

S T A T E   O F   N E W   Y O R K

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I N   S E N A T E

January 14, 2011

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Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the tax law, in relation to the creation of the New York jobs tax credit (Part A); to amend the tax law, in relation to the personal income tax rates and benefit recapture (Part B); to amend the tax law, in relation to entire net income base (Part C); and creating a commission on regulatory reform and economic competitiveness; and providing for the repeal of such provisions upon expiration thereof (Part D)

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

1     Section 1. This act enacts into law major components of legislation  
2 relating to taxes and regulatory reform and economic competitiveness.  
3 Each component is wholly contained within a Part identified as Parts A  
4 through D. The effective date for each particular provision contained  
5 within such Part is set forth in the last section of such Part. Any  
6 provision in any section contained within a part, including the effective  
7 date of the Part, which makes referenced to a section "of this  
8 act", when used in connection with that particular component, shall be  
9 deemed to mean and refer to the corresponding section of the Part in  
10 which it is found. Section three of this act sets forth the general  
11 effective date of this act.

PART A

13     Section 1. The tax law is amended by adding a new section 31-a to read  
14 as follows:

15     S 31-A. NEW YORK JOBS TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER,  
16 WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAP-  
17 TER AND WHICH CREATES A NEW JOB, SHALL BE ALLOWED A CREDIT AGAINST SUCH  
18 TAX. THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE EQUAL

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

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1 TO THE AMOUNT OF WITHHOLDING, REQUIRED BY ARTICLE TWENTY-TWO OF THIS  
2 CHAPTER, REMITTED TO THE STATE FOR EACH NEW EMPLOYEE. THE CREDIT SHALL  
3 NOT BE MORE THAN FIVE THOUSAND DOLLARS FOR ANY NEW EMPLOYEE FOR ONE FULL  
4 YEAR OF EMPLOYMENT; IF A NEW EMPLOYEE HAS BEEN HIRED FOR LESS THAN A  
5 FULL TAX YEAR THIS AMOUNT SHALL BE PRORATED AND APPORTIONED TO EACH TAX  
6 YEAR BUT SHALL IN NO WAY DECREASE THE FULL THREE YEARS OF CREDIT ELIGI-  
7 BILITY. THE TAXPAYER MAY CLAIM THIS CREDIT FOR EACH NEW EMPLOYEE FOR A  
8 PERIOD OF THREE YEARS OF EMPLOYMENT. THE TAXPAYER MAY OFFSET QUARTERLY  
9 ESTIMATED RETURNS WITH THE AMOUNT OF THIS CREDIT EARNED IN ANY PREVIOUS  
10 QUARTER.

11 (B) FOR CALENDAR YEARS TWO THOUSAND ELEVEN AND TWO THOUSAND TWELVE IF  
12 A NEW EMPLOYEE WAS RECEIVING UNEMPLOYMENT INSURANCE BENEFITS AT THE TIME  
13 OF HIRE, AN ADDITIONAL THREE THOUSAND DOLLAR CREDIT WILL BE ALLOWED FOR  
14 THE FIRST FULL YEAR OF EMPLOYMENT.

15 (C) DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL  
16 HAVE THE FOLLOWING MEANINGS:

17 (1) "NEW EMPLOYEE" SHALL MEAN ANY FULL TIME EMPLOYEE THAT CAUSES THE  
18 TOTAL NUMBER OF EMPLOYEES TO INCREASE ABOVE BASE EMPLOYMENT OR CREDIT  
19 EMPLOYMENT, WHICHEVER IS HIGHER.

20 (2) "BASE YEAR" SHALL MEAN CALENDAR YEAR TWO THOUSAND TEN.

21 (3) "BASE EMPLOYMENT" SHALL MEAN THE AVERAGE NUMBER OF FULL TIME  
22 EMPLOYEES OR FULL TIME EQUIVALENT EMPLOYEES DURING THE BASE YEAR. FOR A  
23 NEW BUSINESS, BASE EMPLOYMENT SHALL BEGIN AT ZERO.

24 (4) "CREDIT EMPLOYMENT" SHALL MEAN BASE EMPLOYMENT PLUS THE NUMBER OF  
25 NEW EMPLOYEES FOR WHICH A CREDIT IS EARNED.

26 (5) "WITHHOLDING" FOR THE PURPOSES OF THIS SECTION SHALL BE THE WITH-  
27 HOLDING REQUIRED BY ARTICLE TWENTY-TWO OF THIS CHAPTER CALCULATED USING  
28 THE EMPLOYEES APPLICABLE WAGE AND FILING STATUS WITH ONE EXEMPTION.

29 (D) REPLACEMENT EMPLOYEES. IF A NEW EMPLOYEE FOR WHICH A CREDIT WAS  
30 EARNED LEAVES THE PAYROLL AND AN EMPLOYEE IS HIRED WHICH BRINGS TOTAL  
31 EMPLOYMENT ABOVE BASE EMPLOYMENT BUT AT OR BELOW CREDIT EMPLOYMENT  
32 LEVEL, THE CREDIT ELIGIBILITY PERIOD FOR SUCH EMPLOYEE SHALL BE THREE  
33 YEARS MINUS THE AMOUNT OF TIME (ROUNDED TO THE NEXT FULL MONTH) THE  
34 DEPARTING EMPLOYEE RECEIVED THE CREDIT.

