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

5884

2013-2014 Regular Sessions

I N S E N A T E

June 18, 2013

Introduced by Sens. LIBOUS, SKELOS -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the economic development law, the tax law, the administrative code of the city of New York, the real property tax law and the education law, in relation to establishing the START-UP NY program (Part A); to amend the executive law, in relation to the mandate and regulatory relief council (Part B); and to amend the economic development law and the tax law, in relation to enhancing the excelsior jobs program act (Part C)

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

Section 1. This act enacts into law major components of legislation for the 2013 legislative session. Each component is wholly contained within a Part identified as Parts A through C. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. The economic development law is amended by adding a new article 21 to read as follows:

ARTICLE 21
START-UP NY PROGRAM

SECTION 430. SHORT TITLE.
431. DEFINITIONS.

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

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432. ELIGIBILITY CRITERIA FOR UNIVERSITIES AND COLLEGES.
433. ELIGIBILITY CRITERIA FOR BUSINESSES.
434. TAX BENEFITS.
435. APPROVAL OF TAX-FREE NY AREAS.
436. BUSINESSES LOCATING IN TAX-FREE NY AREAS.
437. MWBE AND PREVAILING WAGE REQUIREMENTS.
438. DISCLOSURE AUTHORIZATION AND REPORTING REQUIREMENTS.
439. CONFLICT OF INTEREST GUIDELINES.
440. PROHIBITION OF ANTI-COMPETITIVE BEHAVIOR.

S 430. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "SUNY TAX-FREE AREAS TO REVITALIZE AND TRANSFORM UPSTATE NEW YORK PROGRAM," OR THE "START-UP NY PROGRAM".

S 431. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE:

1. "STATE UNIVERSITY CAMPUS" SHALL MEAN ANY OF THE COLLEGES AND UNIVERSITIES DESCRIBED IN SUBDIVISION THREE OF SECTION THREE HUNDRED FIFTY-TWO OF THE EDUCATION LAW.

2. "COMMUNITY COLLEGE" MEANS A COLLEGE ESTABLISHED AND OPERATED PURSUANT TO THE PROVISIONS OF ARTICLE ONE HUNDRED TWENTY-SIX OF THE EDUCATION LAW, AND PROVIDING TWO-YEAR OR FOUR-YEAR POST SECONDARY PROGRAMS IN GENERAL AND TECHNICAL EDUCATIONAL SUBJECTS AND RECEIVING FINANCIAL ASSISTANCE FROM THE STATE, OTHER THAN A COMMUNITY COLLEGE OF THE CITY UNIVERSITY OF NEW YORK.

3. "CITY UNIVERSITY CAMPUS" MEANS A CAMPUS OF THE CITY UNIVERSITY OF NEW YORK, AS DEFINED IN SUBDIVISION TWO OF SECTION SIXTY-TWO HUNDRED TWO OF THE EDUCATION LAW.

4. "PRIVATE COLLEGE OR UNIVERSITY" MEANS A NOT-FOR-PROFIT TWO OR FOUR YEAR UNIVERSITY OR COLLEGE GIVEN THE POWER TO CONFER ASSOCIATE, BACCALAUREATE OR HIGHER DEGREES IN THIS STATE BY THE LEGISLATURE OR BY THE REGENTS UNDER ARTICLE FIVE OF THE EDUCATION LAW.

5. "NET NEW JOB" MEANS A JOB CREATED IN A TAX-FREE NY AREA THAT SATISFIES ALL OF THE FOLLOWING CRITERIA:

(A) IS NEW TO THE STATE;

(B) HAS NOT BEEN TRANSFERRED FROM EMPLOYMENT WITH ANOTHER BUSINESS LOCATED IN THIS STATE, THROUGH AN ACQUISITION, MERGER, CONSOLIDATION OR OTHER REORGANIZATION OF BUSINESSES OR THE ACQUISITION OF ASSETS OF ANOTHER BUSINESS, OR EXCEPT AS PROVIDED IN PARAGRAPH (D) OF SUBDIVISION SIX OF THIS SECTION HAS NOT BEEN TRANSFERRED FROM EMPLOYMENT WITH A RELATED PERSON IN THIS STATE;

(C) IS NOT FILLED BY AN INDIVIDUAL EMPLOYED WITHIN THE STATE WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS BY A RELATED PERSON;

(D) IS EITHER A FULL-TIME WAGE-PAYING JOB OR EQUIVALENT TO A FULL-TIME WAGE-PAYING JOB REQUIRING AT LEAST THIRTY-FIVE HOURS PER WEEK; AND

(E) IS FILLED FOR MORE THAN SIX MONTHS.

6. "NEW BUSINESS" MEANS A BUSINESS THAT SATISFIES ALL OF THE FOLLOWING TESTS:

(A) THE BUSINESS MUST NOT BE OPERATING OR LOCATED WITHIN THE STATE AT THE TIME IT SUBMITS ITS APPLICATION TO PARTICIPATE IN THE START-UP NY PROGRAM;

(B) THE BUSINESS MUST NOT BE MOVING EXISTING JOBS INTO THE TAX-FREE NY AREA FROM ANOTHER AREA IN THE STATE;

(C) THE BUSINESS IS NOT SUBSTANTIALLY SIMILAR IN OPERATION AND IN OWNERSHIP TO A BUSINESS ENTITY (OR ENTITIES) TAXABLE, OR PREVIOUSLY TAXABLE WITHIN THE LAST FIVE TAXABLE YEARS, UNDER SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR, ONE HUNDRED EIGHTY-FIVE OR ONE HUNDRED EIGHTY-SIX OF THE TAX LAW, ARTICLE NINE-A, 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

(D) THE BUSINESS MUST NOT HAVE CAUSED INDIVIDUALS TO TRANSFER FROM EXISTING EMPLOYMENT WITH A RELATED PERSON LOCATED IN THE STATE TO SIMILAR EMPLOYMENT WITH THE BUSINESS, UNLESS SUCH BUSINESS HAS RECEIVED APPROVAL FOR SUCH TRANSFERS FROM THE COMMISSIONER AFTER DEMONSTRATING THAT THE RELATED PERSON HAS NOT ELIMINATED THOSE EXISTING POSITIONS.

7. "TAX-FREE NY AREA" MEANS THE LAND OR VACANT SPACE OF A UNIVERSITY OR COLLEGE THAT MEETS THE ELIGIBILITY CRITERIA SPECIFIED IN SECTION FOUR HUNDRED THIRTY-TWO OF THIS ARTICLE AND THAT HAS BEEN APPROVED AS A TAX-FREE NY AREA PURSUANT TO THE PROVISIONS IN SECTION FOUR HUNDRED THIRTY-FIVE OF THIS ARTICLE. IT ALSO MEANS A STRATEGIC STATE ASSET THAT HAS BEEN APPROVED BY THE START-UP NY APPROVAL BOARD PURSUANT TO THE PROVISIONS OF SUBDIVISION FOUR OF SECTION FOUR HUNDRED THIRTY-FIVE OF THIS ARTICLE.

8. "RELATED PERSON" MEANS A "RELATED PERSON" PURSUANT TO SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE.

9. "STRATEGIC STATE ASSET" MEANS LAND OR A BUILDING OR GROUP OF BUILDINGS OWNED BY THE STATE OF NEW YORK, THAT IS: (A) CLOSED; (B) VACANT; OR (C) FOR WHICH NOTICE OF CLOSURE HAS BEEN GIVEN PURSUANT TO ANY STATUTORY NOTICE REQUIREMENT OR WHICH IS OTHERWISE AUTHORIZED TO BE CLOSED PURSUANT TO ANY CHAPTER OF THE LAWS OF NEW YORK.

10. "START-UP NY APPROVAL BOARD" OR "BOARD" MEANS A BOARD CONSISTING OF THREE MEMBERS, ONE EACH APPOINTED BY THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE. EACH MEMBER OF THE START-UP NY APPROVAL BOARD MUST HAVE SIGNIFICANT EXPERTISE AND EXPERIENCE IN ACADEMIC BASED ECONOMIC DEVELOPMENT AND MAY NOT HAVE A PERSONAL INTEREST IN ANY PROJECT THAT COMES BEFORE THE BOARD.

11. "UNDERUTILIZED PROPERTY" MEANS VACANT OR ABANDONED LAND OR SPACE IN AN EXISTING INDUSTRIAL PARK, MANUFACTURING FACILITY, A BROWNFIELD SITE AS DEFINED IN ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW, OR A DISTRESSED OR ABANDONED PROPERTY, WHICH SHALL BE DETERMINED BY FACTORS INCLUDING POVERTY, IDENTIFIED BY THE COUNTY OR THE TOWN, VILLAGE OR CITY THAT CONTAINS SUCH DISTRESSED OR ABANDONED PROPERTY, AS OF THE EFFECTIVE DATE OF THIS ARTICLE. A COLLEGE OR UNIVERSITY SHALL WORK WITH LOCAL MUNICIPALITIES OR LOCAL ECONOMIC DEVELOPMENT ENTITIES TO IDENTIFY UNDERUTILIZED PROPERTIES.

12. "ELIGIBLE LAND" MEANS LAND ELIGIBLE PURSUANT TO SECTION FOUR HUNDRED THIRTY-TWO OF THIS ARTICLE FOR APPROVAL AS A TAX-FREE NY AREA.

13. "SPONSORING CAMPUS, UNIVERSITY OR COLLEGE" MEANS A UNIVERSITY OR COLLEGE THAT HAS RECEIVED APPROVAL TO SPONSOR A TAX-FREE NY AREA PURSUANT TO SECTION FOUR HUNDRED THIRTY-FIVE OF THIS ARTICLE.

S 432. ELIGIBILITY CRITERIA FOR UNIVERSITIES AND COLLEGES. 1. STATE UNIVERSITY CAMPUSES, COMMUNITY COLLEGES AND CITY UNIVERSITY CAMPUSES. (A) SUBJECT TO THE LIMITATIONS IN PARAGRAPH (C) OF THIS SUBDIVISION, THE FOLLOWING WILL CONSTITUTE THE ELIGIBLE LAND OF A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE, OR CITY UNIVERSITY CAMPUS:

(I) ANY VACANT SPACE IN ANY BUILDING LOCATED ON A CAMPUS OF A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS;

(II) ANY VACANT LAND ON A CAMPUS OF A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS;

(III) FOR A STATE UNIVERSITY CAMPUS OR COMMUNITY COLLEGE, A TOTAL OF TWO HUNDRED THOUSAND SQUARE FEET OF VACANT LAND OR VACANT BUILDING SPACE

THAT, EXCEPT AS PROVIDED UNDER PARAGRAPH (B) OF THIS SUBDIVISION, IS LOCATED WITHIN ONE MILE OF A CAMPUS OF THE STATE UNIVERSITY CAMPUS OR COMMUNITY COLLEGE; PROVIDED THAT THIS SUBPARAGRAPH SHALL NOT APPLY TO A STATE UNIVERSITY CAMPUS OR COMMUNITY COLLEGE LOCATED IN NASSAU COUNTY, SUFFOLK COUNTY OR WESTCHESTER COUNTY; AND

(IV) A NEW YORK STATE INCUBATOR AS THE TERM IS USED IN SUBDIVISION FOUR OF SECTION FOUR HUNDRED THIRTY-THREE OF THIS ARTICLE WITH A BONA FIDE AFFILIATION TO THE STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS, WITH APPROVAL OF THE COMMISSIONER. IN ORDER FOR THERE TO BE A BONA FIDE AFFILIATION OF A NEW YORK STATE INCUBATOR WITH A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS, THE INCUBATOR AND THE STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS MUST HAVE A PARTNERSHIP TO PROVIDE ASSISTANCE AND PHYSICAL SPACE TO ELIGIBLE BUSINESSES, AS THE TERM IS USED IN SECTION SIXTEEN-V OF THE URBAN DEVELOPMENT CORPORATION ACT; THE INCUBATOR AND THE STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS MUST DIRECTLY WORK TOWARDS THE GOALS OF JOINTLY CREATING JOBS AND INCUBATING NEW STARTUP BUSINESSES; AND THE MISSION AND ACTIVITIES OF THE INCUBATOR MUST ALIGN WITH OR FURTHER THE ACADEMIC MISSION OF THE STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS.

