taxable years beginning on or after January first, two thousand ten and before January first, two thousand [~~fifteen~~] TWENTY and twenty-five thousand dollars for taxable years beginning on or after January first, two thousand [~~fifteen~~] TWENTY. In the case of a husband and wife, the amount of the credit shall be divided between them equally or in such other manner as they may both elect. If a taxpayer incurs qualified rehabilitation expenditures in relation to more than one resi dence in the same year, the total amount of credit allowed under para graph one of this subsection for all such expenditures shall not exceed fifty thousand dollars for taxable years beginning on or after January first, two thousand ten and before January first, two thousand [~~fifteen~~] TWENTY and twenty-five thousand dollars for taxable years beginning on or after January first, two thousand [~~fifteen~~] TWENTY.

(B) For taxable years beginning on or after January first, two thou sand ten and before January first, two thousand [~~fifteen~~] TWENTY, if the amount of credit allowable under this subsection shall exceed the

taxpayer's tax for such year, and the taxpayer's New York adjusted gross

income for such year does not exceed sixty thousand dollars, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon. If the taxpayer's New York adjusted gross income for such year exceeds sixty thousand dollars, the excess credit that may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years. For taxable years beginning on or after January first, two thousand [~~fifteen~~] TWENTY, if the amount of credit allowable under this subsection shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 2. This act shall take effect immediately.

PART W

Section 1. Subdivision 13 of section 282 of the tax law, as added by chapter 276 of the laws of 1986, is amended to read as follows:

13. "Terminal" means a motor fuel OR DIESEL MOTOR FUEL storage facili ty with a storage capacity of fifty thousand gallons or more excluding such facility at which motor fuel OR DIESEL MOTOR FUEL is stored solely for its retail sale at such facility. "Terminal operator" means any person who or which has the use of or control over, or the right to so use or control, a terminal.

S 2. Subdivision 1 of section 282-a of the tax law, as amended by chapter 2 of the laws of 1995, is amended to read as follows:

1. There is hereby levied and imposed with respect to Diesel motor fuel an excise tax of four cents per gallon upon the sale or use of Diesel motor fuel in this state.

The excise tax is imposed on the first sale or use of Diesel motor fuel to occur which is not exempt from tax under this article. Provided, however, if the tax has not been imposed prior thereto, it shall be imposed on THE REMOVAL OF HIGHWAY DIESEL MOTOR FUEL FROM A TERMINAL, OTHER THAN BY PIPELINE, BARGE, TANKER OR OTHER VESSEL, OR the delivery of Diesel motor fuel to a filling station or into the fuel tank connect ing with the engine of a motor vehicle for use in the operation thereof whichever event shall be first to occur. The tax shall be computed based upon the number of gallons of Diesel motor fuel sold, REMOVED or used or the number of gallons of Diesel fuel delivered into the fuel tank of a

motor vehicle, as the case may be. Nothing in this article shall be construed to require the payment of such excise tax more than once upon the same Diesel motor fuel. Nor shall the collection of such tax be made applicable to the sale or use of Diesel motor fuel under circumstances which preclude the collection of such tax by reason of the United States constitution and of laws of the United States enacted pursuant thereto. Provided, further, no Diesel motor fuel shall be included in the measure of the tax unless it shall have previously come to rest within the mean ing of federal decisional law interpreting the United States constitu tion. All tax for the period for which a return is required to be filed shall be due on the date limited for the filing of the return for such period, regardless of whether a return is filed as required by this article or whether the return which is filed correctly shows the amount of tax due.

S 3. Paragraph (b) of subdivision 3 of section 282-a of the tax law, as amended by section 2 of part E of chapter 59 of the laws of 2012, is amended to read as follows:

(b) The tax on the incidence of sale or use imposed by subdivision one of this section shall not apply to: (i) the sale or use of non-highway Diesel motor fuel, but only if all of such fuel is consumed other than on the public highways of this state (except for the use of the public highway by farmers to reach adjacent farmlands); provided, however, this exemption shall in no event apply to a sale of non-highway Diesel motor fuel which involves a delivery at a filling station or into a repository which is equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle (except for delivery at a farm site which qualifies for the exemption under subdivision (g) of section three hundred one-b of this chapter); or (ii) a sale to the consumer consisting of not more than twenty gallons of water-white kero sene to be used and consumed exclusively for heating purposes; or (iii) the sale to or delivery at a filling station or other retail vendor of water-white kerosene provided such filling station or other retail vendor only sells such water-white kerosene exclusively for heating purposes in containers of no more than twenty gallons; or (iv) a sale of kero-jet fuel to an airline for use in its airplanes or a use of kero jet fuel by an airline in its airplanes; or (v) a sale of kero-jet fuel by a registered distributor of Diesel motor fuel to a fixed base opera tor registered under this article as a distributor of kero-jet fuel only where such fixed base operator is engaged solely in making or offering to make retail sales not in bulk of kero-jet fuel directly into the fuel tank of an airplane for the purpose of operating such airplane; OR (vi) a retail sale not in bulk of kero-jet fuel by a fixed base operator registered under this article as a distributor of kero-jet fuel only

where such fuel is delivered directly into the fuel tank of an airplane for use in the operation of such airplane; or (vii) the sale of previously untaxed qualified biodiesel to a person registered under this article as a distributor of Diesel motor fuel other than (A) a retail sale to such person or (B) a sale to such person which involves a delivery at a filling station or into a repository which is equipped with a hose or other apparatus by which such qualified biodiesel can be dispensed into the fuel tank of a motor vehicle; OR (VIII) THE SALE OF PREVIOUSLY UNTAXED HIGHWAY DIESEL MOTOR FUEL BY A PERSON REGISTERED UNDER THIS ARTICLE AS A DISTRIBUTOR OF DIESEL MOTOR FUEL TO A PERSON REGISTERED UNDER THIS ARTICLE AS A DISTRIBUTOR OF DIESEL MOTOR FUEL WHERE THE HIGHWAY DIESEL MOTOR FUEL IS EITHER: (A) BEING DELIVERED BY PIPELINE, RAILCAR, BARGE, TANKER OR OTHER VESSEL TO A TERMINAL, THE OPERATOR OF WHICH TERMINAL IS REGISTERED UNDER SECTION TWO HUNDRED EIGHTY-THREE-B OF THIS ARTICLE, OR (B) WITHIN SUCH A TERMINAL WHERE IT HAS BEEN SO DELIVERED. PROVIDED, HOWEVER, THAT THE EXEMPTION SET FORTH IN THIS SUBPARAGRAPH SHALL NOT APPLY TO ANY HIGHWAY DIESEL MOTOR FUEL IF IT IS REMOVED FROM A TERMINAL, OTHER THAN BY PIPELINE, BARGE, TANKER OR OTHER VESSEL.

S 4. Subdivision 5 of section 282-a of the tax law, as amended by section 5 of part K of chapter 61 of the laws of 2011, is amended to read as follows:

5. All the provisions of this article relating to the administration and collection of the taxes on motor fuel, except [~~sections~~] SECTION two hundred eighty-three-a [~~and two hundred eighty-three-b~~] of this article, shall be applicable to the tax imposed by this section with such limitation as specifically provided for in this article with respect to Diesel motor fuel and with such modification as may be necessary to adapt the language of such provisions to the tax imposed by this section. With respect to the bond or other security required by subdivision three of

section two hundred eighty-three of this article, the commissioner, in determining the amount of bond or other security required for the purpose of securing tax payments, shall take into account the volume of non-highway Diesel motor fuel and other Diesel motor fuel sold for exempt purposes by a distributor of Diesel motor fuel during prior periods as a factor reducing potential tax liability along with any other relevant factors in determining the amount of security required. With respect to the bond required to be filed prior to registration as a Diesel motor fuel distributor, no bond shall be required of an applicant upon a finding of the applicant's fiscal responsibility, as reflected by such factors as net worth, current assets and liabilities, and tax reporting and payment history, and the department shall not provide for a minimum bond of every applicant.

S 5.

Section 300 of the tax law is amended by adding a new subdivision (s) to read as follows:

(S) THE TERM "TERMINAL" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION THIRTEEN OF SECTION TWO HUNDRED EIGHTY-TWO OF THIS CHAPTER.

S 6. Subparagraph (A) of paragraph 1 of subdivision (c) of section 301-a of the tax law, as amended by section 19 of part K of chapter 61 of the laws of 2011, is amended to read as follows:

(A) The highway diesel motor fuel component shall be determined by multiplying the motor fuel and highway diesel motor fuel rate times (1) the number of gallons of highway diesel motor fuel sold or used by a petroleum business in this state during the month covered by the return under this article and (2) with respect to any gallonage which prior thereto has not been included in the measure of the tax imposed by this article, times the number of gallons of highway diesel motor fuel [~~delivered~~] (i) REMOVED FROM A TERMINAL, OTHER THAN BY PIPELINE, BARGE, TANKER OR OTHER VESSEL, (II) DELIVERED to a filling station or [~~(ii)~~], (III) DELIVERED into the fuel tank connecting with the engine of a motor vehicle for use in the operation thereof, whichever of the latter [~~two~~] THREE events shall be the first to occur. Provided, however, that no highway diesel motor fuel shall be included in the measure of the tax unless it shall have previously come to rest within the meaning of federal decisional law interpreting the United States constitution, nor decisional law, nor shall any highway diesel motor fuel be included in the measure of the tax imposed by this article more than once.

S 7. Subdivision (e) of section 301-b of the tax law, as amended by section 4 of part E of chapter 59 of the laws of 2012, is amended to read as follows:

(e) Sales of HIGHWAY DIESEL MOTOR FUEL, qualified biodiesel, non-high way diesel motor fuel and residual petroleum product to registered distributors of diesel motor fuel and registered residual petroleum product businesses.
(1) THE SALE OF PREVIOUSLY UNTAXED HIGHWAY DIESEL MOTOR FUEL BY A PERSON REGISTERED UNDER ARTICLE TWELVE-A OF THIS CHAPTER AS A DISTRIBU TOR OF DIESEL MOTOR FUEL TO A PERSON REGISTERED UNDER SUCH ARTICLE TWELVE-A AS A DISTRIBUTOR OF DIESEL MOTOR FUEL WHERE THE HIGHWAY DIESEL MOTOR FUEL IS EITHER: (A) BEING DELIVERED BY PIPELINE, RAILCAR, BARGE, TANKER OR OTHER VESSEL TO A TERMINAL, THE OPERATOR OF WHICH TERMINAL IS REGISTERED UNDER SECTION TWO HUNDRED EIGHTY-THREE-B OF THIS CHAPTER, OR

(B) WITHIN SUCH A TERMINAL WHERE IT HAS BEEN SO DELIVERED. PROVIDED, HOWEVER, THAT THE EXEMPTION SET FORTH IN THIS PARAGRAPH SHALL NOT APPLY TO ANY HIGHWAY DIESEL MOTOR FUEL IF IT IS REMOVED FROM A TERMINAL, OTHER THAN BY PIPELINE, BARGE, TANKER OR OTHER VESSEL.