35 (E) FEDERAL ARRA (AMERICAN RECOVERY AND REINVESTMENT ACT) FUNDS SUFFI-  
36 CIENT TO COVER THE TOTAL AMOUNT OF THE ADDITIONAL THREE THOUSAND DOLLAR  
37 CREDIT CLAIMED FOR HIRING OFF THE UNEMPLOYMENT ROLLS FOUND IN SUBDIVI-  
38 SION (B) OF THIS SECTION SHALL BE TRANSFERRED FROM THE SPECIAL FUND  
39 ESTABLISHED IN SECTION FIVE HUNDRED FIFTY-TWO OF THE LABOR LAW TO THE  
40 GENERAL FUND.

41 S 2. Section 210 of the tax law is amended by adding a new subdivision  
42 43 to read as follows:

43 43. NEW YORK JOBS TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WILL  
44 BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-ONE-A  
45 OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

46 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
47 FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
48 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF  
49 SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT  
50 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO  
51 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE  
52 YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED  
53 IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF  
54 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF  
55 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO  
56 INTEREST WILL BE PAID THEREON.

S 3. Section 606 of the tax law is amended by adding a new subsection (ss) to read as follows:

(SS) NEW YORK JOBS TAX CREDIT. (1) A TAXPAYER WILL BE ALLOWED A CREDIT, TO THE EXTENT ALLOWED UNDER SECTION THIRTY-ONE-A 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 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxii) to read as follows:

|                              |                                        |
|------------------------------|----------------------------------------|
| (XXXII) NEW YORK JOBS TAX    | AMOUNT OF CREDIT UNDER SUBDIVISION     |
| CREDIT UNDER SUBSECTION (SS) | FORTY-THREE OF SECTION TWO HUNDRED TEN |

S 5. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2011.

## PART B

Section 1. The opening paragraph of subsection (a), the opening paragraph of subsection (b) and the opening paragraph of subsection (c) of section 601 of the tax law, as amended by section 1 of part Z-1 of chapter 57 of the laws of 2009, are amended to read as follows:

Resident married individuals filing joint returns and resident surviving spouses. There is hereby imposed for each taxable year on the New York taxable income of every resident married individual who makes a single return jointly with his spouse under subsection (b) of section six hundred fifty-one OF THIS ARTICLE and on the New York taxable income of every resident surviving spouse a tax determined in accordance with the following tables. PROVIDED HOWEVER, FOR THE TAXABLE YEAR BEGINNING IN TWO THOUSAND ELEVEN, IF THE TAXPAYER HAS SMALL BUSINESS TAXABLE INCOME, AS CALCULATED IN SECTION SIX HUNDRED ELEVEN OF THIS ARTICLE, THEN THE TAX DETERMINED BY THIS SUBSECTION SHALL BE THE COMBINATION OF THE TAX ON SMALL BUSINESS TAXABLE INCOME DETERMINED BY USING THE TABLE IN PARAGRAPH TWO OF THIS SUBSECTION AND THE TAX ON THE AMOUNT RESULTING WHEN SMALL BUSINESS TAXABLE INCOME IS SUBTRACTED FROM NEW YORK TAXABLE INCOME, DETERMINED BY USING THE TABLE IN PARAGRAPH ONE OF THIS SUBSECTION:

Resident heads of households. There is hereby imposed for each taxable year on the New York taxable income of every resident head of a household a tax determined in accordance with the following tables. PROVIDED HOWEVER, FOR THE TAXABLE YEAR BEGINNING IN TWO THOUSAND ELEVEN, IF THE TAXPAYER HAS SMALL BUSINESS TAXABLE INCOME, AS CALCULATED IN SECTION SIX HUNDRED ELEVEN OF THIS ARTICLE, THEN THE TAX DETERMINED BY THIS SUBSECTION SHALL BE THE COMBINATION OF THE TAX ON SMALL BUSINESS TAXABLE INCOME DETERMINED BY USING THE TABLE IN PARAGRAPH TWO OF THIS SUBSECTION AND THE TAX ON THE AMOUNT RESULTING WHEN SMALL BUSINESS TAXABLE INCOME IS SUBTRACTED FROM NEW YORK TAXABLE INCOME, DETERMINED BY USING THE TABLE IN PARAGRAPH ONE OF THIS SUBSECTION:

Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. There is hereby imposed for each taxable year on the New York taxable income of every resident individual who is not a married individual who makes a single

1 return jointly with his spouse under subsection (b) of section six  
2 hundred fifty-one OF THIS ARTICLE or a resident head of a household or a  
3 resident surviving spouse, and on the New York taxable income of every  
4 resident estate and trust a tax determined in accordance with the  
5 following tables. PROVIDED HOWEVER, FOR THE TAXABLE YEAR BEGINNING IN  
6 TWO THOUSAND ELEVEN, IF THE TAXPAYER HAS SMALL BUSINESS TAXABLE INCOME,  
7 AS CALCULATED IN SECTION SIX HUNDRED ELEVEN OF THIS ARTICLE, THEN THE  
8 TAX DETERMINED BY THIS SUBSECTION SHALL BE THE COMBINATION OF THE TAX ON  
9 SMALL BUSINESS TAXABLE INCOME DETERMINED BY USING THE TABLE IN PARAGRAPH  
10 TWO OF THIS SUBSECTION AND THE TAX ON THE AMOUNT RESULTING WHEN SMALL  
11 BUSINESS TAXABLE INCOME IS SUBTRACTED FROM NEW YORK TAXABLE INCOME,  
12 DETERMINED BY USING THE TABLE IN PARAGRAPH ONE OF THIS SUBSECTION:

