

DRAFT LBDC

A BUDGET BILL submitted by the Governor  
in accordance with Article VII of the Constitution

AN ACT to amend the tax law and the state finance law, in  
relation to the imposition of an employer compensation  
expense tax (Part );

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

1 PART \_\_\_\_

2 Section 1. The tax law is amended by adding a new article 24 to read  
3 as follows:

4 ARTICLE 24

5 EMPLOYER COMPENSATION EXPENSE TAX

6 Section 850. Definitions.

7 851. Employer election.

8 852. Imposition and rate of tax.

9 853. Pass through of tax.

10 854. Payment of tax.

11 855. Employee credit.

12 856. Deposit and disposition of revenue.

13 857. Procedural provisions.

14 § 850. Definitions. For purposes of this article:

15 (a) Employer. Employer means an employer that is required by section  
16 six hundred seventy-one of this chapter to deduct and withhold tax from  
17 wages.

1 (b) Electing employer. Electing employer is an employer that has made  
2 the election provided for in section eight hundred fifty-one of this  
3 article.

4 (c) Payroll expense. Payroll expense means wages and compensation as  
5 defined in sections 3121 and 3231 of the internal revenue code (without  
6 regard to section 3121(a)(1) and section 3231(e)(2)(A)(i)), paid to all  
7 covered employees.

8 (d) Covered employee. Covered employee means an employee of an elect-  
9 ing employer who is required to have amounts withheld under section six  
10 hundred seventy-one of this chapter and receives annual wages and  
11 compensation from his or her employer of more than forty thousand  
12 dollars annually.

13 § 851. Employer election. (a) Any employer who employs covered employ-  
14 ees in the state shall be allowed to make an election to be taxed under  
15 this article.

16 (b) In order to be effective, the election must be made by (1) unani-  
17 mous consent of all owners of the employer at the time the election is  
18 made if the employer is not a corporation; or (2) if the employer is a  
19 for-profit or not-for-profit corporation, by any officer or manager of  
20 the employer who is authorized under the law of the state where the  
21 corporation is incorporated or under the employer's organizational docu-  
22 ments to make the election and who represents to having such authori-  
23 zation under penalty of perjury; or (3) if the employer is a trust, by  
24 the unanimous consent of all trustees; or (4) if the employer is a  
25 governmental entity, by the chief executive officer of such governmental  
26 entity.

27 (c) The election must be made by October first of a calendar year and  
28 will take effect for the immediately succeeding calendar year. If an

1 election is made after October first of a calendar year, it will first  
2 take effect in the second succeeding calendar year.

3 § 852. Imposition and rate of tax. A tax is hereby imposed on the  
4 payroll expense paid by electing employers to covered employees. For two  
5 thousand nineteen, the tax shall be equal to one and one-half percent of  
6 the payroll expense paid by electing employers to covered employees  
7 during the calendar quarter. For two thousand twenty, the tax shall be  
8 equal to three percent of the payroll expense paid by electing employers  
9 to covered employees during the calendar quarter. For two thousand twen-  
10 ty-one and thereafter, the tax shall be equal to five percent of the  
11 payroll expense paid by electing employers to covered employees during  
12 the calendar quarter. An electing employer shall only be subject to the  
13 tax imposed under this article on the payroll expense paid to any  
14 covered employee during the calendar year in excess of forty thousand  
15 dollars.

16 § 853. Pass through of tax. An employer cannot deduct from the wages  
17 or compensation of an employee any amount that represents all or any  
18 portion of the tax imposed on the employer under this article.

19 § 854. Payment of tax. (a) Employers with payroll expense. The tax  
20 imposed on the payroll expense of electing employers under section eight  
21 hundred fifty-two of this article must be paid at the same time the  
22 electing employer is required to remit payments under section six  
23 hundred seventy-four of this chapter; provided however, that electing  
24 employers subject to the provisions in section nine of this chapter must  
25 pay the tax on the payroll expense at the same time as the withholding  
26 tax remitted under the electronic payment reporting system and the elec-  
27 tronic funds transfer system authorized by section nine of this chapter.