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(2) Qualified biodiesel and non-highway [~~Diesel~~] DIESEL motor fuel sold by a person registered under article twelve-A of this chapter as a distributor of diesel motor fuel to a person registered under such article twelve-A as a distributor of diesel motor fuel where such sale is not a retail sale or a sale that involves a delivery at a filling station or into a repository equipped with a hose or other apparatus by which such qualified biodiesel or non-highway [~~Diesel~~] DIESEL motor fuel can be dispensed into the fuel tank of a motor vehicle.

[~~(2)~~] (3) Residual petroleum product sold by a person registered under this article as a residual petroleum product business to a person registered under this article as a residual petroleum product business where such sale is not a retail sale. Provided, however, that the commissioner may require such documentary proof to qualify for any exemption provided in this section as the commissioner deems appropriate, including the expansion of any certifications required pursuant to section two hundred eighty-five-a or two hundred eighty-five-b of this chapter to cover the taxes imposed by this article.

[~~(3)~~] (4) "Qualified biodiesel" means such term as defined in subdivision twenty-three of section two hundred eighty-two of this chapter.

S 8. Clause (D) of subparagraph (ii) of paragraph 4 of subdivision (b) of section 1101 of the tax law, as added by chapter 261 of the laws of 1988, is amended to read as follows:

(D) The terms "filling station", "TERMINAL" and "owner" shall have the same meaning as they have for the purposes of article twelve-A of this chapter.

S 9. Paragraph 2 of subdivision (a) of section 1102 of the tax law, as amended by section 5 of part E of chapter 59 of the laws of 2012, is amended to read as follows:

(2) Every distributor of diesel motor fuel shall pay, as a prepayment on account of the taxes imposed by this article and pursuant to the authority of article twenty-nine of this chapter, a tax upon the sale or use of diesel motor fuel in this state. The tax shall be computed based upon the number of gallons of diesel motor fuel sold or used. Provided, however, if the tax has not been imposed prior thereto, it shall be imposed on THE REMOVAL OF HIGHWAY DIESEL MOTOR FUEL FROM A TERMINAL, OTHER THAN BY PIPELINE, BARGE, TANKER OR OTHER VESSEL, OR the delivery

of diesel motor fuel to a retail service station. The collection of such tax shall not be made applicable to the sale or use of diesel motor fuel under circumstances which preclude the collection of such tax by reason of the United States constitution and of laws of the United States enacted pursuant thereto. The prepaid tax on diesel motor fuel shall not apply to (i) the sale of [~~previously untaxed~~] non-highway Diesel motor fuel to a person registered as a distributor of Diesel motor fuel other than a sale to such person which involves a delivery at a filling station or into a repository which is equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle[~~,~~]; (ii) the sale to or delivery at a filling station or other retail vendor of water-white kerosene provided such filling station or other retail vendor only sells such water-white kerosene exclusively for heating purposes in containers of no more than twenty gallons or to the sale of CNG or hydrogen; [~~or~~] (iii) the sale of previ ously untaxed qualified biodiesel, AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION TWO HUNDRED EIGHTY-TWO OF THIS CHAPTER, to a person registered under article twelve-A of this chapter as a distribu tor of Diesel motor fuel other than (A) a retail sale to such person or (B) a sale to such person which involves a delivery at a filling station

or into a repository which is equipped with a hose or other apparatus by which such qualified biodiesel can be dispensed into the fuel tank of a motor vehicle[~~. "Qualified biodiesel" means such term as defined in subdivision twenty-three of section two hundred eighty-two of this chap- ter~~]; OR (IV) THE SALE OF PREVIOUSLY UNTAXED HIGHWAY DIESEL MOTOR FUEL BY A PERSON REGISTERED UNDER ARTICLE TWELVE-A OF THIS CHAPTER AS A DISTRIBUTOR OF DIESEL MOTOR FUEL TO A PERSON REGISTERED UNDER SUCH ARTI CLE TWELVE-A AS A DISTRIBUTOR OF DIESEL MOTOR FUEL WHERE THE HIGHWAY DIESEL MOTOR FUEL IS EITHER: (A) BEING DELIVERED BY PIPELINE, RAILCAR, BARGE, TANKER OR OTHER VESSEL TO A TERMINAL, THE OPERATOR OF WHICH TERMINAL IS REGISTERED UNDER SECTION TWO HUNDRED EIGHTY-THREE-B OF THIS CHAPTER, OR (B) WITHIN SUCH A TERMINAL WHERE IT HAS BEEN SO DELIVERED. PROVIDED, HOWEVER, THAT THE EXEMPTION SET FORTH IN THIS SUBPARAGRAPH SHALL NOT APPLY TO ANY HIGHWAY DIESEL MOTOR FUEL IF IT IS REMOVED FROM A TERMINAL, OTHER THAN BY PIPELINE, BARGE, TANKER OR OTHER VESSEL.

S 10. Paragraph 2 of subdivision (a) of section 1102 of the tax law, as amended by section 6 of part E of chapter 59 of the laws of 2012, is amended to read as follows:

(2) Every distributor of diesel motor fuel shall pay, as a prepayment on account of the taxes imposed by this article and pursuant to the authority of article twenty-nine of this chapter, a tax upon the sale or use of diesel motor fuel in this state. The tax shall be computed based upon the number of gallons of diesel motor fuel sold or used. Provided,

however, if the tax has not been imposed prior thereto, it shall be imposed on THE REMOVAL OF HIGHWAY DIESEL MOTOR FUEL FROM A TERMINAL, OTHER THAN BY PIPELINE, BARGE, TANKER OR OTHER VESSEL, OR the delivery of diesel motor fuel to a retail service station. The collection of such tax shall not be made applicable to the sale or use of diesel motor fuel under circumstances which preclude the collection of such tax by reason of the United States constitution and of laws of the United States enacted pursuant thereto. The prepaid tax on diesel motor fuel shall not apply to (i) the sale of non-highway Diesel motor fuel to a person registered as a distributor of Diesel motor fuel other than a sale to such person which involves a delivery at a filling station or into a repository which is equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle[~~,~~]; (ii) the sale to or delivery at a filling station or other retail vendor of water-white kerosene provided such filling station or other retail vendor only sells such water-white kerosene exclusively for heating purposes in containers of no more than twenty gallons; [~~or~~] (iii) the sale of previously untaxed qualified biodiesel, AS DEFINED IN SUBDIVI SION TWENTY-THREE OF SECTION TWO HUNDRED EIGHTY-TWO OF THIS CHAPTER to a person registered under article twelve-A of this chapter as a distribu tor of Diesel motor fuel other than (A) a retail sale to such person or (B) a sale to such person which involves a delivery at a filling station or into a repository which is equipped with a hose or other apparatus by which such qualified biodiesel can be dispensed into the fuel tank of a motor vehicle[~~. "Qualified biodiesel" means such term as defined in subdivision twenty-three of section two hundred eighty-two of this chap- ter~~]; OR (IV) THE SALE OF PREVIOUSLY UNTAXED HIGHWAY DIESEL MOTOR FUEL BY A PERSON REGISTERED UNDER ARTICLE TWELVE-A OF THIS CHAPTER AS A DISTRIBUTOR OF DIESEL MOTOR FUEL TO A PERSON REGISTERED UNDER SUCH ARTI CLE TWELVE-A AS A DISTRIBUTOR OF DIESEL MOTOR FUEL WHERE THE HIGHWAY DIESEL MOTOR FUEL IS EITHER: (A) BEING DELIVERED BY PIPELINE, RAILCAR, BARGE, TANKER OR OTHER VESSEL TO A TERMINAL, THE OPERATOR OF WHICH TERMINAL IS REGISTERED UNDER SECTION TWO HUNDRED EIGHTY-THREE-B OF THIS

CHAPTER, OR (B) WITHIN SUCH A TERMINAL WHERE IT HAS BEEN SO DELIVERED. PROVIDED, HOWEVER, THAT THE EXEMPTION SET FORTH IN THIS SUBPARAGRAPH SHALL NOT APPLY TO ANY HIGHWAY DIESEL MOTOR FUEL ONCE IT IS REMOVED FROM A TERMINAL, OTHER THAN BY PIPELINE, BARGE, TANKER OR OTHER VESSEL.

S 11.

Section 1812-c of the tax law, as added by chapter 276 of the laws of 1986, is amended to read as follows:

S 1812-c. Person not licensed as terminal operator. Any person who, while not licensed as such pursuant to the provisions of article twelve-A of this chapter, operates as a terminal operator as defined in subdivision thirteen of section two hundred eighty-two of this chapter, except where all of the motor fuel OR DIESEL MOTOR FUEL stored in the storage facility is solely for such person's own use and consumption, shall be guilty of a class E felony.

S 12. This act shall take effect August 1, 2013; provided, however, that the amendments made to paragraph 2 of subdivision (a) of section 1102 of the tax law made by section nine of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 19 of part W-1 of chapter 109 of the laws of 2006, as amended, when upon such date the provisions of section ten of this act shall take effect.

PART X

Section 1. Subdivision 3 of section 504 of the tax law, as amended by chapter 194 of the laws of 1963, is amended to read as follows:

3. [~~Owned and operated~~] (A) OPERATED by a farmer OR BY A PERSON THAT BEARS THE RELATIONSHIP TO SUCH FARMER DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION and used exclusively by such farmer OR SUCH PERSON in trans porting [~~his~~] SUCH FARMER'S own agricultural commodities and products, pulpwood or livestock, including the packed, processed, or manufactured products thereof, that were originally grown or raised on [~~his~~] SUCH FARMER'S farm, lands or orchard, or when used to transport supplies and equipment to [~~his~~] SUCH FARMER'S farm or orchard that are consumed and used thereon or when operated by [~~a~~] SUCH farmer OR SUCH PERSON in transporting farm products from a farm contiguous to [~~his own~~] SUCH FARMER'S FARM.

(B) THE RELATIONSHIP TO SUCH FARMER AS REFERENCED IN PARAGRAPH (A) OF THIS SUBDIVISION, SHALL INCLUDE:

(I) MEMBERS OF A FAMILY, INCLUDING SPOUSES, ANCESTORS, LINEAL DESCEND ANTS, BROTHERS AND SISTERS (WHETHER BY THE WHOLE OR HALF BLOOD), AND ENTITIES RELATED TO SUCH A FAMILY MEMBER AS DESCRIBED IN SUBPARAGRAPHS (II) THROUGH (IV) OF THIS PARAGRAPH;

(II) A SHAREHOLDER AND A CORPORATION MORE THAN FIFTY PERCENT OF THE VALUE OF THE OUTSTANDING STOCK OF WHICH IS OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY SUCH SHAREHOLDER;

(III) A PARTNER AND A PARTNERSHIP MORE THAN FIFTY PERCENT OF THE CAPI TAL OR PROFITS INTEREST IN WHICH IS OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY SUCH PARTNER;

(IV) A BENEFICIARY AND A TRUST MORE THAN FIFTY PERCENT OF THE BENEFI CIAL INTEREST IN WHICH IS OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY SUCH BENEFICIARY;

(V) TWO OR MORE CORPORATIONS, PARTNERSHIPS, ASSOCIATIONS, OR TRUSTS,

OR ANY COMBINATION THEREOF, WHICH ARE OWNED OR CONTROLLED, EITHER DIRECTLY OR INDIRECTLY, BY THE SAME PERSON, CORPORATION OR OTHER ENTITY, OR INTERESTS; AND
(VI) A GRANTOR OF A TRUST AND SUCH TRUST.