13 S 2. Subparagraph (B) of paragraph 2 and subparagraph (B) of paragraph  
14 3 of subsection (d) of section 601 of the tax law, subparagraph (B) of  
15 paragraph 2 as amended by section 2 and subparagraph (B) of paragraph 3  
16 as amended by section 3 of part Z-1 of chapter 57 of the laws of 2009,  
17 are amended to read as follows:

18 (B) For taxable years beginning after two thousand two and before two  
19 thousand six, the fraction is computed as follows: the numerator is the  
20 lesser of fifty thousand dollars or the excess of New York adjusted  
21 gross income for the taxable year over one hundred fifty thousand  
22 dollars and the denominator is fifty thousand dollars. For taxable years  
23 beginning after two thousand eight and before two thousand twelve, the  
24 fraction is computed as follows: the numerator is the lesser of fifty  
25 thousand dollars or the excess of New York adjusted gross income for the  
26 taxable year over three hundred thousand dollars and the denominator is  
27 fifty thousand dollars. FOR THE PURPOSES OF THIS SUBPARAGRAPH, FOR THE  
28 TAXABLE YEAR BEGINNING IN TWO THOUSAND ELEVEN, INCOME DERIVED AS A SOLE  
29 PROPRIETOR, MEMBER OF A PARTNERSHIP OR A SHAREHOLDER OF A BUSINESS THAT  
30 EMPLOYS FIFTY OR LESS EMPLOYEES OR THE ENTIRE NET INCOME BASE OF THE  
31 BUSINESS ENTITY IS LESS THAN TWO MILLION DOLLARS SHALL NOT BE INCLUDED  
32 IN ADJUSTED GROSS INCOME.

33 (B) For such taxpayers with adjusted gross income over five hundred  
34 thousand dollars, for taxable years beginning after two thousand eight  
35 and before two thousand twelve, the fraction is computed as follows: the  
36 numerator is the lesser of fifty thousand dollars or the excess of New  
37 York adjusted gross income for the taxable year over five hundred thou-  
38 sand dollars and the denominator is fifty thousand dollars. Provided,  
39 however, that the total tax prior to the application of any tax credits  
40 shall not exceed the highest rate of tax set forth in the tax table in  
41 subsection (a) of this section multiplied by the taxpayer's taxable  
42 income. FOR THE PURPOSES OF THIS SUBPARAGRAPH, FOR THE TAXABLE YEAR  
43 BEGINNING IN TWO THOUSAND ELEVEN, INCOME DERIVED AS A SOLE PROPRIETOR,  
44 MEMBER OF A PARTNERSHIP OR A SHAREHOLDER OF A BUSINESS THAT EMPLOYS  
45 FIFTY OR LESS EMPLOYEES OR THE ENTIRE NET INCOME BASE OF THE BUSINESS  
46 ENTITY IS LESS THAN TWO MILLION DOLLARS SHALL NOT BE INCLUDED IN  
47 ADJUSTED GROSS INCOME.

48 S 3. Section 611 of the tax law is amended by adding a new subsection  
49 (c) to read as follows:

50 (C) FOR THE TAXABLE YEAR BEGINNING IN TWO THOUSAND ELEVEN, TAXABLE  
51 INCOME DERIVED AS A SOLE PROPRIETOR, MEMBER OF A PARTNERSHIP OR SHARE-  
52 HOLDER OF A BUSINESS THAT EMPLOYS FIFTY OR LESS EMPLOYEES OR THE ENTIRE  
53 NET INCOME BASE OF THE BUSINESS ENTITY IS LESS THAN TWO MILLION DOLLARS  
54 SHALL BE REFERRED TO AS "SMALL BUSINESS TAXABLE INCOME" CALCULATED AS  
55 FOLLOWS: TOTAL TAXABLE INCOME OF THE TAXPAYER SHALL BE MULTIPLIED BY A  
56 FRACTION, THE NUMERATOR BEING THE AMOUNT OF ADJUSTED GROSS INCOME

DERIVED AS A SOLE PROPRIETOR, MEMBER OF A PARTNERSHIP OR SHAREHOLDER OF A BUSINESS THAT EMPLOYS FIFTY OR LESS EMPLOYEES OR THE ENTIRE NET INCOME BASE OF THE BUSINESS ENTITY IS LESS THAN TWO MILLION DOLLARS AND THE DENOMINATOR BEING THE TOTAL ADJUSTED GROSS INCOME OF THE TAXPAYER.

S 4. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2011.