1 (b) Responsible person liability. Any officer, director or employee of  
2 a corporation or of a dissolved corporation, any employee of a partner-  
3 ship, any employee or manager of a limited liability company, any trus-  
4 tee of a trust, or any employee of an individual proprietorship, any  
5 partner of a partnership or any member of a limited liability company,  
6 who as such officer, director, employee, manager, partner or member is  
7 under a duty to act for such corporation, partnership, limited liability  
8 company or individual proprietorship in complying with any requirement  
9 of this article, shall be jointly and severally liable with the electing  
10 employer for any tax, penalty or interest owed under this article.

11 § 855. Employee credit. A covered employee shall be allowed a credit  
12 against the tax imposed under article twenty-two of this chapter,  
13 computed pursuant to the provisions of subsection (aaaa) of section six  
14 hundred six of this chapter.

15 § 856. Deposit and disposition of revenue. All taxes, interest, penal-  
16 ties, and fees collected or received by the commissioner under this  
17 article shall be deposited and disposed of pursuant to the provisions of  
18 section one hundred seventy-one-a of this chapter.

19 § 857. Procedural provisions. (a) General. All provisions of article  
20 twenty-two of this chapter will apply to the provisions of this article  
21 in the same manner and with the same force and effect as if the language  
22 of article twenty-two of this chapter had been incorporated in full into  
23 this article and had been specifically adjusted for and expressly  
24 referred to the tax imposed by this article, except to the extent that  
25 any provision is either inconsistent with a provision of this article or  
26 is not relevant to this article. Notwithstanding the preceding  
27 sentence, no credit against tax in article twenty-two of this chapter  
28 can be used to offset the tax due under this article.

1 (b) Notwithstanding the provisions of section six hundred ninety-seven  
2 of this chapter, if the commissioner determines that a person is liable  
3 for any tax, penalty or interest under this article pursuant to  
4 subsection (b) of section eight hundred fifty-four of this article, upon  
5 request in writing of such person, the commissioner shall disclose in  
6 writing to such person (1) the name of any other person the commissioner  
7 has determined to be liable for such tax, penalty or interest under this  
8 article for the electing employer, and (2) whether the commissioner has  
9 attempted to collect such tax, penalty or interest from such other  
10 person or electing employer, the general nature of such collection  
11 activities, and the amount collected.

12 (c) Notwithstanding any other law to the contrary, the commissioner  
13 may require that all filings of forms or returns under this article must  
14 be filed electronically and all payments of tax must be paid electron-  
15 ically. The commissioner may prescribe the methods for quarterly  
16 filings by electing employers, including but not limited to, the inclu-  
17 sion of specific employee-level detail.

18 § 2. Section 606 of the tax law is amended by adding a new subsection  
19 (aaaa) to read as follows:

20 (aaaa) Article twenty-four employee credit. A covered employee of an  
21 electing employer shall be entitled to a credit against the tax imposed  
22 by this article as provided in this subsection. For purposes of this  
23 subsection the terms "covered employee" and "electing employer" shall  
24 have the same meanings as under section eight hundred fifty of this  
25 chapter. (1) For two thousand nineteen, the credit shall be equal to  
26 the product of (i) the covered employee's wages and compensation in  
27 excess of forty thousand dollars received during the tax year from the  
28 covered employer that are subject to tax under this article and (ii) one