S 2. This act shall take effect on the first day of the first month next occurring 60 days after this act shall have become a law.
PART Y

Section 1. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 39 to read as follows:

(39) IN THE CASE OF A TAXPAYER WHO IS A SMALL BUSINESS WHO HAS BUSINESS INCOME AND/OR FARM INCOME AS DEFINED IN THE LAWS OF THE UNITED STATES, AN AMOUNT EQUAL TO THREE PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND THIRTEEN, AN AMOUNT EQUAL TO THREE AND THREE-QUARTERS PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN, AND AN AMOUNT EQUAL TO FIVE PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FIFTEEN. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM SMALL BUSINESS SHALL MEAN A SOLE PROPRIETOR OR A FARM BUSINESS WHO EMPLOYS ONE OR MORE PERSONS DURING THE TAXABLE YEAR AND WHO HAS NET BUSINESS INCOME OR NET FARM INCOME OF LESS THAN TWO HUNDRED FIFTY THOUSAND DOLLARS.

S 2. Subdivision (c) of section 11-1712 of the administrative code of the city of New York is amended by adding new paragraph 35 to read as follows:

(35) IN THE CASE OF A TAXPAYER WHO IS A SMALL BUSINESS WHO HAS BUSINESS INCOME AND/OR FARM INCOME AS DEFINED IN THE LAWS OF THE UNITED STATES, AN AMOUNT EQUAL TO THREE PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND THIRTEEN, AN AMOUNT EQUAL TO THREE AND THREE-QUARTERS PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGIN

NING AFTER TWO THOUSAND FOURTEEN, AND AN AMOUNT EQUAL TO FIVE PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FIFTEEN. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM SMALL BUSINESS SHALL MEAN A SOLE PROPRIETOR OR A FARM BUSINESS WHO EMPLOYS ONE OR MORE PERSONS DURING THE TAXABLE YEAR AND WHO HAS NET BUSINESS INCOME OR NET FARM INCOME OF LESS THAN TWO HUNDRED FIFTY THOUSAND DOLLARS.

S 3. This act shall take effect immediately.

PART Z

Section 1. Paragraph (a) of subdivision 1 of section 210 of the tax law is amended by adding a new subparagraph (vii) to read as follows:

(VII) FOR A QUALIFIED NEW YORK MANUFACTURER, AS DEFINED IN SUBPARAGRAPH (VI) OF THIS PARAGRAPH, THE RATE AT WHICH THE TAX IS COMPUTED IN EFFECT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN FOR QUALIFIED NEW YORK MANUFACTURERS SHALL BE REDUCED BY NINE AND TWO-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO

THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, TWELVE AND THREE-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, FIFTEEN AND FOUR-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, AND TWENTY-FIVE PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN.

S 2. Paragraph (b) of subdivision 1 of section 210 of the tax law is amended by adding a new subparagraph 3 to read as follows:

(3) FOR A QUALIFIED NEW YORK MANUFACTURER, AS DEFINED IN SUBPARAGRAPH TWO OF THIS PARAGRAPH, THE RATE AT WHICH THE TAX IS COMPUTED IN EFFECT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN SHALL BE REDUCED BY NINE AND TWO-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, TWELVE AND THREE-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, FIFTEEN AND FOUR-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, AND TWENTY-FIVE PERCENT

FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN.

S 3. Paragraph (c) of subdivision 1 of section 210 of the tax law is amended by adding a new subparagraph (iii) to read as follows:

(III) FOR A QUALIFIED NEW YORK MANUFACTURER, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF THIS SUBDIVISION, THE RATE AT WHICH THE TAX IS COMPUTED IN EFFECT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN FOR QUALIFIED NEW YORK MANUFACTURERS SHALL BE REDUCED BY NINE AND TWO-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, TWELVE AND THREE-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, FIFTEEN AND FOUR-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, AND TWENTY-FIVE PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN.

S 4. Paragraph (d) of subdivision 1 of section 210 of the tax law is amended by adding a new subparagraph 6 to read as follows:

(6) FOR A QUALIFIED NEW YORK MANUFACTURER, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF THIS SUBDIVISION, THE AMOUNTS PRESCRIBED IN SUBPARAGRAPHS ONE AND FOUR OF THIS PARAGRAPH IN EFFECT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN FOR QUALIFIED NEW YORK MANUFACTURERS SHALL BE REDUCED BY NINE AND TWO-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, TWELVE AND THREE-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, FIFTEEN AND FOUR-TENTHS PERCENT FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, AND TWENTY-FIVE PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN.

S 5. This act shall take effect immediately.

PART AA

Section 1.

Section 210 of the tax law is amended by adding a new subdivision 23-a to read as follows:

23-A. HIRE A VET CREDIT. (A) ALLOWANCE OF CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR HIRING AND EMPLOYING, FOR NOT LESS THAN ONE YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH WEEK, A QUALIFIED VETERAN WITHIN THE STATE. THE TAXPAYER MAY CLAIM THE CREDIT IN THE YEAR IN WHICH THE QUALIFIED VETERAN COMPLETES ONE YEAR OF EMPLOYMENT BY THE TAXPAYER. IF THE TAXPAYER CLAIMS THE CREDIT ALLOWED UNDER THIS SUBDIVI SION, THE TAXPAYER MAY NOT USE THE HIRING OF A QUALIFIED VETERAN THAT IS THE BASIS FOR THIS CREDIT IN THE BASIS OF ANY OTHER CREDIT ALLOWED UNDER THIS ARTICLE.

(B) QUALIFIED VETERAN. A QUALIFIED VETERAN IS AN INDIVIDUAL:

(1) WHO SERVED ON ACTIVE DUTY IN THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD OR THE RESERVES THEREOF, OR WHO SERVED IN ACTIVE MILITARY SERVICE OF THE UNITED STATES AS A MEMBER OF THE ARMY NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD OR NEW YORK NAVAL MILITIA; WHO WAS RELEASED FROM ACTIVE DUTY BY GENERAL OR HONORABLE DISCHARGE AFTER SEPTEMBER ELEVENTH, TWO THOUSAND ONE;

(2) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN; AND

(3) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS DURING ANY WEEK IN THE ONE HUNDRED EIGHTY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR HER EMPLOYMENT BY THE TAXPAYER.

(C) EMPLOYER PROHIBITION. AN EMPLOYER SHALL NOT DISCHARGE AN EMPLOYEE AND HIRE A QUALIFYING VETERAN SOLELY FOR THE PURPOSE OF QUALIFYING FOR THIS CREDIT.

(D) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. PROVIDED, HOWEVER, THAT, IF THE QUALIFIED VETERAN IS A DISABLED VETERAN, AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHTY-FIVE OF THE CIVIL SERVICE LAW, THE AMOUNT OF THE CREDIT SHALL BE FIFTEEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED IN ANY TAXABLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN AND FIFTEEN THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN WHO IS A DISABLED VETERAN.

(E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR

ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxv) to read as follows:

(XXXV) HIRE A VET CREDIT UNDER SUBSECTION (A-2) HUNDRED TEN OR SUBSECTION (E-1) AMOUNT OF CREDIT UNDER SUBDIVISION TWENTY-THREE-A OF SECTION TWO

OF SECTION FOURTEEN HUNDRED FIFTY-SIX

S 3.

Section 606 of the tax law is amended by adding a new subsection (a-2) to read as follows:

(A-2) HIRE A VET CREDIT. (1) ALLOWANCE OF CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR HIRING AND EMPLOYING, FOR NOT LESS THAN ONE YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH WEEK, A QUALIFIED VETERAN WITHIN THE STATE. THE TAXPAYER MAY CLAIM THE CREDIT IN THE YEAR IN WHICH THE QUALIFIED VETERAN COMPLETES ONE YEAR OF EMPLOYMENT BY THE TAXPAYER. IF THE TAXPAYER CLAIMS THE CREDIT ALLOWED UNDER THIS SUBSECTION, THE TAXPAYER MAY NOT USE THE HIRING OF A QUALIFIED VETERAN THAT IS THE BASIS FOR THIS CREDIT IN THE BASIS OF ANY OTHER CREDIT ALLOWED UNDER THIS ARTICLE.

(2) QUALIFIED VETERAN. A QUALIFIED VETERAN IS AN INDIVIDUAL:

(A) WHO SERVED ON ACTIVE DUTY IN THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD OR THE RESERVES THEREOF, OR WHO SERVED IN ACTIVE MILITARY SERVICE OF THE UNITED STATES AS A MEMBER OF THE ARMY NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD OR NEW YORK NAVAL MILITIA; WHO WAS RELEASED FROM ACTIVE DUTY BY GENERAL OR HONORABLE DISCHARGE AFTER SEPTEMBER ELEVENTH, TWO THOUSAND ONE;

(B) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN; AND

(C) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT

HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS DURING ANY WEEK IN THE ONE HUNDRED EIGHTY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR HER EMPLOYMENT BY THE TAXPAYER.

(3) EMPLOYER PROHIBITION. AN EMPLOYER SHALL NOT DISCHARGE AN EMPLOYEE AND HIRE A QUALIFYING VETERAN SOLELY FOR THE PURPOSE OF QUALIFYING FOR THIS CREDIT.

(4) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO HE QUALIFIED VETERAN DURING THE VETER AN'S FIRST FULL YEAR OF EMPLOYMENT. PROVIDED, HOWEVER, THAT, IF THE QUALIFIED VETERAN IS A DISABLED VETERAN, AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHTY-FIVE OF THE CIVIL SERVICE LAW, THE AMOUNT OF THE CREDIT SHALL BE FIFTEEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. THE CREDIT ALLOWED PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED IN ANY TAXABLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN AND FIFTEEN THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN WHO IS A DISABLED VETERAN.

(5) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 4.