## PART C

Section 1. Paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 2 of part N of chapter 60 of the laws of 2007, is amended to read as follows:

(a) Entire net income base. For taxable years beginning before July first, nineteen hundred ninety-nine, the amount prescribed by this paragraph shall be computed at the rate of nine percent of the taxpayer's entire net income base. For taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand, the amount prescribed by this paragraph shall be computed at the rate of eight and one-half percent of the taxpayer's entire net income base. For taxable years beginning after June thirtieth, two thousand and before July first, two thousand one, the amount prescribed by this paragraph shall be computed at the rate of eight percent of the taxpayer's entire net income base. For taxable years beginning after June thirtieth, two thousand one and before January first, two thousand seven, the amount prescribed by this paragraph shall be computed at the rate of seven and one-half percent of the taxpayer's entire net income base. For taxable years beginning on or after January first, two thousand seven, the amount prescribed by this paragraph shall be computed at the rate of seven and one-tenth percent of the taxpayer's entire net income base. The taxpayer's entire net income base shall mean the portion of the taxpayer's entire net income allocated within the state as hereinafter provided, subject to any modification required by paragraphs (d) and (e) of subdivision three of this section. However, in the case of a small business taxpayer, as defined in paragraph (f) of this subdivision, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (iv) of this paragraph and in the case of a manufacturer, as defined in subparagraph [(vi)] (VIII) of this paragraph, the amount prescribed by this paragraph shall be computed pursuant to subparagraph [(vi)] (VIII) of this paragraph.

(i) if the entire net income base is not more than two hundred thousand dollars, (1) for taxable years beginning before July first, nineteen hundred ninety-nine, the amount shall be eight percent of the entire net income base; (2) for taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand three, the amount shall be seven and one-half percent of the entire net income base; and (3) for taxable years beginning after June thirtieth, two thousand three and before January first, two thousand five, the amount shall be 6.85 percent of the entire net income base;

(ii) if the entire net income base is more than two hundred thousand dollars but not over two hundred ninety thousand dollars, (1) for taxable years beginning before July first, nineteen hundred ninety-nine, the amount shall be the sum of (a) sixteen thousand dollars, (b) nine percent of the excess of the entire net income base over two hundred thousand dollars and (c) five percent of the excess of the entire net income base over two hundred fifty thousand dollars; (2) for taxable years beginning after June thirtieth, nineteen hundred ninety-nine and

1 before July first, two thousand, the amount shall be the sum of (a)  
2 fifteen thousand dollars, (b) eight and one-half percent of the excess  
3 of the entire net income base over two hundred thousand dollars and (c)  
4 five percent of the excess of the entire net income base over two  
5 hundred fifty thousand dollars; (3) for taxable years beginning after  
6 June thirtieth, two thousand and before July first, two thousand one,  
7 the amount shall be the sum of (a) fifteen thousand dollars, (b) eight  
8 percent of the excess of the entire net income base over two hundred  
9 thousand dollars and (c) two and one-half percent of the excess of the  
10 entire net income base over two hundred fifty thousand dollars; (4) for  
11 taxable years beginning after June thirtieth, two thousand one and  
12 before July first, two thousand three, the amount shall be seven and  
13 one-half percent of the entire net income base; and (5) for taxable  
14 years beginning after June thirtieth, two thousand three and before  
15 January first, two thousand five, the amount shall be the sum of (a)  
16 thirteen thousand seven hundred dollars, (b) 7.5 percent of the excess  
17 of the entire net income base over two hundred thousand dollars and (c)  
18 3.25 percent of the excess of the entire net income base over two  
19 hundred fifty thousand dollars;

20 (iii) for taxable years beginning on or after January first, two thou-  
21 sand five and ending before January first, two thousand seven, if the  
22 entire net income base is not more than two hundred ninety thousand  
23 dollars the amount shall be six and one-half percent of the entire net  
24 income base; if the entire net income base is more than two hundred  
25 ninety thousand dollars but not over three hundred ninety thousand  
26 dollars the amount shall be the sum of (1) eighteen thousand eight  
27 hundred fifty dollars, (2) seven and one-half percent of the excess of  
28 the entire net income base over two hundred ninety thousand dollars but  
29 not over three hundred ninety thousand dollars and (3) seven and one-  
30 quarter percent of the excess of the entire net income base over three  
31 hundred fifty thousand dollars but not over three hundred ninety thou-  
32 sand dollars;

33 (iv) for taxable years beginning on or after January first, two thou-  
34 sand seven, if the entire net income base is not more than two hundred  
35 ninety thousand dollars the amount shall be six and one-half percent of  
36 the entire net income base; if the entire net income base is more than  
37 two hundred ninety thousand dollars but not over three hundred ninety  
38 thousand dollars the amount shall be the sum of (1) eighteen thousand  
39 eight hundred fifty dollars, (2) seven and one-tenth percent of the  
40 excess of the entire net income base over two hundred ninety thousand  
41 dollars but not over three hundred ninety thousand dollars and (3) four  
42 and thirty-five hundredths percent of the excess of the entire net  
43 income base over three hundred fifty thousand dollars but not over three  
44 hundred ninety thousand dollars;

45 (v) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
46 SAND ELEVEN, IF A TAXPAYER, OR ITS AFFILIATES, WHETHER DOMICILED IN THIS  
47 STATE OR NOT, AT ANY TIME IN THE TAXPAYER'S TAXABLE YEAR, EMPLOYS NO  
48 MORE THAN FIFTY PERSONS, OR IF THE TAXPAYER'S ENTIRE NET INCOME BASE IS  
49 LESS THAN TWO MILLION DOLLARS, THE AMOUNT SHALL BE THREE AND ONE-QUARTER  
50 PERCENT OF THE ENTIRE INCOME BASE;