(B) A STATE UNIVERSITY CAMPUS OR COMMUNITY COLLEGE WHICH QUALIFIES UNDER SUBPARAGRAPH (III) OF PARAGRAPH (A) OF THIS SUBDIVISION MAY APPLY TO THE COMMISSIONER FOR A DETERMINATION THAT IDENTIFIED VACANT LAND OR IDENTIFIED VACANT SPACE IN A BUILDING THAT IS LOCATED MORE THAN ONE MILE FROM ITS CAMPUS, AND IS NOT LOCATED IN NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY, IS ELIGIBLE LAND FOR PURPOSES OF THIS PROGRAM. THE COMMISSIONER SHALL GIVE CONSIDERATION TO FACTORS INCLUDING RURAL, SUBURBAN AND URBAN GEOGRAPHIC CONSIDERATIONS AND MAY QUALIFY THE IDENTIFIED LAND OR SPACE IN A BUILDING AS ELIGIBLE LAND IF THE COMMISSIONER, IN CONSULTATION WITH THE CHANCELLOR OR HIS OR HER DESIGNEE, DETERMINES THAT THE STATE UNIVERSITY CAMPUS OR COMMUNITY COLLEGE HAS SHOWN THAT THE USE OF THE LAND OR SPACE WILL BE CONSISTENT WITH THE REQUIREMENTS OF THIS PROGRAM AND THE PLAN SUBMITTED BY THE STATE UNIVERSITY CAMPUS OR COMMUNITY COLLEGE PURSUANT TO SECTION FOUR HUNDRED THIRTY-FIVE OF THIS ARTICLE. IN ADDITION, TWO HUNDRED THOUSAND SQUARE FEET OF VACANT LAND OR VACANT BUILDING SPACE AFFILIATED WITH OR IN PARTNERSHIP WITH MARITIME COLLEGE SHALL BE ELIGIBLE UNDER THIS PARAGRAPH. THE AGGREGATE AMOUNT OF QUALIFIED LAND OR SPACE UNDER THIS PARAGRAPH AND SUBPARAGRAPH (III) OF PARAGRAPH (A) OF THIS SUBDIVISION MAY NOT EXCEED TWO HUNDRED THOUSAND SQUARE FEET FOR A STATE UNIVERSITY CAMPUS OR COMMUNITY COLLEGE.

(C) THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION SHALL APPLY ONLY TO:

(I) A STATE UNIVERSITY CAMPUS OTHER THAN THE FOLLOWING: (A) ANY EMPIRE STATE COLLEGE CAMPUS EXCEPT FOR THE EMPIRE STATE COLLEGE CAMPUS IN SARATOGA SPRINGS, (B) ANY PROPERTY OF DOWNSTATE MEDICAL CENTER LOCATED IN NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY EXCEPT FOR PROPERTY AFFILIATED WITH DOWNSTATE MEDICAL CENTER THAT CONSTITUTES A NEW YORK STATE INCUBATOR AS THE TERM IS USED IN SUBDIVISION FOUR OF SECTION FOUR HUNDRED THIRTY-THREE OF THIS ARTICLE, AND (C) ANY PROPERTY OF THE COLLEGE OF OPTOMETRY OR MARITIME COLLEGE LOCATED IN NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY.

(II) A COMMUNITY COLLEGE, EXCEPT THAT FOR A COMMUNITY COLLEGE WHOSE MAIN CAMPUS IS IN NEW YORK CITY, PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION SHALL NOT APPLY TO PROPERTY OF SUCH COMMUNITY COLLEGE IN NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY.

(III) A TOTAL OF FIVE CITY UNIVERSITY CAMPUSES, ONE EACH IN THE BOROUGHS OF MANHATTAN, BROOKLYN, BRONX, QUEENS AND STATEN ISLAND, WHICH WILL BE DESIGNATED BY THE BOARD OF TRUSTEES OF THE CITY UNIVERSITY OF NEW YORK. THE CAMPUS DESIGNATED IN EACH BOROUGH MUST BE LOCATED IN AN ECONOMICALLY DISTRESSED COMMUNITY. THE COMMISSIONER SHALL ESTABLISH A LIST OF ECONOMICALLY DISTRESSED COMMUNITIES FOR THE PURPOSE OF THIS DESIGNATION, BASED ON CRITERIA INDICATIVE OF ECONOMIC DISTRESS, INCLUDING POVERTY RATES, NUMBERS OF PERSONS RECEIVING PUBLIC ASSISTANCE, UNEMPLOYMENT RATES, AND SUCH OTHER INDICATORS AS THE COMMISSIONER DEEMS APPROPRIATE TO BE IN NEED OF ECONOMIC ASSISTANCE. IN ADDITION, PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION SHALL APPLY TO PROPERTY OF THE CITY UNIVERSITY LOCATED OUTSIDE OF NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY AND NEW YORK CITY.

(D) THE ELIGIBLE LAND OF A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE, OR CITY UNIVERSITY CAMPUS WILL ALSO INCLUDE ELIGIBLE LAND DESIGNATED UNDER PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION.

2. PRIVATE COLLEGES AND UNIVERSITIES AND CERTAIN OTHER CAMPUSES. (A) SUBJECT TO THE LIMITATIONS IN PARAGRAPH (C) OF THIS SUBDIVISION, THE FOLLOWING WILL CONSTITUTE THE ELIGIBLE LAND OF A PRIVATE COLLEGE OR UNIVERSITY:

(I) ANY VACANT SPACE IN ANY BUILDING LOCATED ON A CAMPUS OF A PRIVATE UNIVERSITY OR COLLEGE OTHER THAN A CAMPUS WHICH IS LOCATED IN NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY;

(II) ANY VACANT LAND ON A CAMPUS OF A PRIVATE UNIVERSITY OR COLLEGE OTHER THAN A CAMPUS WHICH IS LOCATED IN NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY;

(III) ANY VACANT LAND OR VACANT SPACE IN A BUILDING WHICH IS NOT LOCATED IN NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY; AND

(IV) A NEW YORK STATE INCUBATOR AS THE TERM IS USED IN SUBDIVISION FOUR OF SECTION FOUR HUNDRED THIRTY-THREE OF THIS ARTICLE WITH A BONA FIDE AFFILIATION TO THE PRIVATE UNIVERSITY OR COLLEGE, WITH APPROVAL OF THE COMMISSIONER. IN ORDER FOR THERE TO BE A BONA FIDE AFFILIATION OF A NEW YORK STATE INCUBATOR WITH A PRIVATE UNIVERSITY OR COLLEGE, THE INCUBATOR AND THE PRIVATE UNIVERSITY OR COLLEGE MUST HAVE A PARTNERSHIP TO PROVIDE ASSISTANCE AND PHYSICAL SPACE TO ELIGIBLE BUSINESSES AS THE TERM IS USED IN SECTION SIXTEEN-V OF THE URBAN DEVELOPMENT CORPORATION ACT; THE INCUBATOR AND THE PRIVATE UNIVERSITY OR COLLEGE MUST DIRECTLY WORK TOWARDS THE GOALS OF JOINTLY CREATING JOBS AND INCUBATING NEW STARTUP BUSINESSES; AND THE MISSION AND ACTIVITIES OF THE INCUBATOR MUST ALIGN WITH OR FURTHER THE ACADEMIC MISSION OF THE PRIVATE UNIVERSITY OR COLLEGE.

(B) SUBJECT TO THE LIMITATIONS IN PARAGRAPH (C) OF THIS SUBDIVISION, THREE MILLION SQUARE FEET IS THE MAXIMUM AGGREGATE AMOUNT OF TAX-FREE NY AREAS OF PRIVATE UNIVERSITIES AND COLLEGES THAT MAY BE UTILIZED FOR THIS PROGRAM, WHICH SHALL BE DESIGNATED IN A MANNER THAT ENSURES REGIONAL BALANCE AND BALANCE AMONG ELIGIBLE RURAL, URBAN AND SUBURBAN AREAS IN THE STATE. THE COMMISSIONER SHALL MAINTAIN AN ACCOUNTING OF THE VACANT LAND AND SPACE OF PRIVATE UNIVERSITIES AND COLLEGES THAT HAVE BEEN APPROVED AS TAX-FREE NY AREAS AND SHALL STOP ACCEPTING APPLICATIONS FOR APPROVAL OF TAX-FREE NY AREAS WHEN THAT MAXIMUM AMOUNT HAS BEEN REACHED.

(C) OF THE MAXIMUM AGGREGATE AMOUNT IN PARAGRAPH (B) OF THIS SUBDIVISION, AN INITIAL AMOUNT OF SEVENTY-FIVE THOUSAND SQUARE FEET SHALL BE DESIGNATED AS TAX-FREE NY AREAS IN EACH OF THE FOLLOWING: NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY AND THE BOROUGHS OF BROOKLYN, BRONX, MANHATTAN, QUEENS AND STATEN ISLAND. THE BOARD MAY APPROVE THE DESIG-

NATION OF UP TO AN ADDITIONAL SEVENTY-FIVE THOUSAND SQUARE FEET FOR ANY COUNTY OR BOROUGH THAT REACHES THE INITIAL SEVENTY-FIVE THOUSAND SQUARE FOOT LIMIT, PROVIDED THAT SUCH ADDITIONAL SEVENTY-FIVE THOUSAND SQUARE FEET SHALL NOT COUNT AGAINST THE SQUARE FOOTAGE LIMITATIONS IN PARAGRAPH (B) OF THIS SUBDIVISION. VACANT LAND AND VACANT SPACE IN A BUILDING ON THE CAMPUS OF THE FOLLOWING SHALL BE ELIGIBLE FOR DESIGNATION UNDER THIS PARAGRAPH:

(I) A PRIVATE UNIVERSITY OR COLLEGE WHICH CAMPUS IS LOCATED IN NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY.

(II) A STATE UNIVERSITY CAMPUS THAT MEETS THE CRITERIA OF CLAUSE (B) OR (C) OF SUBPARAGRAPH (I) OF PARAGRAPH (C) OF SUBDIVISION ONE OF THIS SECTION.

(III) A COMMUNITY COLLEGE WHOSE MAIN CAMPUS IS IN NEW YORK CITY.