Section 1456 of the tax law is amended by adding a new subsection (e-1) to read as follows:

(E-1) HIRE A VET CREDIT. (1) ALLOWANCE OF CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR HIRING AND EMPLOYING, FOR NOT LESS THAN ONE

YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH WEEK, A QUALIFIED VETERAN WITHIN THE STATE. THE TAXPAYER MAY CLAIM THE CREDIT IN THE YEAR IN WHICH THE QUALIFIED VETERAN COMPLETES ONE YEAR OF EMPLOYMENT BY THE TAXPAYER. IF THE TAXPAYER CLAIMS THE CREDIT ALLOWED UNDER THIS SUBSECTION, THE TAXPAYER MAY NOT USE THE HIRING OF A QUALIFIED VETERAN THAT IS THE BASIS FOR THIS CREDIT IN THE BASIS OF ANY OTHER CREDIT ALLOWED IN THIS ARTICLE.

(2) QUALIFIED VETERAN. A QUALIFIED VETERAN IS AN INDIVIDUAL:

(A) WHO SERVED ON ACTIVE DUTY IN THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD OR THE RESERVES THEREOF, OR WHO SERVED IN ACTIVE MILITARY SERVICE OF THE UNITED STATES AS A MEMBER OF THE ARMY

NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD OR NEW YORK NAVAL MILITIA; WHO WAS RELEASED FROM ACTIVE DUTY BY GENERAL OR HONORABLE DISCHARGE AFTER SEPTEMBER ELEVENTH, TWO THOUSAND ONE;

(B) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN; AND

(C) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS DURING ANY WEEK IN THE ONE HUNDRED EIGHTY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR HER EMPLOYMENT BY THE TAXPAYER.

(3) EMPLOYER PROHIBITION. AN EMPLOYER SHALL NOT DISCHARGE AN EMPLOYEE AND HIRE A QUALIFYING VETERAN SOLELY FOR THE PURPOSE OF QUALIFYING FOR THIS CREDIT.

(4) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. PROVIDED, HOWEVER, THAT, IF THE QUALIFIED VETERAN IS A DISABLED VETERAN, AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHTY-FIVE OF THE CIVIL SERVICE LAW, THE AMOUNT OF THE CREDIT SHALL BE FIFTEEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. THE CREDIT ALLOWED PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED IN ANY TAXABLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN AND FIFTEEN THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN WHO IS A DISABLED VETERAN.

(5) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXA BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR TEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED IT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 5.

Section 1511 of the tax law is amended by adding a new subdivi sion (g-1) to read as follows:

(G-1) HIRE A VET CREDIT. (1) ALLOWANCE OF CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR HIRING AND EMPLOYING, FOR NOT LESS THAN ONE YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH WEEK, A QUALIFIED VETERAN WITHIN THE STATE. THE TAXPAYER MAY CLAIM THE CREDIT IN THE YEAR IN WHICH THE QUALIFIED VETERAN COMPLETES ONE YEAR OF EMPLOYMENT BY THE TAXPAYER. IF THE TAXPAYER CLAIMS THE CREDIT ALLOWED UNDER THIS SUBDIVI SION, THE TAXPAYER MAY NOT USE THE HIRING OF A QUALIFIED VETERAN THAT IS

THE BASIS FOR THIS CREDIT IN THE BASIS OF ANY OTHER CREDIT ALLOWED UNDER THIS ARTICLE.

(2) QUALIFIED VETERAN. A QUALIFIED VETERAN IS AN INDIVIDUAL:

(A) WHO SERVED ON ACTIVE DUTY IN THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD OR THE RESERVES THEREOF, OR WHO SERVED IN ACTIVE MILITARY SERVICE OF THE UNITED STATES AS A MEMBER OF THE ARMY NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD OR NEW YORK NAVAL MILITIA; WHO WAS RELEASED FROM ACTIVE DUTY BY GENERAL OR HONORABLE DISCHARGE AFTER SEPTEMBER ELEVENTH, TWO THOUSAND ONE;

(B) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN; AND

(C) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS DURING ANY WEEK IN THE ONE HUNDRED EIGHTY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR HER EMPLOYMENT BY THE TAXPAYER.

(3) EMPLOYER PROHIBITION. AN EMPLOYER SHALL NOT DISCHARGE AN EMPLOYEE AND HIRE A QUALIFYING VETERAN SOLELY FOR THE PURPOSE OF QUALIFYING FOR THIS CREDIT.

(4) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. PROVIDED, HOWEVER, THAT, IF THE QUALIFIED VETERAN IS A DISABLED VETERAN, AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHTY-FIVE OF THE CIVIL SERVICE LAW, THE AMOUNT OF THE CREDIT SHALL BE FIFTEEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED IN ANY TAXABLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN AND FIFTEEN THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN WHO IS A DISABLED VETERAN.

(5) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OF THIS ARTICLE OR THE MINIMUM TAX PRESCRIBED IN SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE, WHICHEVER IS APPLICABLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 6. This act shall take effect immediately.

PART BB

Section 1. Paragraphs (a) and (b) of subdivision 6 of section 18-a of the public service law, as added by section 4 of part NN of chapter 59 of the laws of 2009, are amended to read as follows:

(a) Notwithstanding any provision of law to the contrary, and subject to the exceptions provided for in paragraph (b) of this subdivision, for the state fiscal year beginning on April first, two thousand nine and [~~four~~] EIGHT state fiscal years thereafter, a temporary annual assess ment (hereinafter "temporary state energy and utility service conserva tion assessment") is hereby imposed on public utility companies (includ ing for the purposes of this subdivision municipalities other than municipalities as defined in section eighty-nine-l of this chapter), corporations (including for purposes of this subdivision the Long Island

power authority), and persons subject to the commission's regulation (hereinafter such public utility companies, corporations, and persons are referred to collectively as the "utility entities") to encourage the conservation of energy and other resources provided through utility entities, to be assessed in the manner provided in this subdivision; provided, however, that such assessment shall not be imposed upon tele phone corporations as defined in subdivision seventeen of section two of this article.

(b) The temporary state energy and utility service conservation assessment shall be [~~equal to two~~] BASED UPON THE FOLLOWING percentum of the utility entity's gross operating revenues derived from intrastate utility operations in the last preceding calendar year, minus the amount, if any, that such utility entity is assessed pursuant to subdi visions one and two of this section for the corresponding state fiscal year period: (1) TWO PERCENTUM FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND THIRTEEN AND THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND FOURTEEN; (2) ONE AND THREE-QUARTERS PERCENTUM FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND FIFTEEN; AND (3) ONE AND ONE-HALF PERCENTUM FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND SIXTEEN. WITH RESPECT TO THE TEMPORARY STATE ENERGY AND UTILITY SERVICE CONSERVATION ASSESSMENT TO BE PAID FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND SEVENTEEN AND NOTWITH STANDING CLAUSE (I) OF PARAGRAPH (D) OF THIS SUBDIVISION, ON OR BEFORE MARCH TENTH, TWO THOUSAND SEVENTEEN, UTILITY ENTITIES SHALL MAKE A PAYMENT EQUAL TO ONE-HALF OF THE ASSESSMENT PAID BY SUCH ENTITIES PURSU ANT TO THIS PARAGRAPH FOR THE STATE FISCAL YEAR BEGINNING ON APRIL FIRST, TWO THOUSAND SIXTEEN. With respect to the Long Island power authority, the temporary state energy and utility service conservation assessment shall be [~~equal to one~~] BASED UPON THE FOLLOWING percentum of such authority's gross operating revenues derived from intrastate utili ty operations in the last preceding calendar year: (1) ONE PERCENTUM FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND THIRTEEN AND

THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND FOURTEEN; (2) THREE-QUARTERS OF ONE PERCENTUM FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND FIFTEEN; AND (3) ONE-HALF PERCENTUM FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND SIXTEEN. WITH RESPECT TO THE TEMPORARY STATE ENERGY AND UTILITY SERVICE CONSERVATION ASSESSMENT TO BE PAID FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND SEVENTEEN AND NOTWITHSTANDING CLAUSE (I) OF PARAGRAPH (D) OF THIS SUBDIVISION, ON OR BEFORE MARCH TENTH, TWO THOUSAND SEVENTEEN, THE LONG ISLAND POWER AUTHORITY SHALL MAKE A PAYMENT EQUAL TO ONE-HALF OF THE ASSESSMENT IT PAID FOR THE STATE FISCAL YEAR BEGINNING ON APRIL FIRST, TWO THOUSAND SIXTEEN. No corporation or person subject to the jurisdiction of the commission only with respect to safety, or the power authority of the state of New York, shall be subject to the temporary state energy and utility service conservation assessment provided for under this subdivision. Utility entities whose gross operating revenues from intrastate utility operations are five hundred thousand dollars or less in the preceding calendar year shall not be subject to the tempo rary state energy and utility service conservation assessment. The mini mum temporary state energy and utility service conservation assessment to be billed to any utility entity whose gross revenues from intrastate utility operations are in excess of five hundred thousand dollars in the preceding calendar year shall be two hundred dollars.

S 2.

Section 6 of part NN of chapter 59 of the laws of 2009, amending the public service law relating to financing the operations of the

department of public service, the public service commission, department support and energy management services provided by other state agencies, increasing the utility assessment cap and the minimum threshold for collection thereunder, and establishing a temporary state energy and utility service conservation assessment and providing for the collection thereof, is amended to read as follows:

S 6. This act shall take effect immediately; provided, however, that subdivision 6 of section 18-a of the public service law, as added by section four of this act shall take effect April 1, 2009 and shall expire and be deemed repealed March 31, [~~2014~~] 2017; [~~and~~] provided, [~~further,~~] that if section four of this act shall become law after April 1, 2009, it shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009; AND PROVIDED, FURTHER, THAT THE PROVISIONS OF SUBDIVISION 6 OF SECTION 18-A OF THE PUBLIC SERVICE LAW SHALL CONTINUE IN EFFECT WITH REGARD TO ALL SUCH

ASSESSMENTS INCURRED PRIOR TO REPEAL OF THIS SECTION.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2013; provided, however, that the amendments to subdivision 6 of section 18-a of the public service law made by section one of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith.

PART CC

Section 1.

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

(VV) FAMILY TAX RELIEF CREDIT. 1. AN INDIVIDUAL TAXPAYER WHO MEETS THE ELIGIBILITY STANDARDS IN PARAGRAPH TWO OF THIS SUBSECTION SHALL BE ALLOWED A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE OF THREE HUNDRED FIFTY DOLLARS PER RETURN FOR TAX YEARS TWO THOUSAND FOURTEEN, TWO THOUSAND FIFTEEN, AND TWO THOUSAND SIXTEEN.