51 (VI) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
52 SAND TWELVE, IF A TAXPAYER, OR ITS AFFILIATES, WHETHER DOMICILED IN THIS  
53 STATE OR NOT, AT ANY TIME IN THE TAXPAYER'S TAXABLE YEAR, EMPLOYS NO  
54 MORE THAN FIFTY PERSONS, OR IF THE TAXPAYER'S ENTIRE NET INCOME BASE IS  
55 LESS THAN TWO MILLION DOLLARS, THE AMOUNT SHALL BE ZERO;

1 (VII) if the taxable period to which subparagraphs (i), (ii), (iii),  
2 [and] (iv) AND (V) of this paragraph apply is less than twelve months,  
3 the amount prescribed by this paragraph shall be computed as follows:  
4 (A) Multiply the entire net income base for such taxpayer by twelve;  
5 (B) Divide the result obtained in (A) by the number of months in the  
6 taxable year;  
7 (C) Compute an amount pursuant to subparagraphs (i) and (ii) OF THIS  
8 PARAGRAPH as if the result obtained in (B) were the taxpayer's entire  
9 net income base;  
10 (D) Multiply the result obtained in (C) by the number of months in the  
11 taxpayer's taxable year;  
12 (E) Divide the result obtained in (D) by twelve.  
13 [(vi)] (VIII) for taxable years beginning on or after January thirty-  
14 first, two thousand seven, the amount prescribed by this paragraph for a  
15 taxpayer which is a qualified New York manufacturer, shall be computed  
16 at the rate of six and one-half (6.5) percent of the taxpayer's entire  
17 net income base. The term "manufacturer" shall mean a taxpayer which  
18 during the taxable year is principally engaged in the production of  
19 goods by manufacturing, processing, assembling, refining, mining,  
20 extracting, farming, agriculture, horticulture, floriculture, viticul-  
21 ture or commercial fishing. However, the generation and distribution of  
22 electricity, the distribution of natural gas, and the production of  
23 steam associated with the generation of electricity shall not be quali-  
24 fying activities for a manufacturer under this subparagraph. Moreover,  
25 the combined group shall be considered a "manufacturer" for purposes of  
26 this subparagraph only if the combined group during the taxable year is  
27 principally engaged in the activities set forth in this paragraph, or  
28 any combination thereof. A taxpayer or a combined group shall be "prin-  
29 cipally engaged" in activities described above if, during the taxable  
30 year, more than fifty percent of the gross receipts of the taxpayer or  
31 combined group, respectively, are derived from receipts from the sale of  
32 goods produced by such activities. In computing a combined group's gross  
33 receipts, intercorporate receipts shall be eliminated. A "qualified New  
34 York manufacturer" is a manufacturer which has property in New York  
35 which is described in clause (A) of subparagraph (i) of paragraph (b) of  
36 subdivision twelve of this section and either (I) the adjusted basis of  
37 such property for federal income tax purposes at the close of the taxa-  
38 ble year is at least one million dollars or (II) all of its real and  
39 personal property is located in New York. In addition, a "qualified New  
40 York manufacturer" means a taxpayer which is defined as a qualified  
41 emerging technology company under paragraph (c) of subdivision one of  
42 section thirty-one hundred two-e of the public authorities law regard-  
43 less of the ten million dollar limitation expressed in subparagraph one  
44 of such paragraph (c).  
45 (IX) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
46 SAND ELEVEN, A TAXPAYER OR ITS AFFILIATES, WHETHER DOMICILED IN THIS  
47 STATE OR NOT, THAT IS A "SMALL MANUFACTURER", THE AMOUNT SHALL BE THREE  
48 AND ONE-QUARTER PERCENT OF THE ENTIRE INCOME BASE. A SMALL MANUFACTURER  
49 IS A TAXPAYER, THAT AT ANY TIME IN THE TAXPAYER'S TAXABLE YEAR EMPLOYS  
50 NO MORE THAN FIFTY PERSONS, OR THE TAXPAYER'S ENTIRE NET INCOME BASE IS  
51 LESS THAN TWO MILLION DOLLARS, AND THE TAXPAYER MEETS THE DEFINITION OF  
52 "MANUFACTURER" IN SUBPARAGRAPH (VIII) OF THIS PARAGRAPH;  
53 (X) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
54 SAND TWELVE, A TAXPAYER OR ITS AFFILIATES, WHETHER DOMICILED IN THIS  
55 STATE OR NOT, THAT IS A "SMALL MANUFACTURER", THE AMOUNT SHALL BE ZERO.  
56 A SMALL MANUFACTURER IS A TAXPAYER, THAT AT ANY TIME IN THE TAXPAYER'S

1 TAXABLE YEAR EMPLOYS NO MORE THAN FIFTY PERSONS, OR THE TAXPAYER'S  
2 ENTIRE NET INCOME BASE IS LESS THAN TWO MILLION DOLLARS, AND THE TAXPAY-  
3 ER MEETS THE DEFINITION OF "MANUFACTURER" IN SUBPARAGRAPH (VIII) OF THIS  
4 PARAGRAPH.