(IV) A CITY UNIVERSITY CAMPUS THAT IS NOT DESIGNATED UNDER SUBPARAGRAPH (III) OF PARAGRAPH (C) OF SUBDIVISION ONE OF THIS SECTION.

(D) IN ADDITION, THE BOARD MAY APPROVE: (I) ONE APPLICATION THAT INCLUDES ELIGIBLE LAND OWNED OR LEASED BY A CITY UNIVERSITY CAMPUS THAT IS DIRECTLY ADJACENT TO SUCH CAMPUS; (II) ONE APPLICATION THAT INCLUDES ELIGIBLE LAND OWNED OR LEASED BY A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE, OR PRIVATE UNIVERSITY OR COLLEGE IN NASSAU COUNTY OR SUFFOLK COUNTY THAT IS DIRECTLY ADJACENT TO SUCH CAMPUS, UNIVERSITY OR COLLEGE; AND (III) ONE APPLICATION THAT INCLUDES ELIGIBLE LAND OWNED OR LEASED BY A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE, OR PRIVATE UNIVERSITY OR COLLEGE IN WESTCHESTER COUNTY THAT IS DIRECTLY ADJACENT TO SUCH CAMPUS, UNIVERSITY OR COLLEGE. THE BOARD MAY APPROVE AN ADDITIONAL APPLICATION, FOR A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE, OR PRIVATE UNIVERSITY OR COLLEGE IN THE COUNTY NOT PREVIOUSLY APPROVED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN WHICH CASE IT SHALL ALSO APPROVE A SECOND APPLICATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

3. PROHIBITION. A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS IS PROHIBITED FROM RELOCATING OR ELIMINATING ANY ACADEMIC PROGRAMS, ANY ADMINISTRATIVE PROGRAMS, OFFICES, HOUSING FACILITIES, DINING FACILITIES, ATHLETIC FACILITIES, OR ANY OTHER FACILITY, SPACE OR PROGRAM THAT ACTIVELY SERVES STUDENTS, FACULTY OR STAFF IN ORDER TO CREATE VACANT LAND OR SPACE TO BE UTILIZED FOR THE PROGRAM AUTHORIZED BY THIS ARTICLE. IN ADDITION, NOTHING IN THIS ARTICLE SHALL BE DEEMED TO WAIVE OR IMPAIR ANY RIGHTS OR BENEFITS OF EMPLOYEES OF THE STATE UNIVERSITY OF NEW YORK, A COMMUNITY COLLEGE OR THE CITY UNIVERSITY OF NEW YORK THAT OTHERWISE WOULD BE AVAILABLE TO THEM PURSUANT TO THE TERMS OF AGREEMENTS BETWEEN THE CERTIFIED REPRESENTATIVES OF SUCH EMPLOYEES AND THEIR EMPLOYERS PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW. NO SERVICES OR WORK CURRENTLY PERFORMED BY PUBLIC EMPLOYEES OF THE STATE UNIVERSITY OF NEW YORK, A COMMUNITY COLLEGE, OR THE CITY UNIVERSITY OF NEW YORK OR FUTURE WORK THAT IS SIMILAR IN SCOPE AND NATURE TO THE WORK BEING CURRENTLY PERFORMED BY PUBLIC EMPLOYEES SHALL BE CONTRACTED OUT OR PRIVATIZED BY THE STATE UNIVERSITY OF NEW YORK, A COMMUNITY COLLEGE OR THE CITY UNIVERSITY OF NEW YORK OR BY AN AFFILIATED ENTITY OR ASSOCIATED ENTITY OF THE STATE UNIVERSITY OF NEW YORK, A COMMUNITY COLLEGE OR THE CITY UNIVERSITY OF NEW YORK. FOR THE PURPOSE OF THIS SECTION, AN AFFILIATED ENTITY OR ASSOCIATED ENTITY SHALL NOT INCLUDE A BUSINESS THAT IS PARTICIPATING IN THE START-UP NY PROGRAM.

S 433. ELIGIBILITY CRITERIA FOR BUSINESSES. 1. IN ORDER TO PARTICIPATE IN THE START-UP NY PROGRAM, A BUSINESS MUST SATISFY ALL OF THE FOLLOWING CRITERIA.

(A) THE MISSION AND ACTIVITIES OF THE BUSINESS MUST ALIGN WITH OR FURTHER THE ACADEMIC MISSION OF THE CAMPUS, COLLEGE OR UNIVERSITY SPON-

SORING THE TAX-FREE NY AREA IN WHICH IT SEEKS TO LOCATE, AND THE BUSINESS'S PARTICIPATION IN THE START-UP NY PROGRAM MUST HAVE POSITIVE COMMUNITY AND ECONOMIC BENEFITS.

(B) THE BUSINESS MUST DEMONSTRATE THAT IT WILL, IN ITS FIRST YEAR OF OPERATION, CREATE NET NEW JOBS. AFTER ITS FIRST YEAR OF OPERATION, THE BUSINESS MUST MAINTAIN NET NEW JOBS. IN ADDITION, THE AVERAGE NUMBER OF EMPLOYEES OF THE BUSINESS AND ITS RELATED PERSONS IN THE STATE DURING THE YEAR MUST EQUAL OR EXCEED THE SUM OF: (I) THE AVERAGE NUMBER OF EMPLOYEES OF THE BUSINESS AND ITS RELATED PERSONS IN THE STATE DURING THE YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE BUSINESS SUBMITS ITS APPLICATION TO LOCATE IN A TAX-FREE NY AREA; AND (II) NET NEW JOBS OF THE BUSINESS IN THE TAX-FREE NY AREA DURING THE YEAR. THE AVERAGE NUMBER OF EMPLOYEES OF THE BUSINESS AND ITS RELATED PERSONS IN THE STATE SHALL BE DETERMINED BY ADDING TOGETHER THE TOTAL NUMBER OF EMPLOYEES OF THE BUSINESS AND ITS RELATED PERSONS IN THE STATE ON MARCH THIRTY-FIRST, JUNE THIRTIETH, SEPTEMBER THIRTIETH AND DECEMBER THIRTY-FIRST AND DIVIDING THE TOTAL BY THE NUMBER OF SUCH DATES OCCURRING WITHIN SUCH YEAR.

(C) EXCEPT AS PROVIDED IN PARAGRAPHS (G) AND (H) OF THIS SUBDIVISION, AT THE TIME IT SUBMITS ITS APPLICATION FOR THE START-UP NY PROGRAM, THE BUSINESS MUST BE A NEW BUSINESS TO THE STATE.

(D) THE BUSINESS MAY BE ORGANIZED AS A CORPORATION, A PARTNERSHIP, LIMITED LIABILITY COMPANY OR A SOLE PROPRIETORSHIP.

(E) UPON COMPLETION OF ITS FIRST YEAR IN THE START-UP NY PROGRAM AND THEREAFTER, THE BUSINESS MUST COMPLETE AND TIMELY FILE THE ANNUAL REPORT REQUIRED UNDER SECTION FOUR HUNDRED THIRTY-EIGHT OF THIS ARTICLE.

(F) EXCEPT AS PROVIDED IN PARAGRAPHS (G) AND (H) OF THIS SUBDIVISION, THE BUSINESS MUST NOT BE ENGAGED IN A LINE OF BUSINESS THAT IS CURRENTLY OR WAS PREVIOUSLY CONDUCTED BY THE BUSINESS OR A RELATED PERSON IN THE LAST FIVE YEARS IN NEW YORK STATE.

(G) IF A BUSINESS DOES NOT SATISFY THE ELIGIBILITY STANDARD SET FORTH IN PARAGRAPH (C) OR (F) OF THIS SUBDIVISION, BECAUSE AT ONE POINT IN TIME IT OPERATED IN NEW YORK STATE BUT MOVED ITS OPERATIONS OUT OF NEW YORK STATE ON OR BEFORE JUNE FIRST, TWO THOUSAND THIRTEEN, THE COMMISSIONER SHALL GRANT THAT BUSINESS PERMISSION TO APPLY TO PARTICIPATE IN THE START-UP NY PROGRAM IF THE COMMISSIONER DETERMINES THAT THE BUSINESS HAS DEMONSTRATED THAT IT WILL SUBSTANTIALLY RESTORE THE JOBS IN NEW YORK STATE THAT IT PREVIOUSLY HAD MOVED OUT OF STATE.

(H) IF A BUSINESS SEEKS TO EXPAND ITS CURRENT OPERATIONS IN NEW YORK STATE INTO A TAX-FREE NY AREA BUT THE BUSINESS DOES NOT QUALIFY AS A NEW BUSINESS BECAUSE IT DOES NOT SATISFY THE CRITERIA IN PARAGRAPH (C) OF SUBDIVISION SIX OF SECTION FOUR HUNDRED THIRTY-ONE OF THIS ARTICLE OR THE BUSINESS DOES NOT SATISFY THE ELIGIBILITY STANDARD SET FORTH IN PARAGRAPH (F) OF THIS SUBDIVISION, THE COMMISSIONER SHALL GRANT THE BUSINESS PERMISSION TO APPLY TO PARTICIPATE IN THE START-UP NY PROGRAM IF THE COMMISSIONER DETERMINES THAT THE BUSINESS HAS DEMONSTRATED THAT IT WILL CREATE NET NEW JOBS IN THE TAX-FREE NY AREA AND THAT IT OR ANY RELATED PERSON HAS NOT ELIMINATED ANY JOBS IN THE STATE IN CONNECTION WITH THIS EXPANSION.

2. THE FOLLOWING TYPES OF BUSINESSES ARE PROHIBITED FROM PARTICIPATING IN THE START-UP NY PROGRAM.

(A) RETAIL AND WHOLESALE BUSINESSES;

(B) RESTAURANTS;

(C) REAL ESTATE BROKERS;

(D) LAW FIRMS;

(E) MEDICAL OR DENTAL PRACTICES;

(F) REAL ESTATE MANAGEMENT COMPANIES;

(G) HOSPITALITY;
(H) FINANCE AND FINANCIAL SERVICES;
(I) BUSINESSES PROVIDING PERSONAL SERVICES;
(J) BUSINESSES PROVIDING BUSINESS ADMINISTRATIVE OR SUPPORT SERVICES, UNLESS SUCH BUSINESS HAS RECEIVED PERMISSION FROM THE COMMISSIONER TO APPLY TO PARTICIPATE IN THE START-UP NY PROGRAM UPON DEMONSTRATION THAT THE BUSINESS WOULD CREATE NO FEWER THAN ONE HUNDRED NET NEW JOBS IN THE TAX-FREE NY AREA;
(K) ACCOUNTING FIRMS;
(L) BUSINESSES PROVIDING UTILITIES; AND
(M) BUSINESSES ENGAGED IN THE GENERATION OR DISTRIBUTION OF ELECTRICITY, THE DISTRIBUTION OF NATURAL GAS, OR THE PRODUCTION OF STEAM ASSOCIATED WITH THE GENERATION OF ELECTRICITY.