2. TO BE ELIGIBLE FOR THE CREDIT, THE TAXPAYER (OR TAXPAYERS FILING JOINT RETURNS) ON THE PERSONAL INCOME TAX RETURN FILED FOR THE TAXABLE YEAR TWO YEARS PRIOR, MUST HAVE (A) BEEN A RESIDENT, (B) CLAIMED ONE OR MORE DEPENDENT CHILDREN WHO WERE UNDER THE AGE OF SEVENTEEN ON THE LAST DAY OF THE TAXABLE YEAR, (C) HAD NEW YORK ADJUSTED GROSS INCOME OF AT LEAST FORTY THOUSAND DOLLARS BUT NO GREATER THAN THREE HUNDRED THOUSAND DOLLARS, AND (D) HAD A TAX LIABILITY AS DETERMINED UNDER PARAGRAPH THREE OF THIS SUBSECTION OF GREATER THAN OR EQUAL TO ZERO.

3. FOR PURPOSES OF THIS SUBSECTION, TAX LIABILITY SHALL BE DETERMINED BY APPLYING THE TAX RATE CALCULATIONS IN SECTIONS SIX HUNDRED ONE AND SIX HUNDRED ONE-A OF THIS PART TO THE TAXPAYER'S TAXABLE INCOME AND THEN SUBTRACTING FROM THAT AMOUNT ANY OTHER TAX CREDITS ALLOWED UNDER THIS SECTION OR SECTION SIX HUNDRED TWENTY OF THIS ARTICLE.

4. FOR EACH YEAR THIS CREDIT IS ALLOWED, ON OR BEFORE OCTOBER FIFTEENTH OF SUCH YEAR, THE COMMISSIONER SHALL DETERMINE THE TAXPAYER'S ELIGIBILITY FOR THIS CREDIT UTILIZING THE INFORMATION AVAILABLE TO THE COMMISSIONER ON THE TAXPAYER'S PERSONAL INCOME TAX RETURN FILED FOR THE TAXABLE YEAR TWO YEARS PRIOR TO THE TAXABLE YEAR IN WHICH THE CREDIT IS ALLOWED. FOR THOSE TAXPAYERS WHOM THE COMMISSIONER HAS DETERMINED ELIGI BLE FOR THIS CREDIT, THE COMMISSIONER SHALL ADVANCE A PAYMENT OF THREE HUNDRED FIFTY DOLLARS. WHEN A TAXPAYER FILES HIS OR HER RETURN FOR THE TAXABLE YEAR, SUCH TAXPAYER SHALL PROPERLY RECONCILE THAT PAYMENT ON HIS OR HER RETURN.

5. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION SHALL EXCEED THE TAXPAYER'S TAX FOR THE TAXABLE YEAR, THE EXCESS SHALL BE

TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORD ANCE WITH THE PROVISIONS OF SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 2. This act shall take effect immediately.

PART DD

Section 1. Subdivision (b) of section 25-a of the labor law, as added by section 1 of part D of chapter 56 of the laws of 2011, is amended to read as follows:

(b) Definitions. (1) The term "qualified employer" means an employer that has been certified by the commissioner to participate in the New York youth works tax credit program and that employs one or more quali fied employees.

(2) The term "qualified employee" means an individual:

(i) who is between the age of sixteen and twenty-four;

(ii) who resides in a city with a population of [~~sixty-two~~] FIFTY-FIVE thousand or more or a town with a population of four hundred eighty thousand or more;

(iii) who is low-income or at-risk, as those terms are defined by the commissioner;

(iv) who is unemployed prior to being hired by the qualified employer; and

(v) who will be working for the qualified employer in a full-time or part-time position that pays wages that are equivalent to the wages paid for similar jobs, with appropriate adjustments for experience and train ing, and for which no other employee has been terminated, or where the employer has not otherwise reduced its workforce by involuntary termi nations with the intention of filling the vacancy by creating a new hire.

S 2. Subdivisions (a) and (d) of section 25-a of the labor law, subdi vision (a) as added by section 1 of part D of chapter 56 of the laws of 2011 and subdivision (d) as amended by section 1 of part T of chapter 59 of the laws of 2012, are amended to read as follows:

(a) The commissioner is authorized to establish and administer the New York youth works tax credit program to provide tax incentives to employ ers for employing at risk youth in part-time and full-time positions [~~in~~]. THERE WILL BE FIVE DISTINCT POOLS OF TAX INCENTIVES. PROGRAM ONE WILL COVER TAX INCENTIVES ALLOCATED FOR two thousand twelve and two thousand thirteen. PROGRAM TWO WILL COVER TAX INCENTIVES ALLOCATED IN TWO THOUSAND FOURTEEN TO BE USED IN TWO THOUSAND FOURTEEN AND FIFTEEN. PROGRAM THREE WILL COVER TAX INCENTIVES ALLOCATED IN TWO THOUSAND

FIFTEEN TO BE USED IN TWO THOUSAND FIFTEEN AND SIXTEEN. PROGRAM FOUR WILL COVER TAX INCENTIVES ALLOCATED IN TWO THOUSAND SIXTEEN TO BE USED IN TWO THOUSAND SIXTEEN AND SEVENTEEN. PROGRAM FIVE WILL COVER TAX INCENTIVES ALLOCATED IN TWO THOUSAND SEVENTEEN TO BE USED IN TWO THOU SAND SEVENTEEN AND EIGHTEEN. The commissioner is authorized to allocate up to twenty-five million dollars of tax credits under [~~this~~] program ONE, SIX MILLION DOLLARS OF TAX CREDITS UNDER PROGRAM TWO, SIX MILLION DOLLARS OF TAX CREDITS UNDER PROGRAM THREE, AND SIX MILLION DOLLARS OF TAX CREDITS UNDER PROGRAM FOUR, AND SIX MILLION DOLLARS OF TAX CREDITS UNDER PROGRAM FIVE.

(d) To participate in the New York youth works tax credit program, an employer must submit an application (in a form prescribed by the commis sioner) to the commissioner after January first, two thousand twelve but no later than November thirtieth, two thousand twelve FOR PROGRAM ONE,

AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN BUT NO LATER THAN NOVEMBER THIRTIETH, TWO THOUSAND FOURTEEN FOR PROGRAM TWO, AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN BUT NO LATER THAN NOVEMBER THIRTIETH, TWO THOUSAND FIFTEEN FOR PROGRAM THREE, AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN BUT NO LATER THAN NOVEMBER THIRTIETH, TWO THOUSAND SIXTEEN FOR PROGRAM FOUR, AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN BUT NO LATER THAN NOVEM BER THIRTIETH, TWO THOUSAND SEVENTEEN FOR PROGRAM FIVE. The qualified employees must start their employment on or after January first, two thousand twelve but no later than December thirty-first, two thousand twelve FOR PROGRAM ONE, ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN BUT NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN FOR PROGRAM TWO, ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN BUT NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN FOR PROGRAM THREE, ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN BUT NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN FOR PROGRAM FOUR, AND ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN BUT NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN FOR PROGRAM FIVE. The commissioner shall establish guidelines and criteria that specify requirements for employers to participate in the program including criteria for certify ing qualified employees. Any regulations that the commissioner deter mines are necessary may be adopted on an emergency basis notwithstanding anything to the contrary in section two hundred two of the state admin istrative procedure act. Such requirements may include the types of industries that the employers are engaged in. The commissioner may give preference to employers that are engaged in demand occupations or indus tries, or in regional growth sectors, including those identified by the regional economic development councils, such as clean energy, health care, advanced manufacturing and conservation. In addition, the commis sioner shall give preference to employers who offer advancement and employee benefit packages to the qualified individuals.

S 3. This act shall take effect immediately.

PART EE

Section 1. The tax law is amended by adding a new section 38 to read as follows:

S 38. MINIMUM WAGE REIMBURSEMENT CREDIT. (A) A TAXPAYER THAT IS AN ELIGIBLE EMPLOYER OR AN OWNER OF AN ELIGIBLE EMPLOYER AS DEFINED IN SUBDIVISION (B) OF THIS SECTION SHALL BE ELIGIBLE FOR A CREDIT AGAINST THE TAX IMPOSED UNDER ARTICLE NINE, NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS ARTICLE, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (E) OF THIS SECTION.

(B) AN ELIGIBLE EMPLOYER IS A CORPORATION (INCLUDING A NEW YORK S CORPORATION), A SOLE PROPRIETORSHIP, A LIMITED LIABILITY COMPANY OR A PARTNERSHIP. AN ELIGIBLE EMPLOYEE IS AN INDIVIDUAL WHO IS (I) EMPLOYED BY AN ELIGIBLE EMPLOYER IN NEW YORK STATE, (II) PAID AT THE MINIMUM WAGE RATE AS DEFINED IN ARTICLE NINETEEN OF THE LABOR LAW DURING THE TAXABLE YEAR BY THE ELIGIBLE EMPLOYER, (III) BETWEEN THE AGES OF SIXTEEN AND NINETEEN DURING THE PERIOD IN WHICH HE OR SHE IS PAID AT SUCH MINIMUM WAGE RATE BY THE ELIGIBLE EMPLOYER, AND (IV) A STUDENT DURING THE PERIOD IN WHICH HE OR SHE IS PAID AT SUCH MINIMUM WAGE RATE BY THE TAXPAYER.

(C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU SAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE EQUAL TO THE PRODUCT OF THE TOTAL NUMBER OF HOURS WORKED DURING THE TAXABLE YEAR BY ELIGIBLE EMPLOYEES FOR WHICH THEY WERE PAID AT THE MINIMUM WAGE RATE AS DEFINED

IN ARTICLE NINETEEN OF THE LABOR LAW AND SEVENTY FIVE CENTS. FOR TAXA BLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE EQUAL TO THE PRODUCT OF THE TOTAL NUMBER OF HOURS DURING THE TAXABLE YEAR WORKED BY ELIGIBLE EMPLOYEES FOR WHICH THEY WERE PAID AT SUCH MINIMUM WAGE RATE AND ONE DOLLAR AND THIR TY-ONE CENTS. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND NINETEEN, THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE EQUAL TO THE PRODUCT OF THE TOTAL NUMBER OF HOURS DURING THE TAXABLE YEAR WORKED BY ELIGIBLE EMPLOYEES FOR WHICH THEY WERE PAID AT SUCH MINIMUM WAGE RATE AND ONE DOLLAR AND THIRTY-FIVE CENTS. PROVIDED, HOWEVER, IF THE FEDERAL MINIMUM WAGE ESTABLISHED BY FEDERAL LAW PURSUANT TO 29 U.S.C. SECTION 206 OR ITS SUCCESSORS IS INCREASED ABOVE EIGHTY-FIVE PERCENT OF THE MINIMUM WAGE IN ARTICLE NINETEEN OF THE LABOR LAW, THE DOLLAR AMOUNTS IN THIS SUBDIVISION SHALL BE REDUCED TO THE DIFFERENCE BETWEEN THE MINIMUM WAGE IN ARTICLE NINETEEN OF THE LABOR LAW AND THE FEDERAL MINIMUM WAGE.

SUCH REDUCTION WOULD TAKE EFFECT ON THE DATE THAT EMPLOYERS ARE REQUIRED TO PAY SUCH FEDERAL MINIMUM WAGE.