5 S 2. Subparagraph 1 of paragraph (b) of subdivision 1 of section 210  
6 of the tax law, as amended by section 1 of part GG-1 of chapter 57 of  
7 the laws of 2008, is amended to read as follows:

8 (1) The amount prescribed by this paragraph for taxable years begin-  
9 ning before January first, two thousand eight shall be computed at .178  
10 percent for each dollar of the taxpayer's total business and investment  
11 capital, or the portion thereof allocated within the state as hereinaft-  
12 er provided. For taxable years beginning on or after January first, two  
13 thousand eight, the amount prescribed by this paragraph shall be  
14 computed at .15 percent for each dollar of the taxpayer's total business  
15 and investment capital, or the portion thereof allocated within the  
16 state as hereinafter provided. However, in the case of a cooperative  
17 housing corporation as defined in the internal revenue code, the appli-  
18 cable rate shall be .04 percent. IF A TAXPAYER EMPLOYS NO MORE THAN  
19 FIFTY EMPLOYEES AND HAS ENTIRE NET INCOME BASE LESS THAN TWO MILLION  
20 DOLLARS THEN THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE ZERO  
21 DOLLARS. In no event shall the amount prescribed by this paragraph  
22 exceed three hundred fifty thousand dollars for qualified New York  
23 manufacturers and for all other taxpayers ten million dollars for taxa-  
24 ble years beginning on or after January first, two thousand eight but  
25 before January first, two thousand eleven and one million dollars for  
26 taxable years beginning on or after January first, two thousand eleven.

27 S 3. Subparagraph (ii) of paragraph (c) of subdivision 1 of section  
28 210 of the tax law, as amended by section 5 of part N of chapter 60 of  
29 the laws of 2007, is amended to read as follows:

30 (ii) For taxable years beginning in nineteen hundred ninety, nineteen  
31 hundred ninety-one, nineteen hundred ninety-two, nineteen hundred nine-  
32 ty-three and nineteen hundred ninety-four the amount prescribed by this  
33 paragraph shall be computed at the rate of five percent of the taxpay-  
34 er's minimum taxable income base. For taxable years beginning after  
35 nineteen hundred ninety-four and before July first, nineteen hundred  
36 ninety-eight, the amount prescribed by this paragraph shall be computed  
37 at the rate of three and one-half percent of the taxpayer's minimum  
38 taxable income base. For taxable years beginning after June thirtieth,  
39 nineteen hundred ninety-eight and before July first, nineteen hundred  
40 ninety-nine, the amount prescribed by this paragraph shall be computed  
41 at the rate of three and one-quarter percent of the taxpayer's minimum  
42 taxable income base. For taxable years beginning after June thirtieth,  
43 nineteen hundred ninety-nine and before July first, two thousand, the  
44 amount prescribed by this paragraph shall be computed at the rate of  
45 three percent of the taxpayer's minimum taxable income base. For taxa-  
46 ble years beginning after June thirtieth, two thousand, the amount  
47 prescribed by this paragraph shall be computed at the rate of two and  
48 one-half percent of the taxpayer's minimum taxable income base. For  
49 taxable years beginning on or after January first, two thousand seven,  
50 amount prescribed by this paragraph shall be computed at the rate of one  
51 and one-half percent of the taxpayer's minimum taxable income base. The  
52 "taxpayer's minimum taxable income base" shall mean the portion of the  
53 taxpayer's minimum taxable income allocated within the state as herein-  
54 after provided, subject to any modifications required by paragraphs (d)  
55 and (e) of subdivision three of this section. HOWEVER, IF A TAXPAYER  
56 EMPLOYS NO MORE THAN FIFTY EMPLOYEES AND HAS ENTIRE NET INCOME BASE LESS



1 THAN TWO MILLION DOLLARS THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL  
2 BE COMPUTED AT THE RATE OF ZERO.

3 S 4. Clause (F) of subparagraph 1 of paragraph (d) of subdivision 1 of  
4 section 210 of the tax law, as amended by section 12 of part A of chap-  
5 ter 56 of the laws of 1998, is amended and a new clause (G) is added to  
6 read as follows:

7 (F) a gross payroll of one thousand dollars or less, with total  
8 receipts within and without this state of one thousand dollars or less,  
9 and the average value of the assets of which are one thousand dollars or  
10 less, eight hundred dollars[.];

11 (G) A TAXPAYER WHICH EMPLOYS NO MORE THAN FIFTY EMPLOYEES AND HAS  
12 ENTIRE NET INCOME BASE LESS THAN TWO MILLION DOLLARS, REGARDLESS OF  
13 GROSS PAYROLL, ZERO DOLLARS.

14 S 5. This act shall take effect immediately and shall apply to taxable  
15 years beginning on and after January 1, 2011.

16 PART D

17 Section 1. Legislative findings. The legislature hereby finds and  
18 declares that the current regulatory environment in New York state has a  
19 significant impact on the state's businesses, economy and global econom-  
20 ic competitiveness. In order to provide New York businesses the opportu-  
21 nity for growth and the ability to compete, along with providing the  
22 citizens of this state the ability to find gainful employment and the  
23 benefits of a strong economy, New York state must provide a regulatory  
24 environment that reduces the cost of doing business in the state,  
25 promotes business growth and encourages job creation.

26 The legislature further finds that it is in the interest of the state  
27 to undertake at this time a rational, independent review of all regu-  
28 lations that impact the business environment of this state which stifles  
29 the potential of New York's workers and businesses. In order to under-  
30 take such review rationally and equitably, the legislature determines  
31 that it is necessary to establish a commission separate and apart from  
32 existing bodies responsible for promulgating rules and regulations which  
33 affect the business environment, to review all existing rules and regu-  
34 lations and to provide continued oversight on future proposed rules and  
35 regulations in an effort to cut waste, reduce paperwork and create an  
36 efficient and cost effective environment for doing business in New York.