1 and one-half percent and (iii) the result of one minus a fraction, the  
2 numerator of which shall be the tax imposed on the covered employee as  
3 determined pursuant to section six hundred one of this article before  
4 the application of any credits for the applicable tax year and the  
5 denominator of which shall be the covered employee's taxable income as  
6 determined pursuant to this article for the applicable tax year. (2) For  
7 two thousand twenty, the credit shall be equal to the product of (i) the  
8 covered employee's wages and compensation in excess of forty thousand  
9 dollars received during the tax year from the covered employer that are  
10 subject to tax under this article and (ii) three percent and (iii) the  
11 result of one minus a fraction, the numerator of which shall be the tax  
12 imposed on the covered employee as determined pursuant to section six  
13 hundred one of this article before the application of any credits for  
14 the applicable tax year and the denominator of which shall be the  
15 covered employee's taxable income as determined pursuant to this article  
16 for the applicable tax year. (3) For two thousand twenty-one and there-  
17 after, the credit shall be equal to the product of (i) the covered  
18 employee's wages and compensation in excess of forty thousand dollars  
19 received during the tax year from the covered employer that are subject  
20 to tax under this article and (ii) five percent and (iii) the result of  
21 one minus a fraction, the numerator of which shall be the tax imposed on  
22 the covered employee as determined pursuant to section six hundred one  
23 of this article before the application of any credits for the applicable  
24 tax year and the denominator of which shall be the covered employee's  
25 taxable income as determined pursuant to this article for the applicable  
26 tax year. If the amount of the credit allowable under this subsection  
27 for any taxable year shall exceed the taxpayer's tax for such year, the  
28 excess allowed for a taxable year may be carried over to the following

1 year or years and may be deducted from the taxpayer's tax for such year  
2 or years.

3 § 3. Subdivision 1 of section 171-a of the tax law, as amended by  
4 section 15 of part AAA of chapter 59 of the laws of 2017, is amended to  
5 read as follows:

6 1. All taxes, interest, penalties and fees collected or received by  
7 the commissioner or the commissioner's duly authorized agent under arti-  
8 cles nine (except section one hundred eighty-two-a thereof and except as  
9 otherwise provided in section two hundred five thereof), nine-A,  
10 twelve-A (except as otherwise provided in section two hundred eighty-  
11 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
12 section three hundred twelve thereof), eighteen, nineteen, twenty  
13 (except as otherwise provided in section four hundred eighty-two there-  
14 of), twenty-B, twenty-one, twenty-two, twenty-four, twenty-six, twenty-  
15 eight (except as otherwise provided in section eleven hundred two or  
16 eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one  
17 (except as otherwise provided in section fourteen hundred twenty-one  
18 thereof), thirty-three and thirty-three-A of this chapter shall be  
19 deposited daily in one account with such responsible banks, banking  
20 houses or trust companies as may be designated by the comptroller, to  
21 the credit of the comptroller. Such an account may be established in one  
22 or more of such depositories. Such deposits shall be kept separate and  
23 apart from all other money in the possession of the comptroller. The  
24 comptroller shall require adequate security from all such depositories.  
25 Of the total revenue collected or received under such articles of this  
26 chapter, the comptroller shall retain in the comptroller's hands such  
27 amount as the commissioner may determine to be necessary for refunds or  
28 reimbursements under such articles of this chapter out of which amount

1 the comptroller shall pay any refunds or reimbursements to which taxpay-  
2 ers shall be entitled under the provisions of such articles of this  
3 chapter. The commissioner and the comptroller shall maintain a system of  
4 accounts showing the amount of revenue collected or received from each  
5 of the taxes imposed by such articles. The comptroller, after reserving  
6 the amount to pay such refunds or reimbursements, shall, on or before  
7 the tenth day of each month, pay into the state treasury to the credit  
8 of the general fund all revenue deposited under this section during the  
9 preceding calendar month and remaining to the comptroller's credit on  
10 the last day of such preceding month, (i) except that the comptroller  
11 shall pay to the state department of social services that amount of  
12 overpayments of tax imposed by article twenty-two of this chapter and  
13 the interest on such amount which is certified to the comptroller by the  
14 commissioner as the amount to be credited against past-due support  
15 pursuant to subdivision six of section one hundred seventy-one-c of this  
16 article, (ii) and except that the comptroller shall pay to the New York  
17 state higher education services corporation and the state university of  
18 New York or the city university of New York respectively that amount of  
19 overpayments of tax imposed by article twenty-two of this chapter and  
20 the interest on such amount which is certified to the comptroller by the  
21 commissioner as the amount to be credited against the amount of defaults  
22 in repayment of guaranteed student loans and state university loans or  
23 city university loans pursuant to subdivision five of section one  
24 hundred seventy-one-d and subdivision six of section one hundred seven-  
25 ty-one-e of this article, (iii) and except further that, notwithstanding  
26 any law, the comptroller shall credit to the revenue arrearage account,  
27 pursuant to section ninety-one-a of the state finance law, that amount  
28 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-