2-A. ADDITIONAL ELIGIBILITY REQUIREMENTS IN NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY AND NEW YORK CITY. IN ORDER TO BE ELIGIBLE TO PARTICIPATE IN THE START-UP NY PROGRAM IN NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY, A BUSINESS MUST BE:

(A) IN THE FORMATIVE STAGE OF DEVELOPMENT; OR
(B) ENGAGED IN THE DESIGN, DEVELOPMENT, AND INTRODUCTION OF NEW BIOTECHNOLOGY, INFORMATION TECHNOLOGY, REMANUFACTURING, ADVANCED MATERIALS, PROCESSING, ENGINEERING OR ELECTRONIC TECHNOLOGY PRODUCTS AND/OR INNOVATIVE MANUFACTURING PROCESSES, AND MEET SUCH OTHER REQUIREMENTS FOR A HIGH-TECH BUSINESS AS THE COMMISSIONER SHALL DEVELOP.

3. A BUSINESS MUST BE IN COMPLIANCE WITH ALL WORKER PROTECTION AND ENVIRONMENTAL LAWS AND REGULATIONS. IN ADDITION, A BUSINESS MAY NOT OWE PAST DUE FEDERAL OR STATE TAXES OR LOCAL PROPERTY TAXES.

4. ANY BUSINESS THAT HAS SUCCESSFULLY COMPLETED RESIDENCY IN A NEW YORK STATE INCUBATOR PURSUANT TO SECTION SIXTEEN-V OF SECTION ONE OF CHAPTER ONE HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED SIXTY-EIGHT CONSTITUTING THE URBAN DEVELOPMENT CORPORATION ACT, SUBJECT TO APPROVAL OF THE COMMISSIONER, MAY APPLY TO PARTICIPATE IN THE START-UP NY PROGRAM PROVIDED THAT SUCH BUSINESS LOCATES IN A TAX-FREE NY AREA, NOTWITHSTANDING THE FACT THAT THE BUSINESS MAY NOT CONSTITUTE A NEW BUSINESS.

S 434. TAX BENEFITS. 1. A BUSINESS THAT IS ACCEPTED INTO THE START-UP NY PROGRAM AND LOCATES IN A TAX-FREE NY AREA OR THE OWNER OF A BUSINESS THAT IS ACCEPTED INTO THE START-UP NY PROGRAM AND LOCATES IN A TAX-FREE NY AREA IS ELIGIBLE FOR THE TAX BENEFITS SPECIFIED IN SECTION THIRTY-NINE OF THE TAX LAW. SUBJECT TO THE LIMITATIONS OF SUBDIVISION TWO OF THIS SECTION, EMPLOYEES OF SUCH BUSINESS SATISFYING THE ELIGIBILITY REQUIREMENTS SPECIFIED IN SECTION THIRTY-NINE OF THE TAX LAW SHALL BE ELIGIBLE FOR THE PERSONAL INCOME TAX BENEFITS DESCRIBED IN SUCH SECTION IN A MANNER TO BE DETERMINED BY THE DEPARTMENT OF TAXATION AND FINANCE.

2. THE AGGREGATE NUMBER OF NET NEW JOBS APPROVED FOR PERSONAL INCOME TAX BENEFITS UNDER THIS ARTICLE SHALL NOT EXCEED TEN THOUSAND JOBS PER YEAR DURING THE PERIOD IN WHICH APPLICATIONS ARE ACCEPTED PURSUANT TO SECTION FOUR HUNDRED THIRTY-SIX OF THIS ARTICLE. THE COMMISSIONER SHALL ALLOCATE TO EACH BUSINESS ACCEPTED TO LOCATE IN A TAX-FREE NY AREA A MAXIMUM NUMBER OF NET NEW JOBS THAT SHALL BE ELIGIBLE FOR THE PERSONAL INCOME TAX BENEFITS DESCRIBED IN SUBDIVISION (E) OF SECTION THIRTY-NINE OF THE TAX LAW BASED ON THE SCHEDULE OF JOB CREATION INCLUDED IN THE APPLICATION OF SUCH BUSINESS. AT SUCH TIME AS THE TOTAL NUMBER OF NET NEW JOBS UNDER SUCH APPROVED APPLICATIONS REACHES THE APPLICABLE ALLOWABLE TOTAL OF AGGREGATE NET NEW JOBS FOR TAX BENEFITS FOR THE YEAR IN WHICH THE APPLICATION IS ACCEPTED, THE COMMISSIONER SHALL STOP GRANTING

ELIGIBILITY FOR PERSONAL INCOME TAX BENEFITS FOR NET NEW JOBS UNTIL THE NEXT YEAR. ANY BUSINESS NOT GRANTED SUCH PERSONAL INCOME TAX BENEFITS FOR NET NEW JOBS FOR SUCH REASON SHALL BE GRANTED SUCH BENEFITS IN THE NEXT YEAR PRIOR TO THE CONSIDERATION OF NEW APPLICANTS. IN ADDITION, IF THE TOTAL NUMBER OF NET NEW JOBS APPROVED FOR TAX BENEFITS IN ANY GIVEN YEAR IS LESS THAN THE MAXIMUM ALLOWED UNDER THIS SUBDIVISION, THE DIFFERENCE SHALL BE CARRIED OVER TO THE NEXT YEAR. A BUSINESS MAY AMEND ITS SCHEDULE OF JOB CREATION IN THE SAME MANNER THAT IT APPLIED FOR PARTICIPATION IN THE START-UP NY PROGRAM, AND ANY INCREASE IN ELIGIBILITY FOR PERSONAL INCOME TAX BENEFITS ON BEHALF OF ADDITIONAL NET NEW JOBS SHALL BE SUBJECT TO THE LIMITATIONS OF THIS SUBDIVISION. IF THE BUSINESS ACCEPTED TO LOCATE IN A TAX-FREE NY AREA CREATES MORE NET NEW JOBS THAN FOR WHICH IT IS ALLOCATED PERSONAL INCOME TAX BENEFITS, THE PERSONAL INCOME TAX BENEFITS IT IS ALLOCATED SHALL BE PROVIDED TO THOSE INDIVIDUALS EMPLOYED IN THOSE NET NEW JOBS BASED ON THE EMPLOYEES' DATES OF HIRING.

S 435. APPROVAL OF TAX-FREE NY AREAS. 1. THE PRESIDENT OR CHIEF EXECUTIVE OFFICER OF ANY STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS SEEKING TO SPONSOR A TAX-FREE NY AREA AND HAVE SOME OF ITS ELIGIBLE LAND SPECIFIED UNDER SUBDIVISION ONE OF SECTION FOUR HUNDRED THIRTY-TWO OF THIS ARTICLE BE DESIGNATED AS A TAX-FREE NY AREA MUST SUBMIT A PLAN TO THE COMMISSIONER THAT SPECIFIES THE LAND OR SPACE THE CAMPUS OR COLLEGE WANTS TO INCLUDE, DESCRIBES THE TYPE OF BUSINESS OR BUSINESSES THAT MAY LOCATE ON THAT LAND OR IN THAT SPACE, EXPLAINS HOW THOSE TYPES OF BUSINESSES ALIGN WITH OR FURTHER THE ACADEMIC MISSION OF THE CAMPUS OR COLLEGE AND HOW PARTICIPATION BY THOSE TYPES OF BUSINESSES IN THE START-UP NY PROGRAM WOULD HAVE POSITIVE COMMUNITY AND ECONOMIC BENEFITS, AND DESCRIBES THE PROCESS THE CAMPUS OR COLLEGE WILL FOLLOW TO SELECT PARTICIPATING BUSINESSES. AT LEAST THIRTY DAYS PRIOR TO SUBMITTING SUCH PLAN, THE CAMPUS OR COLLEGE MUST PROVIDE THE MUNICIPALITY OR MUNICIPALITIES IN WHICH THE PROPOSED TAX-FREE NY AREA IS LOCATED, LOCAL ECONOMIC DEVELOPMENT ENTITIES, THE APPLICABLE CAMPUS OR COLLEGE FACULTY SENATE, UNION REPRESENTATIVES AND THE CAMPUS STUDENT GOVERNMENT WITH A COPY OF THE PLAN. IN ADDITION, IF THE PLAN OF THE CAMPUS OR COLLEGE INCLUDES LAND OR SPACE LOCATED OUTSIDE OF THE CAMPUS BOUNDARIES, THE CAMPUS OR COLLEGE MUST CONSULT WITH THE MUNICIPALITY OR MUNICIPALITIES IN WHICH SUCH LAND OR SPACE IS LOCATED PRIOR TO INCLUDING SUCH SPACE OR LAND IN ITS PROPOSED TAX-FREE NY AREA AND SHALL GIVE PREFERENCE TO UNDERUTILIZED PROPERTIES. BEFORE APPROVING OR REJECTING THE PLAN SUBMITTED BY A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS, THE COMMISSIONER SHALL CONSULT WITH THE CHANCELLOR OF THE APPLICABLE UNIVERSITY SYSTEM OR HIS OR HER DESIGNEE.

2. THE PRESIDENT OR CHIEF EXECUTIVE OFFICER OF ANY PRIVATE COLLEGE OR UNIVERSITY OR OF ANY STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS SEEKING TO SPONSOR A TAX-FREE NY AREA AND HAVE SOME OF ITS ELIGIBLE LAND SPECIFIED UNDER SUBDIVISION TWO OF SECTION FOUR HUNDRED THIRTY-TWO OF THIS ARTICLE BE DESIGNATED AS A TAX-FREE NY AREA MUST SUBMIT A PLAN TO THE COMMISSIONER THAT SPECIFIES THE LAND OR SPACE THE COLLEGE OR UNIVERSITY WANTS TO INCLUDE, DESCRIBES THE TYPE OF BUSINESS OR BUSINESSES THAT MAY LOCATE ON THAT LAND OR IN THAT SPACE, EXPLAINS HOW THOSE TYPES OF BUSINESSES ALIGN WITH OR FURTHER THE ACADEMIC MISSION OF THE COLLEGE OR UNIVERSITY AND HOW PARTICIPATION BY THOSE TYPES OF BUSINESSES IN THE START-UP NY PROGRAM WOULD HAVE POSITIVE COMMUNITY AND ECONOMIC BENEFITS, AND DESCRIBES THE PROCESS THE CAMPUS OR COLLEGE WILL FOLLOW TO SELECT PARTICIPATING BUSINESSES. IN ADDITION, IF THE PLAN OF THE CAMPUS OR COLLEGE INCLUDES LAND OR SPACE LOCATED OUTSIDE

OF THE CAMPUS BOUNDARIES, THE CAMPUS OR COLLEGE MUST CONSULT WITH THE MUNICIPALITY OR MUNICIPALITIES IN WHICH SUCH LAND OR SPACE IS LOCATED PRIOR TO INCLUDING SUCH SPACE OR LAND IN ITS PROPOSED TAX-FREE NY AREA AND SHALL NOTIFY LOCAL ECONOMIC DEVELOPMENT ENTITIES. THE COMMISSIONER SHALL FORWARD THE PLAN SUBMITTED UNDER THIS SUBDIVISION TO THE START-UP NY APPROVAL BOARD. IN EVALUATING SUCH PLANS, THE BOARD SHALL EXAMINE THE MERITS OF EACH PROPOSAL, INCLUDING BUT NOT LIMITED TO, COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, REASONABLENESS OF THE ECONOMIC AND FISCAL ASSUMPTIONS CONTAINED IN THE APPLICATION AND IN ANY SUPPORTING DOCUMENTATION AND POTENTIAL OF THE PROPOSED PROJECT TO CREATE NEW JOBS, AND, EXCEPT FOR PROPOSALS FOR DESIGNATION OF ELIGIBLE LAND UNDER PARAGRAPH (C) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED THIRTY-TWO OF THIS ARTICLE, SHALL PRIORITIZE FOR ACCEPTANCE AND INCLUSION INTO THE START-UP NY PROGRAM PLANS FOR TAX-FREE NY AREAS IN COUNTIES THAT CONTAIN A CITY WITH A POPULATION OF ONE HUNDRED THOUSAND OR MORE WITHOUT A UNIVERSITY CENTER AS DEFINED IN SUBDIVISION SEVEN OF SECTION THREE HUNDRED FIFTY OF THE EDUCATION LAW ON THE EFFECTIVE DATE OF THIS ARTICLE. NO PREFERENCE SHALL BE GIVEN BASED ON THE TIME OF SUBMISSION OF THE PLAN, PROVIDED THAT ANY SUBMISSION DEADLINES ESTABLISHED BY THE BOARD ARE MET. IN ADDITION, THE BOARD SHALL GIVE PREFERENCE TO PRIVATE COLLEGES OR UNIVERSITIES THAT INCLUDE UNDERUTILIZED PROPERTIES WITHIN THEIR PROPOSED TAX-FREE NY AREAS. THE BOARD BY A MAJORITY VOTE SHALL APPROVE OR REJECT EACH PLAN FORWARDED TO IT BY THE COMMISSIONER.