37 S 2. Commission established. (a) There is hereby created in the execu-  
38 tive department a commission to be known as the "Commission on Regulator-  
39 y Reform and Economic Competitiveness," hereafter referred to as the  
40 "commission," which shall be charged with examining all current rules  
41 and regulations affecting the business community in New York state and  
42 recommending changes to that system in light of factors submitted pursu-  
43 ant to section five of this act and additional factors established by  
44 the commission. It shall be further charged to review the economic  
45 impact and cost of any new proposed rules or regulations and make recom-  
46 mendations pursuant to section nine of this act.

47 (b) The commission shall consist of seventeen members. The seventeen  
48 members shall be appointed as follows: (i) two members shall be  
49 appointed by the temporary president of the senate; (ii) two members  
50 shall be appointed by the speaker of the assembly; (iii) one member  
51 shall be appointed by the minority leader of the senate; (iv) one member  
52 shall be appointed by the minority leader of the assembly; and (v) elev-  
53 en members shall be appointed by the governor to consist of the follow-  
54 ing: (1) two members of the business community; (2) one member of the

1 small business community; (3) two members from the labor community; (4)  
2 one member from the agricultural community; (5) one member of the local  
3 government community; and (6) four at large members. The governor shall  
4 designate the chair from among the members of the commission.

5 (c) The members of the commission shall receive no compensation for  
6 their services as members, but shall be allowed their actual and neces-  
7 sary expenses incurred in the performance of their duties. Members of  
8 the commission shall be considered public officers for purposes of  
9 section 17 of the public officers law.

10 (d) The commission shall begin to act forty-five days after this act  
11 shall have become a law. A quorum shall consist of a majority of the  
12 members of the commission entitled to vote on the matter under consider-  
13 ation. Approval of any matter shall require the affirmative vote of a  
14 majority of the members voting thereon.

15 (e) The commission shall adopt by-laws for the management and regu-  
16 lation of its affairs.

17 S 3. Appointments to commission. The legislative leaders shall submit  
18 their appointments to the governor, and the governor shall make his or  
19 her appointments, no later than forty-five days after this act becomes a  
20 law. If any such appointment is not made by such date, the appointing  
21 officer may make the appointment after that date, but the vacant  
22 appointment shall not count for calculation of a quorum until it is  
23 filled. Vacancies in the commission shall be filled in the same manner  
24 as the member whose vacancy is being filled was appointed.

25 S 4. Commission staff. The commission, acting by the chair of the  
26 commission, may employ staff and consultants, who shall be paid from  
27 amounts available to the commission for that purpose.

28 S 5. Factors and information for consideration. The commissioner of  
29 each agency or department which promulgates rules and regulations shall  
30 submit to the commission, no later than one hundred eighty days after  
31 this act becomes a law, a list of factors to be considered in its deliber-  
32 ations, which shall include:

33 (a) the need for each rule or regulation currently in force;

34 (b) a list of rules and regulations which may be rescinded;

35 (c) the economic impact of the rules and regulations on the business  
36 environment and job market of the state;

37 (d) a list of the rules and regulations which generate funds for the  
38 state and the amount of funds generated by that rule or regulation;

39 (e) a list of rules or regulations which may be amended that will  
40 result in reduced paperwork and create efficiencies in the agency or  
41 department;

42 (f) a summary of how the department or agency's rules and regulations  
43 compare to other states and other nations; and

44 (g) a summary of the agency or department's plans to create efficien-  
45 cies, reduce paperwork and promote the business environment in the  
46 state.

47 The agency or department may submit additional relevant factors to be  
48 considered in the deliberations of the commission. The commission may  
49 also adopt additional factors to be considered in its deliberations.

50 S 6. Deliberations of commission. The deliberations, meetings and  
51 other proceedings of the commission and any committee thereof shall be  
52 governed by article 7 of the public officers law, provided that,  
53 notwithstanding section 105 of the public officers law, the commission  
54 and any committee thereof shall conduct business in executive session  
55 anytime it is addressing in detail the medical, financial, or credit  
56 history of a particular general hospital or nursing home. Any one or

1 more members of a committee may participate in a meeting of such commit-  
2 tee by means of a conference telephone, conference video or similar  
3 communications equipment allowing all persons participating in the meet-  
4 ing to hear each other at the same time. Participation by such means  
5 shall constitute presence in person at a meeting. At any meetings of the  
6 commission conducted by means of a conference telephone, conference  
7 video or similar communications equipment, other than executive  
8 sessions, the public shall be given an opportunity to listen. If a meet-  
9 ing other than an executive session is to be conducted by means of a  
10 conference telephone, conference video or similar communications equip-  
11 ment, the public notice for the meeting shall inform the public that  
12 such equipment will be used, and identify the means by which the public  
13 may listen to such meeting.

14 S 7. Commission recommendations. (a) The commission shall develop  
15 recommendations to (i) eliminate wasteful regulations which increase  
16 business costs, stunt business growth and discourage job creation with  
17 no clear or significant benefit to the state; and (ii) reduce paperwork,  
18 create efficiencies, and increase the competitiveness of the state's  
19 business environment.

20 (b) Such recommendations shall include: (i) recommended dates by which  
21 such actions should occur; (ii) necessary investments, if any, that  
22 should be made in each case to carry out the commission's recommenda-  
23 tions, including any necessary workforce, training, or other invest-  
24 ments; and (iii) the commission's justification for its recommendations,  
25 including the use of the factors pursuant to section five of this act.