(D) EMPLOYER PROHIBITION. AN EMPLOYER SHALL NOT DISCHARGE AN EMPLOYEE AND HIRE AN ELIGIBLE EMPLOYEE SOLELY FOR THE PURPOSE OF QUALIFYING FOR THIS CREDIT. AN ELIGIBLE EMPLOYEE WHO IS USED AS THE BASIS FOR THIS CREDIT MAY NOT BE USED AS THE BASIS OF ANY OTHER CREDIT ALLOWED UNDER THIS CHAPTER.

(E) CROSS REFERENCES: FOR APPLICATION OF THE CREDIT PROVIDED IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9: SECTION 187-S.
(2) ARTICLE 9-A: SECTION 210, SUBDIVISION 46.
(3) ARTICLE 22: SECTION 606, SUBSECTION (AAA).
(4) ARTICLE 32: SECTION 1456, SUBSECTION (Z).
(5) ARTICLE 33: SECTION 1511, SUBDIVISION (CC).

S 2. The tax law is amended by adding a new section 187-s to read as follows:

S 187-S MINIMUM WAGE REIMBURSEMENT CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-EIGHT OF THIS CHAPTER AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX PRESCRIBED IN SUBDIVISION TWO OF SECTION ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORD ANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

S 3.

Section 210 of the tax law is amended by adding a new subdivision 46 to read as follows:

46. MINIMUM WAGE REIMBURSEMENT CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-EIGHT OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION

FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS

THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CRED IT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVER PAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHT Y-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THERE ON.

S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxv) to read as follows:

(XXXV) MINIMUM WAGE REIMBURSEMENT CREDIT UNDER SUBSECTION (AAA) OF SECTION FOURTEEN HUNDRED FIFTY-SIX	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-SIX OF SECTION TWO HUNDRED TEN OR SUBSECTION (Z)

S 5.

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

(AAA) MINIMUM WAGE REIMBURSEMENT CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-EIGHT OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.
(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST WILL BE PAID THEREON.

S 6.

Section 1456 of the tax law is amended by adding a new subsection (z) to read as follows:

(Z) MINIMUM WAGE REIMBURSEMENT CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED UNDER

SECTION THIRTY-EIGHT OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL NOT, IN THE AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT OF SUCH CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, THEN ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 7.

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

(CC) MINIMUM WAGE REIMBURSEMENT CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED UNDER SECTION THIRTY-EIGHT OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OF THIS ARTICLE OR BY SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE, WHICHEVER IS APPLICABLE. HOWEVER, IF THE

AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, THEN ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 8. This act shall take effect immediately.

PART FF

Section 1. Paragraph 1 of subsection (a) of section 601 of the tax law as added by section 1 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

(1) (A) For taxable years beginning after two thousand eleven and before two thousand [~~fifteen~~] EIGHTEEN:

If the New York taxable income is:	The tax is:
Not over $16,000	4% of taxable income
Over $16,000 but not over $22,000	$640 plus 4.5% of excess over $16,000
Over $22,000 but not over $26,000	$910 plus 5.25% of excess over $22,000
Over $26,000 but not over $40,000	$1,120 plus 5.90% of excess over $26,000
Over $40,000 but not over $150,000	$1,946 plus 6.45% of excess over $40,000
Over $150,000 but not over $300,000	$9,041 plus 6.65% of excess over $150,000
Over $300,000 but not over $2,000,000	$19,016 plus 6.85% of excess over $300,000
Over $2,000,000	$135,466 plus 8.82% of excess over $2,000,000

(B) For taxable years beginning after two thousand [~~fourteen~~] SEVEN TEEN, the following brackets and dollar amounts shall apply, as adjusted by the cost of living adjustment prescribed in section six hundred one-a of this part for tax years two thousand thirteen [~~and two thousand four-teen~~] THROUGH TWO THOUSAND SEVENTEEN:

If the New York taxable income is:	The tax is:
Not over $16,000	4% of taxable income
Over $16,000 but not over $22,000	$640 plus 4.5% of excess over $16,000
Over $22,000 but not over $26,000	$910 plus 5.25% of excess over $22,000
Over $26,000 but not over $40,000	$1,120 plus 5.90% of excess over $26,000
Over $40,000	$1,946 plus 6.85% of excess over $40,000

S 2. Paragraph 1 of subsection (b) of section 601 of the tax law as added by section 3 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

(1) (A) For taxable years beginning after two thousand eleven and before two thousand [~~fifteen~~] EIGHTEEN:

If the New York taxable income is:	The tax is:
Not over $12,000	4% of taxable income
Over $12,000 but not over $16,500	$480 plus 4.5% of excess over $12,000
Over $16,500 but not over $19,500	$683 plus 5.25% of excess over $16,500
Over $19,500 but not over $30,000	$840 plus 5.90% of excess over $19,500
Over $30,000 but not over $100,000	$1,460 plus 6.45% of excess over $30,000
Over $100,000 but not over $250,000	$5,975 plus 6.65% of excess over $100,000
Over $250,000 but not over $1,500,000	$15,950 plus 6.85% of excess over $250,000
Over $1,500,000	$101,575 plus 8.82% of excess over $1,500,000

(B) For taxable years beginning after two thousand [~~fourteen~~] SEVEN TEEN, the following brackets and dollars amounts shall apply, as adjusted by the cost of living adjustment prescribed in section six hundred one-a of this part for tax years two thousand thirteen [~~and two thousand fourteen~~] THROUGH TWO THOUSAND SEVENTEEN:

If the New York taxable income is:	The tax is:
Not over $12,000	4% of taxable income
Over $12,000 but not over $16,500	$480 plus 4.5% of excess over $12,000
Over $16,500 but not over $19,500	$683 plus 5.25% of excess over $16,500
Over $19,500 but not over $30,000	$840 plus 5.90% of excess over $19,500
Over $30,000	$1,460 plus 6.85% of excess over $30,000

S 3. Paragraph 1 of subsection (c) of section 601 of the tax law as added by section 5 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

(1) (A) For taxable years beginning after two thousand eleven and before two thousand [~~fifteen~~] EIGHTEEN:

If the New York taxable income is:	The tax is:
Not over $8,000	4% of taxable income
Over $8,000 but not over $11,000	$320 plus 4.5% of excess over $8,000
Over $11,000 but not over $13,000	$455 plus 5.25% of excess over

$11,000
Over $13,000 but not over $20,000 $560 plus 5.90% of excess over $13,000
Over $20,000 but not over $75,000 $973 plus 6.45% of excess over $20,000
Over $75,000 but not over $200,000 $4,521 plus 6.65% of excess over $75,000
Over $200,000 but not over $1,000,000 $12,833 plus 6.85% of excess over $200,000
Over $1,000,000 $67,633 plus 8.82% of excess over $1,000,000

(B) For taxable years beginning after two thousand [~~fourteen~~] SEVEN TEEN, the following brackets and dollars amounts shall apply, as adjusted by the cost of living adjustment prescribed in section six hundred one-a of this part for tax years two thousand thirteen [~~and two thousand fourteen~~] THROUGH TWO THOUSAND SEVENTEEN:

If the New York taxable income is: The tax is:

Not over $8,000 4% of taxable income
Over $8,000 but not over $11,000 $320 plus 4.5% of excess over $8,000
Over $11,000 but not over $13,000 $455 plus 5.25% of excess over $11,000
Over $13,000 but not over $20,000 $560 plus 5.90% of excess over $13,000
Over $20,000 $973 plus 6.85% of excess over $20,000

S 4. The opening paragraph of subsection (d-1) of section 601 of the tax law as added by section 7 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

Alternative tax table benefit recapture. Notwithstanding the provisions of subsection (d) of this section, for taxable years begin ning after two thousand eleven and before two thousand [~~fifteen~~] EIGH TEEN, there is hereby imposed a supplemental tax in addition to the tax imposed under subsections (a), (b) and (c) of this section for the purpose of recapturing the benefit of the tax tables contained in such subsections. During these taxable years, any reference in this chapter to subsection (d) of this section shall be read as a reference to this subsection.

S 5. Subparagraph (D) of paragraph 1 of subsection (d-1) of section

601 of the tax law, as added by section 7 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (C) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over two million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thou sand [~~fifteen~~] EIGHTEEN.

S 6. Subparagraph (C) of paragraph 2 of subsection (d-1) of section 601 of the tax law, as added by section 7 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (b) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable

to the taxable year in paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million five hundred thousand dollars and the denominator is fifty thou sand dollars. This subparagraph shall apply only to taxable years begin ning on or after January first, two thousand twelve and before January first, two thousand [~~fifteen~~] EIGHTEEN.

S 7. Subparagraph (C) of paragraph 3 of subsection (d-1) of section 601 of the tax law, as added by section 7 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (b) of this section not subject to the 8.82 percent rate of tax for the

taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million five hundred thousand dollars and the denominator is fifty thou sand dollars. This subparagraph shall apply only to taxable years begin ning on or after January first, two thousand twelve and before January first, two thousand [~~fifteen~~] EIGHTEEN.

S 8. The opening paragraph of subsection (d-2) of section 601 of the tax law, as added by section 8 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

Tax table benefit recapture for tax years after two thousand [~~four- teen~~] SEVENTEEN. For taxable years beginning after two thousand [~~four- teen~~] SEVENTEEN, there is hereby imposed a supplemental tax in addition to the tax imposed under subsections (a), (b) and (c) of this section for the purpose of recapturing the benefit of the tax tables contained in such subsections. The supplemental tax shall be an amount equal to the table benefit in paragraph one of this subsection multiplied by the fraction in such paragraph. [~~Any~~] DURING THESE TAXABLE YEARS, ANY refer ence in this chapter to subsection (d) of this section shall be read as a reference to this subsection.

S 9. Subparagraph (B) of paragraph 1 of subsection (d-2) of section 601 of the tax law, as added by section 8 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

(B) The fraction is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one hundred thousand dollars (as such amount is adjusted by the cost of living adjustment prescribed in section six hundred one-a of this part for tax years two thousand thir teen [~~and~~] THROUGH two thousand [~~fourteen~~] SEVENTEEN) and the denomina tor is fifty thousand dollars.

S 10. Subsection (a) of section 601-a of the tax law, as added by section 9 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

(a) For tax year two thousand thirteen, the commissioner, not later than September first, two thousand twelve, shall multiply the amounts specified in subsection (b) of this section for tax year two thousand

twelve by one plus the cost of living adjustment described in subsection

(c) of this section. For tax year two thousand fourteen, the commissioner, not later than September first, two thousand thirteen, shall multiply the amounts specified in subsection (b) of this section for tax year two thousand thirteen by one plus the cost of living adjustment. FOR EACH SUCCEEDING TAX YEAR AFTER TAX YEAR TWO THOUSAND FOURTEEN AND BEFORE TAX YEAR TWO THOUSAND EIGHTEEN, THE COMMISSIONER, NOT LATER THAN SEPTEMBER FIRST OF SUCH TAX YEAR, SHALL MULTIPLY THE AMOUNTS SPECIFIED IN SUBSECTION (B) OF THIS SECTION FOR SUCH TAX YEAR BY ONE PLUS THE COST OF LIVING ADJUSTMENT DESCRIBED IN SUBSECTION (C) OF THIS SECTION FOR SUCH TAX YEAR.