1 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest  
2 thereon, which is certified to the comptroller by the commissioner as  
3 the amount to be credited against a past-due legally enforceable debt  
4 owed to a state agency pursuant to paragraph (a) of subdivision six of  
5 section one hundred seventy-one-f of this article, provided, however, he  
6 shall credit to the special offset fiduciary account, pursuant to  
7 section ninety-one-c of the state finance law, any such amount credita-  
8 ble as a liability as set forth in paragraph (b) of subdivision six of  
9 section one hundred seventy-one-f of this article, (iv) and except  
10 further that the comptroller shall pay to the city of New York that  
11 amount of overpayment of tax imposed by article nine, nine-A, twenty-  
12 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any  
13 interest thereon that is certified to the comptroller by the commission-  
14 er as the amount to be credited against city of New York tax warrant  
15 judgment debt pursuant to section one hundred seventy-one-l of this  
16 article, (v) and except further that the comptroller shall pay to a  
17 non-obligated spouse that amount of overpayment of tax imposed by arti-  
18 cle twenty-two of this chapter and the interest on such amount which has  
19 been credited pursuant to section one hundred seventy-one-c, one hundred  
20 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or  
21 one hundred seventy-one-l of this article and which is certified to the  
22 comptroller by the commissioner as the amount due such non-obligated  
23 spouse pursuant to paragraph six of subsection (b) of section six  
24 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct  
25 a like amount which the comptroller shall pay into the treasury to the  
26 credit of the general fund from amounts subsequently payable to the  
27 department of social services, the state university of New York, the  
28 city university of New York, or the higher education services corpo-

1 ration, or the revenue arrearage account or special offset fiduciary  
2 account pursuant to section ninety-one-a or ninety-one-c of the state  
3 finance law, as the case may be, whichever had been credited the amount  
4 originally withheld from such overpayment, and (vii) with respect to  
5 amounts originally withheld from such overpayment pursuant to section  
6 one hundred seventy-one-1 of this article and paid to the city of New  
7 York, the comptroller shall collect a like amount from the city of New  
8 York.

9 § 4. Subdivision 1 of section 171-a of the tax law, as amended by  
10 section 16 of part AAA of chapter 59 of the laws of 2017, is amended to  
11 read as follows:

12 1. All taxes, interest, penalties and fees collected or received by  
13 the commissioner or the commissioner's duly authorized agent under arti-  
14 cles nine (except section one hundred eighty-two-a thereof and except as  
15 otherwise provided in section two hundred five thereof), nine-A,  
16 twelve-A (except as otherwise provided in section two hundred eighty-  
17 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
18 section three hundred twelve thereof), eighteen, nineteen, twenty  
19 (except as otherwise provided in section four hundred eighty-two there-  
20 of), twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight  
21 (except as otherwise provided in section eleven hundred two or eleven  
22 hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one  
23 (except as otherwise provided in section fourteen hundred twenty-one  
24 thereof), thirty-three and thirty-three-A of this chapter shall be  
25 deposited daily in one account with such responsible banks, banking  
26 houses or trust companies as may be designated by the comptroller, to  
27 the credit of the comptroller. Such an account may be established in one  
28 or more of such depositories. Such deposits shall be kept separate and