3. A CAMPUS, UNIVERSITY OR COLLEGE MAY AMEND ITS APPROVED PLAN, PROVIDED THAT THE CAMPUS, UNIVERSITY OR COLLEGE MAY NOT VIOLATE THE TERMS OF ANY LEASE WITH A BUSINESS LOCATED IN THE APPROVED TAX-FREE NY AREA. IN ADDITION, IF A BUSINESS LOCATED IN A TAX-FREE NY AREA DOES NOT HAVE A LEASE WITH A CAMPUS, UNIVERSITY OR COLLEGE, AND SUCH BUSINESS IS TERMINATED FROM THE START-UP NY PROGRAM PURSUANT TO PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION FOUR HUNDRED THIRTY-SIX OF THIS ARTICLE, AND SUBSEQUENTLY DOES NOT RELOCATE OUTSIDE OF THE TAX-FREE NY AREA, A CAMPUS, UNIVERSITY OR COLLEGE MAY AMEND ITS APPROVED PLAN TO ALLOCATE AN AMOUNT OF VACANT LAND OR SPACE EQUAL TO THE AMOUNT OF SPACE OCCUPIED BY THE BUSINESS THAT IS TERMINATED. THE AMENDMENT MUST BE APPROVED PURSUANT TO THE PROCEDURES AND REQUIREMENTS SET FORTH IN SUBDIVISION ONE OR TWO OF THIS SECTION, WHICHEVER IS APPLICABLE.

4. THE START-UP NY APPROVAL BOARD, BY MAJORITY VOTE, SHALL DESIGNATE UP TO TWENTY STRATEGIC STATE ASSETS AS TAX-FREE NY AREAS. EACH SHALL BE AFFILIATED WITH A STATE UNIVERSITY CAMPUS, CITY UNIVERSITY CAMPUS, COMMUNITY COLLEGE, OR PRIVATE COLLEGE OR UNIVERSITY AND SUCH DESIGNATION SHALL REQUIRE THE SUPPORT OF THE AFFILIATED CAMPUS, COLLEGE OR UNIVERSITY. EACH STRATEGIC STATE ASSET MAY NOT EXCEED A MAXIMUM OF TWO HUNDRED THOUSAND SQUARE FEET OF VACANT LAND OR VACANT BUILDING SPACE DESIGNATED AS A TAX-FREE NY AREA. DESIGNATION OF STRATEGIC STATE ASSETS AS TAX-FREE NY AREAS SHALL NOT COUNT AGAINST ANY SQUARE FOOTAGE LIMITATIONS IN SECTION FOUR HUNDRED THIRTY-TWO OF THIS ARTICLE.

5. THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS SECTION, INCLUDING, BUT NOT LIMITED TO, ESTABLISHING THE PROCESS FOR THE PLAN SUBMISSIONS AND APPROVALS OF TAX-FREE NY AREAS AND THE ELIGIBILITY CRITERIA THAT WILL BE APPLIED IN EVALUATING THOSE PLANS.

S 436. BUSINESSES LOCATING IN TAX-FREE NY AREAS. 1. A CAMPUS, UNIVERSITY OR COLLEGE THAT HAS SPONSORED A TAX-FREE NY AREA (INCLUDING ANY STRATEGIC STATE ASSET AFFILIATED WITH THE CAMPUS, UNIVERSITY OR COLLEGE) SHALL SOLICIT AND ACCEPT APPLICATIONS FROM BUSINESSES TO LOCATE IN SUCH AREA THAT ARE CONSISTENT WITH THE PLAN OF SUCH CAMPUS, UNIVERSITY OR

COLLEGE OR STRATEGIC STATE ASSET THAT HAS BEEN APPROVED PURSUANT TO SECTION FOUR HUNDRED THIRTY-FIVE OF THIS ARTICLE. ANY BUSINESS THAT WANTS TO LOCATE IN A TAX-FREE NY AREA MUST SUBMIT AN APPLICATION TO THE CAMPUS, UNIVERSITY OR COLLEGE WHICH IS SPONSORING THE TAX-FREE NY AREA BY DECEMBER THIRTY-FIRST, TWO THOUSAND TWENTY. PRIOR TO SUCH DATE, THE COMMISSIONER SHALL PREPARE AN EVALUATION ON THE EFFECTIVENESS OF THE START-UP NY PROGRAM AND DELIVER IT TO THE GOVERNOR AND THE LEGISLATURE TO DETERMINE CONTINUED ELIGIBILITY FOR APPLICATION SUBMISSIONS.

2. (A) THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE SHALL PROVIDE THE APPLICATION AND ALL SUPPORTING DOCUMENTATION OF ANY BUSINESS IT DECIDES TO ACCEPT INTO ITS TAX-FREE NY AREA TO THE COMMISSIONER FOR REVIEW. SUCH APPLICATION SHALL BE IN A FORM PRESCRIBED BY THE COMMISSIONER AND SHALL CONTAIN ALL INFORMATION THE COMMISSIONER DETERMINES IS NECESSARY TO PROPERLY EVALUATE THE BUSINESS'S APPLICATION, INCLUDING, BUT NOT LIMITED TO, THE NAME, ADDRESS, AND EMPLOYER IDENTIFICATION NUMBER OF THE BUSINESS; A DESCRIPTION OF THE LAND OR SPACE THE BUSINESS WILL USE, THE TERMS OF THE LEASE AGREEMENT, IF APPLICABLE, BETWEEN THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE AND THE BUSINESS, AND WHETHER OR NOT THE LAND OR SPACE BEING USED BY THE BUSINESS IS BEING TRANSFERRED OR SUBLET TO THE BUSINESS FROM SOME OTHER BUSINESS. THE APPLICATION MUST INCLUDE A CERTIFICATION BY THE BUSINESS THAT IT MEETS THE ELIGIBILITY CRITERIA SPECIFIED IN SECTION FOUR HUNDRED THIRTY-THREE OF THIS ARTICLE AND WILL ALIGN WITH OR FURTHER THE ACADEMIC MISSION OF THE SPONSORING CAMPUS, COLLEGE OR UNIVERSITY, AND THAT THE BUSINESS'S PARTICIPATION IN THE START-UP NY PROGRAM WILL HAVE POSITIVE COMMUNITY AND ECONOMIC BENEFITS. THE APPLICATION MUST ALSO DESCRIBE WHETHER OR NOT THE BUSINESS COMPETES WITH OTHER BUSINESSES IN THE SAME COMMUNITY BUT OUTSIDE THE TAX-FREE NY AREA. IN ADDITION, THE APPLICATION MUST INCLUDE A DESCRIPTION OF HOW THE BUSINESS PLANS TO RECRUIT EMPLOYEES FROM THE LOCAL WORKFORCE.

(B) THE COMMISSIONER SHALL REVIEW SUCH APPLICATION AND DOCUMENTATION WITHIN SIXTY DAYS AND MAY REJECT SUCH APPLICATION UPON A DETERMINATION THAT THE BUSINESS DOES NOT MEET THE ELIGIBILITY CRITERIA IN SECTION FOUR HUNDRED THIRTY-THREE OF THIS ARTICLE, HAS SUBMITTED AN INCOMPLETE APPLICATION, HAS FAILED TO COMPLY WITH SUBDIVISION THREE OF THIS SECTION, OR HAS FAILED TO DEMONSTRATE THAT THE BUSINESS'S PARTICIPATION IN THE START-UP NY PROGRAM WILL HAVE POSITIVE COMMUNITY AND ECONOMIC BENEFITS, WHICH SHALL BE EVALUATED BASED ON FACTORS INCLUDING BUT NOT LIMITED TO WHETHER OR NOT THE BUSINESS COMPETES WITH OTHER BUSINESSES IN THE SAME COMMUNITY BUT OUTSIDE THE TAX-FREE NY AREA AS PROHIBITED BY SECTION FOUR HUNDRED FORTY OF THIS ARTICLE. IF THE COMMISSIONER REJECTS SUCH APPLICATION, IT SHALL PROVIDE NOTICE OF SUCH REJECTION TO THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE AND BUSINESS. IF THE COMMISSIONER DOES NOT REJECT SUCH APPLICATION WITHIN SIXTY DAYS, SUCH BUSINESS IS ACCEPTED TO LOCATE IN SUCH TAX-FREE NY AREA, AND THE APPLICATION OF SUCH BUSINESS SHALL CONSTITUTE A CONTRACT BETWEEN SUCH BUSINESS AND THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE. THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE MUST PROVIDE ACCEPTED BUSINESSES WITH DOCUMENTATION OF THEIR ACCEPTANCES IN SUCH FORM AS PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE WHICH WILL BE USED TO DEMONSTRATE SUCH BUSINESS'S ELIGIBILITY FOR THE TAX BENEFITS SPECIFIED IN SECTION THIRTY-NINE OF THE TAX LAW.

(C) IF A STATE UNIVERSITY CAMPUS PROPOSES TO ENTER INTO A LEASE WITH A BUSINESS FOR ELIGIBLE LAND IN A TAX-FREE NY AREA WITH A TERM GREATER THAN FORTY YEARS, INCLUDING ANY OPTIONS TO RENEW, OR FOR ELIGIBLE LAND IN A TAX-FREE NY AREA OF ONE MILLION OR MORE SQUARE FEET, THE STATE UNIVERSITY CAMPUS, AT THE SAME TIME AS THE APPLICATION IS PROVIDED TO

THE COMMISSIONER, ALSO MUST SUBMIT THE LEASE FOR REVIEW TO THE START-UP NY APPROVAL BOARD. IF THE BOARD DOES NOT DISAPPROVE OF THE LEASE TERMS WITHIN THIRTY DAYS, THE LEASE IS DEEMED APPROVED. IF THE BOARD DISAPPROVES THE LEASE TERMS, THE STATE UNIVERSITY CAMPUS MUST SUBMIT MODIFIED LEASE TERMS TO THE COMMISSIONER FOR REVIEW. THE COMMISSIONER'S SIXTY DAY REVIEW PERIOD IS SUSPENDED WHILE THE BOARD IS REVIEWING THE LEASE AND DURING THE TIME IT TAKES FOR THE STATE UNIVERSITY CAMPUS TO MODIFY THE LEASE TERMS.