S 11. Subsection (f) of section 614 of the tax law, as added by section 10 of part A of chapter 56 of the laws of 2011, is amended to read as follows:

(f) Adjusted standard deduction. For taxable years beginning after two thousand [~~fourteen~~] SEVENTEEN, the standard deductions set forth in this section shall be THE AMOUNTS SET FORTH IN THIS SECTION adjusted by the cost of living adjustment prescribed in section six hundred one-a of this part for tax years two thousand thirteen [~~and two thousand fourteen~~] THROUGH TWO THOUSAND SEVENTEEN.

S 12.

Section 11 of part A of chapter 56 of the laws of 2011 is amended to read as follows:

S 11. Notwithstanding any provision of law to the contrary, the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 22 of the tax law in connection with the implementation of the provisions of this act shall be prescribed by regulations of the commissioner of taxation and finance with due consideration to the effect such withholding tables and methods would have on the receipt and amount of revenue. The commissioner of taxation and finance shall adjust such withholding tables and methods in regard to taxable years beginning in 2012 and after in such manner as to result, so far as practicable, in withholding from an employee's wages an amount substantially equivalent to the tax reasonably estimated to be due for such taxable years as a result of the provisions of this act. Any such regulations to implement a change in withholding tables and methods for tax year 2012 shall be adopted and

effective as soon as practicable and the commissioner of taxation and finance may adopt such regulations on an emergency basis notwithstanding anything to the contrary in section 202 of the state administrative procedure act. The commissioner of taxation and finance, in carrying out the duties and responsibilities under this section, may accompany such a rule making procedure with a similar procedure with respect to the taxes required to be deducted and withheld by local laws imposing taxes pursu ant to the authority of articles 30, 30-A and 30-B of the tax law, the provisions of any other law in relation to such a procedure to the contrary notwithstanding. The withholding tables and methods for tax years 2013 [~~and 2014~~] THROUGH 2017 shall not be prescribed by regu lation, notwithstanding any provision of the state administrative proce dure act to the contrary.

S 13.

Section 11-1714 of the administrative code of the city of New York is amended by adding a new subdivision (f) to read as follows:

(F) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU SAND THIRTEEN, THE AMOUNTS OF STANDARD DEDUCTIONS SET FORTH IN THIS SECTION SHALL BE ADJUSTED IN THE SAME MANNER AS THE AMOUNTS OF STANDARD DEDUCTIONS SET FORTH IN SECTION SIX HUNDRED FOURTEEN OF THE TAX LAW.

S 14. This act shall take effect immediately.

S. 2609--D 96 A. 3009--D

PART GG

Section 1. The tax law is amended by adding a new section 630-c to read as follows:

S 630-C. GIFT FOR NEW YORK STATE TEEN HEALTH EDUCATION FUND. AN INDI VIDUAL IN ANY TAXABLE YEAR MAY ELECT TO CONTRIBUTE TO THE TEEN HEALTH EDUCATION FUND FOR EDUCATIONAL PROGRAMS IN SCHOOLS RELATED TO HEALTH. THE CONTRIBUTION SHALL BE IN ANY WHOLE DOLLAR AMOUNT AND SHALL NOT REDUCE THE AMOUNT OF STATE TAX OWED BY SUCH INDIVIDUAL. THE COMMISSIONER SHALL INCLUDE SPACE ON THE PERSONAL INCOME TAX RETURN TO ENABLE A TAXPAYER TO MAKE SUCH CONTRIBUTION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW ALL REVENUES COLLECTED PURSUANT TO THIS SECTION SHALL BE CREDITED TO THE NEW YORK STATE TEEN HEALTH EDUCATION FUND AND USED ONLY FOR THOSE PURPOSES ENUMERATED IN SECTION NINETY-NINE-U OF THE STATE FINANCE LAW.

S 2. The state finance law is amended by adding a new section 99-u to read as follows:

S 99-U. NEW YORK STATE TEEN HEALTH EDUCATION FUND. 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL ACCOUNT TO BE KNOWN AS THE "NEW YORK STATE TEEN HEALTH EDUCATION FUND".

2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE DEPARTMENT OF TAXATION AND FINANCE, PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED THIRTY-C OF THE TAX LAW AND ALL OTHER MONEYS APPROPRIATED THERE TO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW.

3. THE MONEYS IN SAID ACCOUNT SHALL BE RETAINED BY THE FUND AND SHALL BE RELEASED BY THE COMMISSIONER OF TAXATION AND FINANCE ONLY UPON CERTIFICATES SIGNED BY THE COMMISSIONER OF EDUCATION OR HIS OR HER DESIGNEE AND ONLY FOR THE PURPOSES SET FORTH IN THIS SECTION.

4. THE MONEYS IN SUCH FUND SHALL BE EXPENDED FOR THE PURPOSE OF SUPPLEMENTING EDUCATIONAL PROGRAMS IN SCHOOLS FOR HEALTH AND AWARENESS OF ISSUES FACING TEENS TODAY WHEN IT COMES TO THEIR HEALTH. ELIGIBLE HEALTH PROGRAMS ARE THOSE WITH AN ESTABLISHED CURRICULUM PROVIDING INSTRUCTION ON ALCOHOL, TOBACCO AND OTHER DRUG ABUSE PREVENTION, THE CAUSES AND PROBLEMS ASSOCIATED WITH TEEN OBESITY, AND FOR AWARENESS OF THE SYMPTOMS OF TEEN ENDOMETRIOSIS.

S 3. This act shall take effect immediately.

PART HH

Section 1. Subdivision 11 of section 213 of the state finance law is amended by adding a new paragraph (g) to read as follows:

(G) A QUALIFYING TECHNOLOGY OR INNOVATION BUSINESS WHICH BUSINESS EMPLOYS ONE HUNDRED OR FEWER EMPLOYEES WITHIN THE STATE ON A FULL-TIME BASIS AND ENGAGES IN:

(1) BIOTECHNOLOGIES, WHICH SHALL BE DEFINED AS TECHNOLOGIES INVOLVING THE SCIENTIFIC MANIPULATION OF LIVING ORGANISMS, ESPECIALLY AT THE MOLECULAR AND/OR THE SUB-MOLECULAR GENETIC LEVEL, TO PRODUCE PRODUCTS CONDUCIVE TO IMPROVING THE LIVES AND HEALTH OF PLANTS, ANIMALS, AND HUMANS; AND THE ASSOCIATED SCIENTIFIC RESEARCH, PHARMACOLOGICAL, MECHANICAL, AND COMPUTATIONAL APPLICATIONS AND SERVICES CONNECTED WITH THESE IMPROVEMENTS;

(2) INFORMATION AND COMMUNICATION TECHNOLOGIES, EQUIPMENT AND SYSTEMS THAT INVOLVE ADVANCED COMPUTER SOFTWARE AND HARDWARE, VISUALIZATION TECHNOLOGIES, AND HUMAN INTERFACE TECHNOLOGIES;
(3) ADVANCED MATERIALS AND PROCESSING TECHNOLOGIES THAT INVOLVE THE DEVELOPMENT, MODIFICATION, OR IMPROVEMENT OF ONE OR MORE MATERIALS OR METHODS TO PRODUCE DEVICES AND STRUCTURES WITH IMPROVED PERFORMANCE CHARACTERISTICS OR SPECIAL FUNCTIONAL ATTRIBUTES, OR TO ACTIVATE, SPEED UP, OR OTHERWISE ALTER CHEMICAL, BIOCHEMICAL, OR MEDICAL PROCESSES;
(4) ELECTRONIC AND PHOTONIC DEVICES AND COMPONENTS FOR USE IN PRODUC ING ELECTRONIC, OPTOELECTRONIC, MECHANICAL EQUIPMENT AND PRODUCTS OF ELECTRONIC DISTRIBUTION WITH INTERACTIVE MEDIA CONTENT;
(5) ENERGY EFFICIENCY, RENEWABLE ENERGY AND ENVIRONMENTAL TECHNOLO GIES, PRODUCTS, DEVICES AND SERVICES; OR
(6) SMALL SCALE SYSTEMS INTEGRATION AND PACKAGING.

S 2. Paragraph (a) of subdivision 16 of section 213 of the state finance law, as amended by chapter 424 of the laws of 2009, is amended to read as follows:

(a) for a linked deposit made in connection with a linked loan to a certified business in an empire zone or to an eligible business located in a highly distressed area or to an eligible business that is defined in paragraph (b-1) of subdivision eleven of this section that is located in a renewal community or defined in paragraph (b-2) of such subdivision that is located in an empowerment zone or defined in paragraph (b-3) of such subdivision that is located in an enterprise community, OR A QUALI FYING TECHNOLOGY OR INNOVATION BUSINESS AS DEFINED IN PARAGRAPH (G) OF SUBDIVISION ELEVEN OF THIS SECTION, respectively for eligible projects defined in paragraph (c) of subdivision twelve of this section or a certified minority- or women-owned business enterprise for an eligible project defined in paragraph (e) of subdivision twelve of this section or to a defense industry manufacturer for a project defined in paragraph (d) of subdivision twelve of this section, a fixed rate of interest which is three hundred basis points below the lender's posted four year certificate of deposit rate or, if the lender does not offer a four year certificate of deposit, is three hundred basis points below the average statewide rate for four year certificates of deposit as determined by the commissioner of economic development;

S 3. This act shall take effect immediately.
PART II

Section 1.

Section 16-t of section 1 of chapter 168 of the laws of 1974, constituting the New York state urban development corporation act, as added by section 1 of part N of chapter 59 of the laws of 2010, is amended to read as follows:

S 16-t. Small business revolving loan fund. 1. The small business revolving loan fund program is hereby created. The corporation is authorized, within available appropriations, to provide low interest loans to community development financial institutions, in order to provide funding for those lending organizations' loans to small businesses, located within New York state, that generate economic growth and job creation within New York state but that are unable to obtain adequate credit or adequate terms for such credit. If in the discretion of the corporation the use of a community development financial institution is not practicable based upon the application of rules and regulations developed by the corporation, including, but not limited to, assessments of geographic and administrative capacity, then the corporation is authorized, within available appropriations, to provide low interest loans to the following other local community based lending organizations: small business lending consortia, certified development companies, providers of United States department of agriculture business and industrial guaranteed loans, United States small business administration loan providers, credit unions and community banks. As used in this section "small business" means a business that is resident in New York state, independently owned and operated, not dominant in its field, and employs one hundred or fewer persons.