1 apart from all other money in the possession of the comptroller. The  
2 comptroller shall require adequate security from all such depositories.  
3 Of the total revenue collected or received under such articles of this  
4 chapter, the comptroller shall retain in the comptroller's hands such  
5 amount as the commissioner may determine to be necessary for refunds or  
6 reimbursements under such articles of this chapter out of which amount  
7 the comptroller shall pay any refunds or reimbursements to which taxpay-  
8 ers shall be entitled under the provisions of such articles of this  
9 chapter. The commissioner and the comptroller shall maintain a system of  
10 accounts showing the amount of revenue collected or received from each  
11 of the taxes imposed by such articles. The comptroller, after reserving  
12 the amount to pay such refunds or reimbursements, shall, on or before  
13 the tenth day of each month, pay into the state treasury to the credit  
14 of the general fund all revenue deposited under this section during the  
15 preceding calendar month and remaining to the comptroller's credit on  
16 the last day of such preceding month, (i) except that the comptroller  
17 shall pay to the state department of social services that amount of  
18 overpayments of tax imposed by article twenty-two of this chapter and  
19 the interest on such amount which is certified to the comptroller by the  
20 commissioner as the amount to be credited against past-due support  
21 pursuant to subdivision six of section one hundred seventy-one-c of this  
22 article, (ii) and except that the comptroller shall pay to the New York  
23 state higher education services corporation and the state university of  
24 New York or the city university of New York respectively that amount of  
25 overpayments of tax imposed by article twenty-two of this chapter and  
26 the interest on such amount which is certified to the comptroller by the  
27 commissioner as the amount to be credited against the amount of defaults  
28 in repayment of guaranteed student loans and state university loans or

1 city university loans pursuant to subdivision five of section one  
2 hundred seventy-one-d and subdivision six of section one hundred seven-  
3 ty-one-e of this article, (iii) and except further that, notwithstanding  
4 any law, the comptroller shall credit to the revenue arrearage account,  
5 pursuant to section ninety-one-a of the state finance law, that amount  
6 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-  
7 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest  
8 thereon, which is certified to the comptroller by the commissioner as  
9 the amount to be credited against a past-due legally enforceable debt  
10 owed to a state agency pursuant to paragraph (a) of subdivision six of  
11 section one hundred seventy-one-f of this article, provided, however, he  
12 shall credit to the special offset fiduciary account, pursuant to  
13 section ninety-one-c of the state finance law, any such amount credita-  
14 ble as a liability as set forth in paragraph (b) of subdivision six of  
15 section one hundred seventy-one-f of this article, (iv) and except  
16 further that the comptroller shall pay to the city of New York that  
17 amount of overpayment of tax imposed by article nine, nine-A, twenty-  
18 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any  
19 interest thereon that is certified to the comptroller by the commission-  
20 er as the amount to be credited against city of New York tax warrant  
21 judgment debt pursuant to section one hundred seventy-one-l of this  
22 article, (v) and except further that the comptroller shall pay to a  
23 non-obligated spouse that amount of overpayment of tax imposed by arti-  
24 cle twenty-two of this chapter and the interest on such amount which has  
25 been credited pursuant to section one hundred seventy-one-c, one hundred  
26 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or  
27 one hundred seventy-one-l of this article and which is certified to the  
28 comptroller by the commissioner as the amount due such non-obligated

1 spouse pursuant to paragraph six of subsection (b) of section six  
2 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct  
3 a like amount which the comptroller shall pay into the treasury to the  
4 credit of the general fund from amounts subsequently payable to the  
5 department of social services, the state university of New York, the  
6 city university of New York, or the higher education services corpo-  
7 ration, or the revenue arrearage account or special offset fiduciary  
8 account pursuant to section ninety-one-a or ninety-one-c of the state  
9 finance law, as the case may be, whichever had been credited the amount  
10 originally withheld from such overpayment, and (vii) with respect to  
11 amounts originally withheld from such overpayment pursuant to section  
12 one hundred seventy-one-1 of this article and paid to the city of New  
13 York, the comptroller shall collect a like amount from the city of New  
14 York.