(D) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, PROPRIETARY INFORMATION OR SUPPORTING DOCUMENTATION SUBMITTED BY A BUSINESS TO A SPONSORING CAMPUS, UNIVERSITY OR COLLEGE SHALL ONLY BE UTILIZED FOR THE PURPOSE OF EVALUATING SUCH BUSINESS'S APPLICATION OR COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE AND SHALL NOT BE OTHERWISE DISCLOSED. ANY PERSON WHO WILLFULLY DISCLOSES SUCH INFORMATION TO A THIRD PARTY FOR ANY OTHER PURPOSE WHATSOEVER SHALL BE GUILTY OF A MISDEMEANOR.

3. THE BUSINESS SUBMITTING THE APPLICATION, AS PART OF THE APPLICATION, MUST:

(A) AGREE TO ALLOW THE DEPARTMENT OF TAXATION AND FINANCE TO SHARE ITS TAX INFORMATION WITH THE DEPARTMENT AND THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE;

(B) AGREE TO ALLOW THE DEPARTMENT OF LABOR TO SHARE ITS TAX AND EMPLOYER INFORMATION WITH THE DEPARTMENT AND THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE;

(C) ALLOW THE DEPARTMENT AND ITS AGENTS AND THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE ACCESS TO ANY AND ALL BOOKS AND RECORDS THE DEPARTMENT OR SPONSORING CAMPUS, UNIVERSITY OR COLLEGE MAY REQUIRE TO MONITOR COMPLIANCE;

(D) INCLUDE PERFORMANCE BENCHMARKS, INCLUDING THE NUMBER OF NET NEW JOBS THAT MUST BE CREATED, THE SCHEDULE FOR CREATING THOSE JOBS, AND DETAILS ON JOB TITLES AND EXPECTED SALARIES. THE APPLICATION MUST SPECIFY THE CONSEQUENCES FOR FAILURE TO MEET SUCH BENCHMARKS, AS DETERMINED BY THE BUSINESS AND THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE: (I) SUSPENSION OF SUCH BUSINESS'S PARTICIPATION IN THE START-UP NY PROGRAM FOR ONE OR MORE TAX YEARS AS SPECIFIED IN SUCH APPLICATION; (II) TERMINATION OF SUCH BUSINESS'S PARTICIPATION IN THE START-UP NY PROGRAM; AND/OR (III) PROPORTIONAL RECOVERY OF TAX BENEFITS AWARDED UNDER THE START-UP NY PROGRAM AS SPECIFIED IN SECTION THIRTY-NINE OF THE TAX LAW;

(E) PROVIDE THE FOLLOWING INFORMATION TO THE DEPARTMENT AND SPONSORING CAMPUS, UNIVERSITY OR COLLEGE UPON REQUEST:

(I) THE PRIOR THREE YEARS OF FEDERAL AND STATE INCOME OR FRANCHISE TAX RETURNS, UNEMPLOYMENT INSURANCE QUARTERLY RETURNS, REAL PROPERTY TAX BILLS AND AUDITED FINANCIAL STATEMENTS;

(II) THE EMPLOYER IDENTIFICATION OR SOCIAL SECURITY NUMBERS FOR ALL RELATED PERSONS TO THE BUSINESS, INCLUDING THOSE OF ANY MEMBERS OF A LIMITED LIABILITY COMPANY OR PARTNERS IN A PARTNERSHIP;

(F) PROVIDE A CLEAR AND DETAILED PRESENTATION OF ALL RELATED PERSONS TO THE BUSINESS TO ASSURE THE DEPARTMENT THAT JOBS ARE NOT BEING SHIFTED WITHIN THE STATE; AND

(G) CERTIFY, UNDER PENALTY OF PERJURY, THAT IT IS IN SUBSTANTIAL COMPLIANCE WITH ALL ENVIRONMENTAL, WORKER PROTECTION, AND LOCAL, STATE, AND FEDERAL TAX LAWS, AND THAT IT SATISFIES ALL THE ELIGIBILITY REQUIREMENTS TO PARTICIPATE IN THE START-UP NY PROGRAM.

4. (A) AT THE CONCLUSION OF THE LEASE TERM OF A LEASE BY THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE TO A BUSINESS OF LAND OR SPACE IN A TAX-FREE NY AREA OWNED BY THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE, THE LEASED LAND OR SPACE AND ANY IMPROVEMENTS THEREON SHALL REVERT TO

THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE, UNLESS THE LEASE IS RENEWED.

(B) IF, AT ANY TIME, THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE OR THE COMMISSIONER DETERMINES THAT A BUSINESS NO LONGER SATISFIES ANY OF THE ELIGIBILITY CRITERIA SPECIFIED IN SECTION FOUR HUNDRED THIRTY-THREE OF THIS ARTICLE, THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE SHALL RECOMMEND TO THE COMMISSIONER THAT THE COMMISSIONER TERMINATE OR THE COMMISSIONER ON HIS OR HER OWN INITIATIVE SHALL IMMEDIATELY TERMINATE SUCH BUSINESS'S PARTICIPATION IN THE START-UP NY PROGRAM. SUCH BUSINESS SHALL BE NOTIFIED OF SUCH TERMINATION BY A METHOD WHICH ALLOWS FOR VERIFICATION OF RECEIPT OF SUCH TERMINATION NOTICE. A COPY OF SUCH TERMINATION NOTICE SHALL BE SENT TO THE COMMISSIONER OF TAXATION AND FINANCE. UPON SUCH TERMINATION, SUCH BUSINESS SHALL NOT BE ELIGIBLE FOR THE TAX BENEFITS SPECIFIED IN SECTION THIRTY-NINE OF THE TAX LAW FOR THAT OR ANY FUTURE TAXABLE YEAR, CALENDAR QUARTER OR SALES TAX QUARTER, ALTHOUGH EMPLOYEES OF SUCH BUSINESS MAY CONTINUE TO CLAIM THE TAX BENEFIT FOR THEIR WAGES DURING THE REMAINDER OF THAT TAXABLE YEAR. FURTHER, SUCH LEASE OR CONTRACT BETWEEN THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE AND SUCH BUSINESS SHALL BE RESCINDED, EFFECTIVE ON THE THIRTIETH DAY AFTER THE COMMISSIONER MAILED SUCH TERMINATION NOTICE TO SUCH BUSINESS AND THE LAND OR SPACE AND ANY IMPROVEMENTS THEREON SHALL REVERT TO THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE.

5. THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS SECTION, INCLUDING, BUT NOT LIMITED TO, ESTABLISHING THE PROCESS FOR THE EVALUATION AND POSSIBLE REJECTION OF APPLICATIONS, THE ELIGIBILITY CRITERIA THAT WILL BE APPLIED IN EVALUATING THOSE APPLICATIONS, AND THE PROCESS FOR TERMINATIONS FROM THE START-UP NY PROGRAM AND ADMINISTRATIVE APPEALS OF SUCH TERMINATIONS.

S 437. MWBE AND PREVAILING WAGE REQUIREMENTS. 1. FOR PREVAILING WAGE AND MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES REQUIREMENTS APPLICABLE TO TAX-FREE NY AREAS ON STATE UNIVERSITY CAMPUSES, CITY UNIVERSITY CAMPUSES AND COMMUNITY COLLEGES, SEE SECTION THREE HUNDRED SIXTY-ONE OF THE EDUCATION LAW.

2. ANY CONTRACT TO WHICH A BUSINESS ON A STRATEGIC STATE ASSET IN A TAX-FREE NY AREA IS A PARTY, AND ANY CONTRACT ENTERED INTO BY A THIRD PARTY ACTING IN PLACE OF, ON BEHALF OF AND FOR THE BENEFIT OF THE BUSINESS PURSUANT TO ANY LEASE, PERMIT OR OTHER AGREEMENT BETWEEN SUCH THIRD PARTY AND THE BUSINESS, FOR THE CONSTRUCTION, RECONSTRUCTION, DEMOLITION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION, ALTERATION, OR IMPROVEMENT, OF A PROJECT, SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF ARTICLE EIGHT OF THE LABOR LAW, INCLUDING THE ENFORCEMENT OF PREVAILING WAGE REQUIREMENTS BY THE FISCAL OFFICER AS DEFINED IN PARAGRAPH E OF SUBDIVISION FIVE OF SECTION TWO HUNDRED TWENTY OF THE LABOR LAW TO THE SAME EXTENT AS A CONTRACT OF THE STATE, AND SHALL BE DEEMED A PUBLIC WORK FOR PURPOSES OF SUCH ARTICLE.

3. ANY INDIVIDUAL, PUBLIC CORPORATION OR AUTHORITY, PRIVATE CORPORATION, LIMITED LIABILITY COMPANY OR PARTNERSHIP OR OTHER ENTITY ENTERING INTO A CONTRACT, SUBCONTRACT, LEASE, GRANT, BOND, COVENANT OR OTHER AGREEMENT FOR A PROJECT UNDERTAKEN ON A STRATEGIC STATE ASSET IN A TAX-FREE NY AREA SHALL BE DEEMED A STATE AGENCY AS THAT TERM IS DEFINED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW AND SUCH CONTRACTS SHALL BE DEEMED STATE CONTRACTS WITHIN THE MEANING OF THAT TERM AS SET FORTH IN SUCH ARTICLE.

4. A BUSINESS ON A STRATEGIC STATE ASSET IN A TAX-FREE NY AREA MAY REQUIRE A CONTRACTOR AWARDED A CONTRACT, SUBCONTRACT, LEASE, GRANT, BOND, COVENANT OR OTHER AGREEMENT FOR A PROJECT TO ENTER INTO A PROJECT

LABOR AGREEMENT PURSUANT TO SECTION TWO HUNDRED TWENTY-TWO OF THE LABOR LAW DURING AND FOR THE WORK INVOLVED WITH SUCH PROJECT WHEN SUCH REQUIREMENT IS PART OF THE BUSINESS'S REQUEST FOR PROPOSALS FOR THE PROJECT AND WHEN THE BUSINESS DETERMINES THAT THE RECORD SUPPORTING THE DECISION TO ENTER INTO SUCH AN AGREEMENT ESTABLISHES THAT THE INTERESTS UNDERLYING THE COMPETITIVE BIDDING LAWS ARE BEST MET BY REQUIRING A PROJECT LABOR AGREEMENT INCLUDING: OBTAINING THE BEST WORK AT THE LOWEST POSSIBLE PRICE; PREVENTING FAVORITISM, FRAUD AND CORRUPTION; THE IMPACT OF DELAY; THE POSSIBILITY OF COST SAVINGS; AND ANY LOCAL HISTORY OF LABOR UNREST.