2. In order for a lending organization to be eligible to receive program funds, it must have established sufficient expertise to analyze small business applications for program loans, evaluate the creditworthiness of small businesses, and regularly monitor program loans. The lending organization shall review every program loan application in order to determine, among other things, the feasibility of the proposed use of the requested financing by the small business applicant, the likelihood of repayment and the potential that the loan will generate economic development and jobs within New York state. The corporation shall identify eligible lending organizations through one or more competitive statewide or local solicitations.

3. Program loans to small businesses shall be targeted and marketed to minority and women-owned enterprises and other small businesses that are having difficulty accessing traditional credit markets. Program loans to small businesses shall be used for the creation and retention of jobs, as defined by the corporation, including: (a) working capital; (b) the acquisition and/or improvement of real property; (c) the acquisition of machinery and equipment, property or improvement; or (d) the refinancing

of debt obligations. There shall be two categories of loans to small businesses: a micro loan that shall have a principal amount that is less than twenty-five thousand dollars and a regular loan that shall have a principal amount not less than twenty-five thousand dollars. Prior to receiving program funds, the lending organization must certify to the corporation that such loan complies with this section and rules and regulations promulgated for the program and that the lending organiza tion has performed its obligations pursuant to and is in compliance with this section, the program rules and regulations and all agreements entered into between the corporation and the lending organization. The program funds amount used by the lending organization to fund a program applicant loan shall not be more than fifty percent of the principal amount of such loan. The program funds amount used by the lending organ ization to fund a program applicant loan shall not be greater than one hundred and twenty-five thousand dollars. MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND OTHER SMALL BUSINESSES WHO ACCESS SUCH PROGRAM LOANS UNDER THIS SUBDIVISION SHALL NOT BE PRECLUDED FROM ACCESSING SUCH SHORT-TERM FINANCING LOANS PROVIDED UNDER SUBDIVISION ELEVEN OF THIS SECTION.

4. Program funds shall not be used for: (a) projects that would result in the relocation of any business operation from one municipality within the state to another, except under one of the following conditions: (i) when a business is relocating within a municipality with a population of at least one million where the governing body of such municipality approves such relocation; or (ii) the lending organization notifies each municipality from which such business operation will be relocated and each municipality agrees to such relocation; (b) projects of newspapers, broadcasting or other news media; medical facilities, libraries, commu nity or civic centers; or public infrastructure improvements; and (c)

providing funds, directly or indirectly, for payment, distribution, or as a loan, to owners, members, partners or shareholders of the applicant business, except as ordinary income for services rendered.

5. With respect to its program loans, the lending organization may charge application, commitment and loan guarantee fees pursuant to a schedule of fees adopted by the lending organization and approved by the corporation.

6. Program funds shall be disbursed to a lending organization by the corporation in the form of a loan to the lending organization. The term of the loan shall commence upon disbursement of the program funds by the corporation to the lending organization. The loan shall carry a low interest rate determined by the corporation based on then prevailing interest rates and the circumstances of the lending organization. Notwithstanding the performance of the loans made by the lending organ ization using program funds, the lending organization shall remain liable to the corporation with respect to any unpaid amounts due from the lending organization pursuant to the terms of the corporation's

loans to the lending organization. In addition, a portion of program funds may be disbursed to a lending organization in the form of a grant or forgivable loan, provided those funds are used by the lending organization for administrative expenses associated with the fund, loan-loss reserves, or other eligible expenses as determined by the corporation.

7. Notwithstanding anything to the contrary in this section, the corporation shall provide at least five hundred thousand dollars in program funds pursuant to this section to lending organizations for the purpose of making loans to small business located in Niagara county.

8. Notwithstanding anything to the contrary in this section, the corporation shall provide at least five hundred thousand dollars in program funds pursuant to this section to lending organizations for the purpose of making loans to small business located in St. Lawrence county.

9. Notwithstanding anything to the contrary in this section, the corporation shall provide at least five hundred thousand dollars in program funds pursuant to this section to lending organizations for the purpose of making loans to small business located in Erie county.

10. Notwithstanding anything to the contrary in this section, the corporation shall provide at least five hundred thousand dollars in program funds pursuant to this section to lending organizations for the purpose of making loans to small business located in Jefferson county.

11. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE CORPORATION MAY PROVIDE AT LEAST FIVE HUNDRED THOUSAND DOLLARS IN PROGRAM FUNDS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR THE PURPOSE OF MAKING SHORT-TERM FINANCING AVAILABLE TO MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND OTHER SMALL BUSINESSES PERFORMING CONTRACTS TO PROVIDE CONSTRUCTION OR PROFESSIONAL SERVICES FOR STATE PROCUREMENT PURPOSES. SUCH LOANS SHALL BE USED TO UNDERWRITE THE COST OF LABOR, MATERIALS, AND EQUIPMENT DIRECTLY ASSOCIATED WITH (1) THE CONTRACT BEING FINANCED OR (2) A CONTRACT THAT HAS BEEN SATISFIED FOR WHICH THE BUSINESS IS AWAITING PAYMENT FROM THE STATE. THE PROGRAM FUNDS AMOUNT USED BY THE LENDING ORGANIZATION TO FUND A PROGRAM APPLICANT LOAN SHALL NOT BE MORE THAN EIGHTY PERCENT OF THE PRINCIPAL AMOUNT OF SUCH LOAN. THE PROGRAM FUNDS AMOUNT USED BY THE LENDING ORGANIZATION TO FUND A PROGRAM APPLICANT LOAN SHALL NOT BE GREATER THAN ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS. MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND OTHER SMALL BUSINESSES WHO ACCESS SUCH SHORT-TERM FINANCING

LOANS UNDER THIS SUBDIVISION SHALL NOT BE PRECLUDED FROM ACCESSING SUCH PROGRAM LOANS PROVIDED UNDER SUBDIVISION THREE OF THIS SECTION.

12. Notwithstanding any provision of law to the contrary, the corporation may establish a program fund for program use and pay into such fund any funds available to the corporation from any source that are eligible for program use, including moneys appropriated by the state.

[~~12.~~] 13. With respect to a lending organization program loan applicants, no person who is a member of the board or other governing body,

officer, employee, or member of a loan committee, or a family member of any such lending organization shall participate in any decision on such application if such person is a party to or has a financial or personal interest in such loan. Any person who cannot participate in a loan application decision for such reasons shall not be counted as a member of the loan committee, board or other governing body for purposes of determining the number of members required for approval of such applica tion.

[~~13.~~] 14. The lending organization shall submit to the corporation annual reports stating: the number of program loans made; the amount of program funding used for loans; the use of loan proceeds by the borrow er; the number of jobs created or retained; a description of the econom ic development generated; the status of each outstanding program loan; and such other information as the corporation may require.

[~~14.~~] 15. The corporation may conduct audits of the lending organiza tion in order to ensure compliance with the provisions of this section, any regulations promulgated with respect thereto and agreements between the lending organization and the corporation of all aspects of the use of program funds and program loan transactions. In the event that the corporation finds substantive noncompliance, the corporation may termi nate the lending organization's participation in the program.

[~~15.~~] 16. Upon termination of a lending organization's participation in the program, the lending organization shall return to the corpo ration, promptly after its demand therefor, all program fund proceeds held by the lending organization; and provide to the corporation, promptly after its demand therefor, an accounting of all program funds received by the lending organization, including all currently outstand ing loans that were made using program funds. Notwithstanding such termination, the lending organization shall remain liable to the corpo ration with respect to any unpaid amounts due from the lending organiza tion pursuant to the terms of the corporation's loans to the lending organization.

S 2. This act shall take effect immediately.

PART JJ

Section 1. Legislative findings and purposes. It is hereby found that there exists in the state a need to attract private sector investment in new research and in the translation of the products of that research into marketable products.

It is hereby further found that the need for this investment is demon strated by the fact that, while New York state universities rank second nationally in total research spending, the state attracts a dispropor tionately low share of the nation's venture capital investment.

S 2. The New York state innovation venture capital fund. In order to

strengthen the university/industry connection and prepare New York busi nesses to compete for private-sector venture investment, the New York state urban development corporation shall have the power to establish

and administer the New York state innovation venture capital fund to provide critical seed and early-stage funding to incentivize new busi ness formation and growth in New York state and to facilitate the tran sition from ideas and research to marketable products. Funds will be expended by the innovation venture capital fund pursuant to a plan developed by the urban development corporation and submitted to the director of the division of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly. No funds shall be transferred to the New York state urban development corporation for the New York state innovation venture capital fund until such plan has been submit ted.

S 3. Eligible applicants. Eligible applicants for the New York state innovation venture capital fund may include business enterprises in the formative stage of development, regional and local economic development organizations, technology development organizations, research universi ties, and investment funds that make seed, early-stage and venture investments. In order to be eligible for funds from the New York state innovation venture capital fund, a beneficiary company must: (a) be, or agree in writing to be, located in New York state; (b) be in the seed, early-stage or venture stage of development, as defined by the corpo ration; and (c) have the potential to generate additional economic activity in New York State.

S 4. Investment professionals. The New York state urban development corporation shall have the power to engage or retain the services of one or more investment professionals or firms, through direct hire or by contract after a competitive solicitation or otherwise as permitted by law, with demonstrated knowledge and expertise to advise the corporation with respect to the innovation venture capital fund and to provide such other investment advisory services as may be necessary or advisable.

S 5. Evaluation of applicants. The New York state urban development corporation shall establish a process by rule or regulation for the evaluation of applicants for funds from the New York state innovation venture capital fund; provided however that the corporation shall not issue such rules or regulations pursuant to the emergency rule making authority provided for in the state administrative procedure act.

S 6. Report. The New York state urban development corporation shall submit a report annually on December 31 to the director of the division of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly detailing: (a) the total amount of funds committed to each applicant that receives funds and, if applicable, the amount of such funds that has been invested by each such applicant; (b) the amount of New York State innovation venture capital funds invested and the recipi ents of such funds; (c) the location of each beneficiary company; (d) the number of jobs projected to be created or retained; and (e) such other information as the corporation deems necessary.

S 7. Rules and regulations. The New York state urban development corporation is hereby authorized to promulgate rules and regulations in accordance with the state administrative procedure act as are necessary to fulfill the purposes of this act, including with respect to reason able management fees, promotes, share of return and other fees and charges of applicants that receive funds, and to provide for the repay ment of funds received by the beneficiary company if the beneficiary company leaves New York state within a period of time to be established by the corporation. In accordance with such rules and regulations, the

corporation may impose fees, establish repayment terms and provide for equity participation by the corporation in connection with investments from the New York state innovation venture capital fund. Provided howev er that no rules or regulations issued pursuant to this section shall be issued utilizing the emergency rule making authority provided for in the state administrative procedure act.

S 8. This act shall take effect immediately.

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

S 3. This act shall take effect immediately provided, however, that

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the applicable effective date of Parts A through JJ of this act shall be
as specifically set forth in the last section of such Parts.
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