15 § 5. Subdivisions 2, 3 and paragraph (a) of subdivision 5 of section  
16 92-z of the state finance law, subdivision 2 as amended by section 30 of  
17 part T of chapter 57 of the laws of 2007, and subdivision 3 and para-  
18 graph (a) of subdivision 5 as added by section 1 of part I of chapter  
19 383 of the laws of 2001, are amended to read as follows:

20 2. Such fund shall consist of [twenty-five] (a) fifty percent of  
21 receipts from the imposition of personal income taxes pursuant to arti-  
22 cle twenty-two of the tax law, less such amounts as the commissioner of  
23 taxation and finance may determine to be necessary for refunds, and (b)  
24 fifty percent of receipts from the imposition of employer compensation  
25 expense taxes pursuant to article twenty-four of the tax law, less such  
26 amounts as the commissioner of taxation and finance may determine to be  
27 necessary for refunds.

1     3. (a) Beginning on the first day of each month, the comptroller shall  
2     deposit all of the receipts collected pursuant to section six hundred  
3     seventy-one of the tax law in the revenue bond tax fund until the amount  
4     of monthly receipts anticipated to be deposited pursuant to the certif-  
5     icate required in paragraph (b) of subdivision five of this section are  
6     met. On or before the twelfth day of each month, the commissioner of  
7     taxation and finance shall certify to the state comptroller the amounts  
8     specified in paragraph (a) of subdivision two of this section relating  
9     to the preceding month and, in addition, no later than March thirty-  
10    first of each fiscal year the commissioner of taxation and finance shall  
11    certify such amounts relating to the last month of such fiscal year. The  
12    amounts so certified shall be deposited by the state comptroller in the  
13    revenue bond tax fund.

14    (b) Beginning on the first day of each month, the comptroller shall  
15    deposit all of the receipts collected pursuant to section eight hundred  
16    fifty-four of the tax law in the revenue bond tax fund until the amount  
17    of monthly receipts anticipated to be deposited pursuant to the certif-  
18    icate required in paragraph (b) of subdivision five of this section are  
19    met. On or before the twelfth day of each month, the commissioner of  
20    taxation and finance shall certify to the state comptroller the amounts  
21    specified in paragraph (b) of subdivision two of this section relating  
22    to the preceding month and, in addition, no later than March thirty-  
23    first of each fiscal year the commissioner of taxation and finance shall  
24    certify such amounts relating to the last month of such fiscal year. The  
25    amounts so certified shall be deposited by the state comptroller in the  
26    revenue bond tax fund.

27    (a) The state comptroller shall from time to time, but in no event  
28    later than the fifteenth day of each month (other than the last month of

1 the fiscal year) and no later than the thirty-first day of the last  
2 month of each fiscal year, pay over and distribute to the credit of the  
3 general fund of the state treasury all moneys in the revenue bond tax  
4 fund, if any, in excess of the aggregate amount required to be set aside  
5 for the payment of cash requirements pursuant to paragraph (b) of this  
6 subdivision, provided that an appropriation has been made to pay all  
7 amounts specified in any certificate or certificates delivered by the  
8 director of the budget pursuant to paragraph (b) of this subdivision as  
9 being required by each authorized issuer as such term is defined in  
10 section sixty-eight-a of this chapter for the payment of cash require-  
11 ments of such issuers for such fiscal year. Subject to the rights of  
12 holders of debt of the state, in no event shall the state comptroller  
13 pay over and distribute any moneys on deposit in the revenue bond tax  
14 fund to any person other than an authorized issuer pursuant to such  
15 certificate or certificates (i) unless and until the aggregate of all  
16 cash requirements certified to the state comptroller as required by such  
17 authorized issuers to be set aside pursuant to paragraph (b) of this  
18 subdivision for such fiscal year shall have been appropriated to such  
19 authorized issuers in accordance with the schedule specified in the  
20 certificate or certificates filed by the director of the budget or (ii)  
21 if, after having been so certified and appropriated, any payment  
22 required to be made pursuant to paragraph (b) of this subdivision has  
23 not been made to the authorized issuers which was required to have been  
24 made pursuant to such certificate or certificates; provided, however,  
25 that no person, including such authorized issuers or the holders of  
26 revenue bonds, shall have any lien on moneys on deposit in the revenue  
27 bond tax fund. Any agreement entered into pursuant to section sixty-  
28 eight-c of this chapter related to any payment authorized by this