26 (c) In addition, the commission may include in its report: (i) recom-  
27 mended areas of further improvement in agencies or departments outside  
28 their rules and regulations; (ii) recommendations for the elimination of  
29 duplicative oversight or functions shared by more than one agency or  
30 department; (iii) recommendations on the consolidation of agencies or  
31 departments which may have concurrent areas of jurisdiction.

32 (d) On or before December 1, 2012, the commission shall transmit to  
33 the governor and the legislature a report containing its recommenda-  
34 tions, which shall include specific recommendations regarding the elimi-  
35 nation of rules and regulations, elimination of overlapping oversight  
36 and functions, proposed rules or regulations, proposed initiatives to  
37 reduce paperwork and create efficiencies and other proposals to decrease  
38 the cost of doing business in the state.

39 S 8. Implementation of recommendations. (a) Notwithstanding any  
40 contrary provision of law, rule or regulation, the commissioner or head  
41 of any rule or regulation making agency or department shall take all  
42 actions necessary to implement, in a reasonable, cost-efficient manner,  
43 the recommendations of the commission pursuant to subdivisions (b) and  
44 (c) of section seven of this act, including, but not limited to coordi-  
45 nating with state or local government officials and other parties as the  
46 commissioner deems appropriate.

47 (b) The provisions of subdivision (a) of this section shall not apply:  
48 (i) unless the governor has transmitted the commission's report under  
49 section seven of this act with his or her written approval of the recom-  
50 mendations of the commission pursuant to subdivisions (b) and (c) of  
51 section seven of this act to the head of each agency or department  
52 affected by these recommendations and transmitted a message to the  
53 legislature stating his or her approval of the report on or before  
54 December 5, 2012; and (ii) if a majority of the members of each house of  
55 the legislature vote to adopt a concurrent resolution rejecting the  
56 recommendations of the commission pursuant to subdivisions (b) and (c)

1 of section seven of this act in their entirety by December 31, 2012,  
2 after receiving a message from the governor under this subdivision.

3 S 9. Continuing responsibility to review proposed rules and regu-  
4 lations. After submission of the commission's report to the governor  
5 and the legislature, the commission shall be responsible for the contin-  
6 ued review of any agency or department's proposed rules or regulations  
7 which may impact the business environment of this state.

8 (a) The commission shall within thirty days of the receipt of the  
9 proposed rule or regulation and the accompanied report outlined in  
10 section ten of this act, vote on whether such rule or regulation shall  
11 be implemented;

12 (b) no rule shall be approved unless a vote of a majority of the  
13 commission's members present shall so vote;

14 (c) upon a vote disapproving a rule or regulation the commission shall  
15 give notice to the agency or department that such rule or regulation has  
16 been disapproved, the reason for its disapproval and any recommendations  
17 the commission shall deem appropriate to improve the proposed rule or  
18 regulation;

19 (d) if the commission shall fail to act upon any proposed rule or  
20 regulation within the thirty day period, that rule or regulation shall  
21 have been deemed to have been approved and may be implemented; and

22 (e) any rule or regulation that has been disapproved by the commission  
23 may be appealed provided that (i) the department or agency appeals with-  
24 in thirty days of the disapproval; (ii) the agency or department details  
25 why the disapproval may be detrimental to the health, safety or welfare  
26 of the state or its residents; and (iii) if applicable explain why the  
27 commission's recommended improvements are not able to be enacted.

28 S 10. Department and agency's responsibility to submit proposed rules  
29 and regulations. Notwithstanding any contrary provision of law, rule or  
30 regulation any agency or department proposing a new rule or regulation  
31 may not implement that rule or regulation without the approval of the  
32 commission. The department or agency when seeking to gain the approval  
33 of a new rule or regulation must:

34 (a) provide the commission with a copy of the new rule or regulation;

35 (b) provide a summary of the rule or regulation and the reasoning for  
36 implementing it; and

37 (c) provide an economic impact statement of the proposed rule or regu-  
38 lation to include but not be limited to (i) cost or benefit to the  
39 state; (ii) business sector or industry affected by the rule or regu-  
40 lation; (iii) number of jobs affected by the rule or regulation; and  
41 (iv) any other information which will assist the commission in under-  
42 standing the economic impact of the rule or regulation.

43 S 11. Moratorium on rate of tax. Notwithstanding any other law to the  
44 contrary, there is hereby imposed a moratorium on any increase in the  
45 rate of any tax or fee imposed by any agency, public benefit corporation  
46 or authority that is paid directly by any business.

47 S 12. Severability clause. If any clause, sentence, paragraph, subdi-  
48 vision, section or part of this act shall be adjudged by any court of  
49 competent jurisdiction to be invalid, such judgment shall not affect,  
50 impair, or invalidate the remainder thereof, but shall be confined in  
51 its operation to the clause, sentence, paragraph, subdivision, section  
52 or part thereof directly involved in the controversy in which such judg-  
53 ment shall have been rendered. It is hereby declared to be the intent of  
54 the legislature that this act would have been enacted even if such  
55 invalid provisions had not been included herein.

1 S 13. This act shall take effect immediately and shall expire June 30,  
2 2015 when upon such date the provisions of this act shall be deemed  
3 repealed.

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

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