5. FOR THE PURPOSES OF THIS SECTION "PROJECT" SHALL MEAN CAPITAL IMPROVEMENT WORK ON A STRATEGIC STATE ASSET TO BE SUBJECT TO ANY LEASE, TRANSFER OR CONVEYANCE, OTHER THAN CONVEYANCE OF TITLE. SUCH CAPITAL IMPROVEMENT WORK SHALL INCLUDE THE DESIGN, CONSTRUCTION, RECONSTRUCTION, DEMOLITION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION, ALTERATION OR IMPROVEMENT OF A STRATEGIC STATE ASSET.

S 438. DISCLOSURE AUTHORIZATION AND REPORTING REQUIREMENTS. 1. THE COMMISSIONER AND THE DEPARTMENT SHALL DISCLOSE PUBLICLY THE NAMES AND ADDRESSES OF THE BUSINESSES LOCATED WITHIN A TAX-FREE NY AREA. IN ADDITION, THE COMMISSIONER AND THE DEPARTMENT SHALL DISCLOSE PUBLICLY AND INCLUDE IN THE ANNUAL REPORT REQUIRED UNDER SUBDIVISION TWO OF THIS SECTION SUCH OTHER INFORMATION CONTAINED IN SUCH BUSINESSES' APPLICATIONS AND ANNUAL REPORTS, INCLUDING THE PROJECTED NUMBER OF NET NEW JOBS TO BE CREATED, AS THEY DETERMINE IS RELEVANT AND NECESSARY TO EVALUATE THE SUCCESS OF THIS PROGRAM.

2. (A) THE COMMISSIONER SHALL PREPARE AN ANNUAL REPORT TO THE GOVERNOR AND THE LEGISLATURE. SUCH REPORT SHALL INCLUDE THE NUMBER OF BUSINESS APPLICANTS, NUMBER OF BUSINESSES APPROVED, THE NAMES AND ADDRESSES OF THE BUSINESSES LOCATED WITHIN A TAX-FREE NY AREA, TOTAL AMOUNT OF BENEFITS DISTRIBUTED, BENEFITS RECEIVED PER BUSINESS, NUMBER OF NET NEW JOBS CREATED, NET NEW JOBS CREATED PER BUSINESS, NEW INVESTMENT PER BUSINESS, THE TYPES OF INDUSTRIES REPRESENTED AND SUCH OTHER INFORMATION AS THE COMMISSIONER DETERMINES IS NECESSARY TO EVALUATE THE PROGRESS OF THE START-UP NY PROGRAM.

(B) ANY BUSINESS LOCATED IN A TAX-FREE NY AREA MUST SUBMIT AN ANNUAL REPORT TO THE COMMISSIONER IN A FORM AND AT SUCH TIME AND WITH SUCH INFORMATION AS PRESCRIBED BY THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE. SUCH INFORMATION SHALL BE SUFFICIENT FOR THE COMMISSIONER AND THE COMMISSIONER OF TAXATION AND FINANCE TO: (I) MONITOR THE CONTINUED ELIGIBILITY OF THE BUSINESS AND ITS EMPLOYEES TO PARTICIPATE IN THE START-UP NY PROGRAM AND RECEIVE THE TAX BENEFITS DESCRIBED IN SECTION THIRTY-NINE OF THE TAX LAW; (II) EVALUATE THE PROGRESS OF THE START-UP NY PROGRAM; AND (III) PREPARE THE ANNUAL REPORT REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION. SUCH ANNUAL REPORT SHALL ALSO INCLUDE INFORMATION REGARDING THE WAGES PAID DURING THE YEAR TO ITS EMPLOYEES EMPLOYED IN THE NET NEW JOBS CREATED AND MAINTAINED IN THE TAX-FREE NY AREA.

S 439. CONFLICT OF INTEREST GUIDELINES. 1. EACH CAMPUS, UNIVERSITY OR COLLEGE PARTICIPATING IN THE START-UP NY PROGRAM SHALL ADOPT A CONFLICT OF INTEREST POLICY. SUCH CONFLICT OF INTEREST POLICY SHALL PROVIDE, AS IT RELATES TO THE START-UP NY PROGRAM: (A) AS A GENERAL PRINCIPLE, THAT SERVICE AS AN OFFICIAL OF THE CAMPUS, UNIVERSITY OR COLLEGE SHALL NOT BE USED AS A MEANS FOR PRIVATE BENEFIT OR INUREMENT FOR THE OFFICIAL, A RELATIVE THEREOF, OR ANY ENTITY IN WHICH THE OFFICIAL, OR RELATIVE THEREOF, HAS A BUSINESS INTEREST; (B) NO OFFICIAL WHO IS A VENDOR OR EMPLOYEE OF A VENDOR OF GOODS OR SERVICES TO THE CAMPUS, UNIVERSITY OR

COLLEGE, OR WHO HAS A BUSINESS INTEREST IN SUCH VENDOR, OR WHOSE RELATIVE HAS A BUSINESS INTEREST IN SUCH VENDOR, SHALL VOTE ON, OR PARTICIPATE IN THE ADMINISTRATION BY THE CAMPUS, UNIVERSITY OR COLLEGE, AS THE CASE MAY BE, OF ANY TRANSACTION WITH SUCH VENDOR; AND (C) UPON BECOMING AWARE OF AN ACTUAL OR POTENTIAL CONFLICT OF INTEREST, AN OFFICIAL SHALL ADVISE THE PRESIDENT OR CHIEF EXECUTIVE OFFICER OF THE CAMPUS, UNIVERSITY OR COLLEGE, AS THE CASE MAY BE, OF HIS OR HER OR A RELATIVE'S BUSINESS INTEREST IN ANY SUCH EXISTING OR PROPOSED VENDOR WITH THE CAMPUS, UNIVERSITY OR COLLEGE. EACH CAMPUS, UNIVERSITY OR COLLEGE SHALL MAINTAIN A WRITTEN RECORD OF ALL DISCLOSURES OF ACTUAL OR POTENTIAL CONFLICTS OF INTEREST MADE PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, AND SHALL REPORT SUCH DISCLOSURES, ON A CALENDAR YEAR BASIS, BY JANUARY THIRTY-FIRST OF EACH YEAR, TO THE AUDITOR FOR SUCH CAMPUS, UNIVERSITY OR COLLEGE. THE AUDITOR SHALL FORWARD SUCH REPORTS TO THE COMMISSIONER, WHO SHALL MAKE PUBLIC SUCH REPORTS.

2. FOR PURPOSES OF SUCH CONFLICT OF INTEREST POLICIES: (A) AN OFFICIAL OF A CAMPUS, UNIVERSITY OR COLLEGE HAS A "BUSINESS INTEREST" IN AN ENTITY IF THE INDIVIDUAL: (I) OWNS OR CONTROLS TEN PERCENT OR MORE OF THE STOCK OF THE ENTITY (OR ONE PERCENT IN THE CASE OF AN ENTITY THE STOCK OF WHICH IS REGULARLY TRADED ON AN ESTABLISHED SECURITIES EXCHANGE); OR (II) SERVES AS AN OFFICER, DIRECTOR OR PARTNER OF THE ENTITY; (B) A "RELATIVE" OF AN OFFICIAL OF A CAMPUS, UNIVERSITY OR COLLEGE SHALL MEAN ANY PERSON LIVING IN THE SAME HOUSEHOLD AS THE INDIVIDUAL AND ANY PERSON WHO IS A DIRECT DESCENDANT OF THAT INDIVIDUAL'S GRANDPARENTS OR THE SPOUSE OF SUCH DESCENDANT; AND (C) AN "OFFICIAL" OF A CAMPUS, UNIVERSITY OR COLLEGE SHALL MEAN AN EMPLOYEE AT THE LEVEL OF DEAN AND ABOVE AS WELL AS ANY OTHER EMPLOYEE WITH DECISION-MAKING AUTHORITY OVER THE START-UP NY PROGRAM.

S 440. PROHIBITION OF ANTI-COMPETITIVE BEHAVIOR. A SPONSORING CAMPUS, UNIVERSITY OR COLLEGE SHALL NOT ACCEPT ANY APPLICATION TO LOCATE IN A TAX-FREE NY AREA UNDER SUBDIVISION ONE OF SECTION FOUR HUNDRED THIRTY-SIX OF THIS ARTICLE FROM A BUSINESS THAT WOULD COMPETE WITH OTHER BUSINESSES IN THE SAME COMMUNITY BUT OUTSIDE THE TAX-FREE NY AREA, AND THE COMMISSIONER SHALL REJECT ANY APPLICATION UNDER SUBDIVISION TWO OF SECTION FOUR HUNDRED THIRTY-SIX OF THIS ARTICLE UPON DETERMINING THAT THE BUSINESS WOULD COMPETE WITH OTHER BUSINESSES IN THE SAME COMMUNITY BUT OUTSIDE THE TAX-FREE NY AREA. THE COMMISSIONER SHALL ISSUE AND PROMULGATE SUCH RULES AND REGULATIONS AS ARE NECESSARY TO IMPLEMENT THIS SECTION.

S 2. The tax law is amended by adding a new section 39 to read as follows:

S 39. TAX BENEFITS FOR BUSINESSES LOCATED IN TAX-FREE NY AREAS AND EMPLOYEES OF SUCH BUSINESSES. (A) (1) ANY BUSINESS OR OWNER OF A BUSINESS IN THE CASE OF A BUSINESS TAXED AS A SOLE PROPRIETORSHIP, PARTNERSHIP OR NEW YORK S CORPORATION, THAT IS LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW IS ELIGIBLE FOR THE TAX BENEFITS DESCRIBED IN THIS SECTION. UNLESS OTHERWISE SPECIFIED, SUCH BUSINESS OR OWNER OF SUCH BUSINESS SHALL BE ELIGIBLE FOR THESE TAX BENEFITS FOR A PERIOD OF TEN CONSECUTIVE TAXABLE YEARS, COMMENCING WITH THE TAXABLE YEAR DURING WHICH IT LOCATES IN THE TAX-FREE NY AREA.

(2) IN ORDER TO BE ELIGIBLE FOR THESE TAX BENEFITS DURING ANY TAXABLE YEAR, CALENDAR QUARTER OR SALES TAX QUARTER, SUCH BUSINESS MUST BE APPROVED TO PARTICIPATE IN THE START-UP NY PROGRAM, MUST OPERATE AT THE APPROVED LOCATION IN THE TAX-FREE NY AREA, AND MUST SATISFY THE ELIGI-

BILITY CRITERIA SPECIFIED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED THIRTY-THREE OF THE ECONOMIC DEVELOPMENT LAW.

(B) TAX-FREE NY AREA ELIMINATION CREDIT. SUCH BUSINESS OR THE OWNER OF SUCH BUSINESS SHALL BE ELIGIBLE FOR THE TAX-FREE NY AREA TAX ELIMINATION CREDIT DESCRIBED IN SECTION FORTY OF THIS ARTICLE.

(C) ORGANIZATION TAX AND LICENSE AND MAINTENANCE FEES. SUCH BUSINESS, IF LOCATED EXCLUSIVELY IN A TAX-FREE NY AREA, SHALL BE EXEMPT FROM THE ORGANIZATION TAX IMPOSED UNDER SECTION ONE HUNDRED EIGHTY OF THIS CHAPTER OR THE LICENSE AND MAINTENANCE FEES IMPOSED UNDER SECTION ONE HUNDRED EIGHTY-ONE OF THIS CHAPTER, WHICHEVER IS APPLICABLE.