1 section shall be executory only to the extent of such revenues available  
2 to the state in such fund. Notwithstanding subdivisions two and three of  
3 this section, in the event the aggregate of all cash requirements certi-  
4 fied to the state comptroller as required by such authorized issuers to  
5 be set aside pursuant to paragraph (b) of this subdivision for the  
6 fiscal year beginning on April first shall not have been appropriated to  
7 such authorized issuers in accordance with the schedule specified in the  
8 certificate or certificates filed by the director of the budget or, (ii)  
9 if, having been so certified and appropriated, any payment required to  
10 be made pursuant to paragraph (b) of this subdivision has not been made  
11 pursuant to such certificate or certificates, all receipts collected  
12 pursuant to section six hundred seventy-one of the tax law and section  
13 eight hundred fifty-four of the tax law shall be deposited in the reven-  
14 ue bond tax fund until the greater of [twenty-five] forty percent of the  
15 aggregate of the receipts from the imposition of (A) the personal income  
16 tax imposed by article twenty-two of the tax law and (B) the employer  
17 compensation expense tax imposed by article twenty-four of the tax law  
18 for the fiscal year beginning on April first and as specified in the  
19 certificate or certificates filed by the director of the budget pursuant  
20 to this paragraph or [six] a total of twelve billion dollars has been  
21 deposited in the revenue bond tax fund. Notwithstanding any other  
22 provision of law, if the state has appropriated and paid to the author-  
23 ized issuers the amounts necessary for the authorized issuers to meet  
24 their requirements for the current fiscal year pursuant to the certif-  
25 icate or certificates submitted by the director of the budget pursuant  
26 to paragraph (b) of this section, the state comptroller shall, on the  
27 last day of each fiscal year, pay to the general fund of the state all  
28 sums remaining in the revenue bond tax fund on such date except such



1 amounts as the director of the budget may certify are needed to meet the  
2 cash requirements of authorized issuers during the subsequent fiscal  
3 year.

4 § 6. Subdivision 5 of section 68-c of the state finance law, as added  
5 by section 2 of part I of chapter 383 of the laws of 2001, is amended to  
6 read as follows:

7 5. Nothing contained in this article shall be deemed to restrict the  
8 right of the state to amend, repeal, modify or otherwise alter statutes  
9 imposing or relating to the taxes imposed pursuant to article twenty-two  
10 and article twenty-four of the tax law. The authorized issuers shall not  
11 include within any resolution, contract or agreement with holders of the  
12 revenue bonds issued under this article any provision which provides  
13 that a default occurs as a result of the state exercising its right to  
14 amend, repeal, modify or otherwise alter the taxes imposed pursuant to  
15 article twenty-two and article twenty-four of the tax law.

16 § 7. This act shall take effect immediately; provided, however, that  
17 the amendments to subdivision 1 of section 171-a of the tax law made by  
18 section three of this act shall not affect the expiration of such subdi-  
19 vision and shall expire therewith, when upon such date the provisions of  
20 section four of this act shall take effect.