(D) METROPOLITAN COMMUTER TRANSPORTATION DISTRICT MOBILITY TAX. IF THE TAX-FREE NY AREA AT WHICH SUCH BUSINESS IS LOCATED IS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT (MCTD), AND SUCH BUSINESS IS AN EMPLOYER ENGAGED IN BUSINESS WITHIN THE MCTD, THE PAYROLL EXPENSE OF SUCH BUSINESS AT SUCH LOCATION WITHIN THE TAX-FREE NY AREA SHALL BE EXEMPT FROM THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT MOBILITY TAX IMPOSED UNDER ARTICLE TWENTY-THREE OF THIS CHAPTER FOR FORTY CONSECUTIVE CALENDAR QUARTERS, COMMENCING WITH THE CALENDAR QUARTER DURING WHICH THE EMPLOYER LOCATES IN THE TAX-FREE NY AREA WITHIN THE MCTD. IF THE TAX-FREE NY AREA AT WHICH SUCH BUSINESS IS LOCATED IS WITHIN THE MCTD AND THE OWNER OF SUCH BUSINESS IS AN INDIVIDUAL WHO HAS NET EARNINGS FROM SELF-EMPLOYMENT AT SUCH LOCATION, SUCH NET EARNINGS SHALL BE EXEMPT FROM THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT MOBILITY TAX IMPOSED UNDER ARTICLE TWENTY-THREE OF THIS CHAPTER FOR TEN CONSECUTIVE TAXABLE YEARS COMMENCING WITH THE TAXABLE YEAR DURING WHICH THE BUSINESS LOCATES IN THE TAX-FREE NY AREA.

(E) TO THE EXTENT SPECIFIED, THE WAGES OF AN INDIVIDUAL WHO IS AN EMPLOYEE OF SUCH BUSINESS LOCATED WITHIN A TAX-FREE NY AREA RECEIVED FROM SUCH BUSINESS FOR EMPLOYMENT IN SUCH TAX-FREE NY AREA SHALL BE ELIGIBLE FOR THE BENEFITS AS PROVIDED IN ARTICLE TWENTY-TWO OF THIS CHAPTER, THE NEW YORK CITY PERSONAL INCOME TAX AS PROVIDED IN ARTICLE THIRTY OF THIS CHAPTER, THE YONKERS CITY INCOME TAX AS PROVIDED IN ARTICLE THIRTY-A OF THIS CHAPTER, AND THE YONKERS EARNINGS TAX ON NON-RESIDENTS DURING THE TEN TAXABLE YEAR PERIOD FOR SUCH BUSINESS SPECIFIED IN SUBDIVISION (A) OF THIS SECTION, PROVIDED THE REQUIREMENTS OF THIS SUBDIVISION ARE SATISFIED.

(I) THE INDIVIDUAL WHEN EMPLOYED BY SUCH BUSINESS MUST BE ENGAGED IN WORK PERFORMED EXCLUSIVELY AT THE LOCATION WITHIN THE TAX-FREE NY AREA DURING THE TAXABLE YEAR.

(II) THE INDIVIDUAL WHEN EMPLOYED BY SUCH BUSINESS MUST BE ENGAGED IN WORK AT THE LOCATION OF SUCH BUSINESS WITHIN THE TAX-FREE NY AREA FOR AT LEAST ONE-HALF OF THE TAXABLE YEAR.

(III) SUCH BUSINESS MUST BE IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN SUBDIVISION (A) OF THIS SECTION.

(IV) THE INDIVIDUAL MUST BE EMPLOYED BY SUCH BUSINESS IN A NET NEW JOB CREATED BY SUCH BUSINESS IN THE TAX-FREE NY AREA.

(F) SALES AND USE TAX. SUCH BUSINESS 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 AND SIMILAR TAXES IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF THIS CHAPTER. THE CREDIT OR REFUND SHALL BE ALLOWED FOR ONE HUNDRED TWENTY CONSECUTIVE MONTHS BEGINNING WITH THE MONTH DURING WHICH SUCH BUSINESS LOCATES IN THE TAX-FREE NY AREA.

(G) REAL ESTATE TRANSFER TAXES. ANY LEASE OF PROPERTY TO SUCH BUSINESS SHALL BE EXEMPT FROM ANY STATE OR LOCAL REAL ESTATE TRANSFER TAX OR REAL PROPERTY TRANSFER TAX.

(H) (A) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, THE COMMISSIONER, TO THE EXTENT PRACTICABLE, MAY DISCLOSE PUBLICLY THE NAMES AND ADDRESSES OF THE BUSINESSES RECEIVING ANY OF THE TAX BENEFITS SPECIFIED IN THIS SECTION. IN ADDITION, THE COMMISSIONER MAY DISCLOSE PUBLICLY THE AMOUNTS OF SUCH BENEFITS ALLOWED TO EACH SUCH BUSINESS, AND WHETHER OR NOT A BUSINESS CREATED OR MAINTAINED NET NEW JOBS DURING THE TAXABLE YEAR. WITH REGARD TO THE INCOME TAX EXEMPTION SPECIFIED IN SUBDIVISION (E) OF THIS SECTION, THE COMMISSIONER MAY PUBLICLY DISCLOSE THE AGGREGATE AMOUNTS OF SUCH TAX EXEMPTION ALLOWED TO EMPLOYEES. IN ADDITION, THE COMMISSIONER MAY PUBLICLY DISCLOSE THE NUMBER OF NET NEW JOBS SUCH BUSINESS REPORTS ON ITS TAX RETURN OR REPORT OR ANY OTHER INFORMATION NECESSARY FOR THE COMMISSIONER OF ECONOMIC DEVELOPMENT OR THE CAMPUS, COLLEGE OR UNIVERSITY SPONSORING THE TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW TO MONITOR AND ENFORCE COMPLIANCE WITH THE LAW, RULES AND REGULATIONS GOVERNING THE START-UP NY PROGRAM.

(B) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, THE COMMISSIONER, IN DETERMINING WHETHER A BUSINESS OR ANY OF ITS OWNERS IS ENTITLED TO THE TAX BENEFITS DESCRIBED IN THIS SECTION, MAY UTILIZE AND IF NECESSARY, DISCLOSE TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT, INFORMATION DERIVED FROM THE TAX RETURNS OF SUCH BUSINESS OR RELATED PERSONS OF SUCH BUSINESS AND WAGE REPORTING INFORMATION RELATING TO ANY EMPLOYEES OF SUCH BUSINESS OR ITS RELATED PERSONS.

(I) SUCH BUSINESS SHALL NOT BE ALLOWED TO CLAIM ANY OTHER TAX CREDIT ALLOWED UNDER THIS CHAPTER WITH RESPECT TO ITS ACTIVITIES OR EMPLOYEES IN SUCH TAX-FREE NY AREA.

(J) IF THE APPLICATION OF A BUSINESS FOR PARTICIPATION IN THE START-UP NY PROGRAM SPECIFIES THAT FAILURE TO MEET THE PERFORMANCE BENCHMARKS SPECIFIED IN SUCH APPLICATION SHALL RESULT IN PROPORTIONAL RECOVERY OF TAX BENEFITS AWARDED UNDER THE START-UP NY PROGRAM, THE BUSINESS SHALL BE REQUIRED TO REDUCE THE TOTAL AMOUNT OF TAX BENEFITS DESCRIBED IN THIS SECTION THAT THE BUSINESS OR ITS OWNERS CLAIMED OR RECEIVED DURING THE TAXABLE YEAR BY THE PERCENTAGE REDUCTION IN NET NEW JOBS PROMISED BY THE PERFORMANCE BENCHMARKS, AND IF THE TAX BENEFITS ARE REDUCED TO AN AMOUNT LESS THAN ZERO, THOSE NEGATIVE AMOUNTS SHALL BE ADDED BACK AS TAX. THE AMOUNT REQUIRED TO BE ADDED BACK SHALL BE REPORTED ON SUCH BUSINESS'S CORPORATE FRANCHISE TAX REPORT IF SUCH BUSINESS IS TAXED AS A CORPORATION OR ON THE CORPORATE FRANCHISE TAX REPORTS OR PERSONAL INCOME TAX RETURNS OF THE OWNERS OF SUCH BUSINESS IF SUCH BUSINESS IS TAXED AS A SOLE PROPRIETORSHIP, PARTNERSHIP OR NEW YORK S CORPORATION.

(K) CROSS-REFERENCES. FOR APPLICATION OF THE TAX BENEFITS PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) SECTION 40.

(2) ARTICLE 9: SECTION 180, SUBDIVISION 3.

(3) ARTICLE 9: SECTION 181, SUBDIVISION 3.

(4) ARTICLE 9-A: SECTION 210, SUBDIVISION 47.

(5) ARTICLE 22: SECTION 606, SUBSECTION (I), PARAGRAPH (1), SUBPARAGRAPH (B), CLAUSE (XXXVI).

(6) ARTICLE 22: SECTION 606, SUBSECTION (WW).

(7) ARTICLE 22: SECTION 612, SUBSECTION (C), PARAGRAPH (40).

(8) ARTICLE 23: SECTION 803.

(9) ARTICLE 28: SECTION 1119, SUBDIVISION (D).

(10) ARTICLE 31: SECTION 1405, SUBDIVISION (B), PARAGRAPH 11.

S 3. The tax law is amended by adding a new section 39-a to read as follows:

S 39-A. PENALTIES FOR FRAUD IN THE START-UP NY PROGRAM. IF THE COMMISSIONER OF ECONOMIC DEVELOPMENT ON HIS OR HER OWN INITIATIVE OR ON THE RECOMMENDATION OF A SPONSORING CAMPUS, UNIVERSITY OR COLLEGE FINALLY DETERMINES THAT ANY SUCH BUSINESS PARTICIPATING IN THE START-UP NY PROGRAM AUTHORIZED UNDER ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW HAS ACTED FRAUDULENTLY IN CONNECTION WITH ITS PARTICIPATION IN SUCH PROGRAM, SUCH BUSINESS:

(A) SHALL BE IMMEDIATELY TERMINATED FROM SUCH PROGRAM;

(B) SHALL BE SUBJECT TO APPLICABLE CRIMINAL PENALTIES, INCLUDING BUT NOT LIMITED TO THE FELONY CRIME OF OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE PURSUANT TO SECTION 175.35 OF THE PENAL LAW; AND

(C) SHALL BE REQUIRED IN THAT YEAR TO ADD BACK TO TAX THE TOTAL VALUE OF THE TAX BENEFITS DESCRIBED IN SECTION THIRTY-NINE OF THIS ARTICLE THAT SUCH BUSINESS HAS RECEIVED AND THAT THE EMPLOYEES OF SUCH BUSINESS HAVE RECEIVED UP TO THE DATE OF SUCH FINDING. THE AMOUNT REQUIRED TO BE ADDED BACK SHALL BE REPORTED ON SUCH BUSINESS'S CORPORATE FRANCHISE REPORT IF SUCH BUSINESS IS TAXED AS A CORPORATION OR ON THE CORPORATE FRANCHISE TAX REPORTS OR PERSONAL INCOME TAX RETURNS OF THE OWNERS OF SUCH BUSINESS IF SUCH BUSINESS IS TAXED AS A SOLE PROPRIETORSHIP, PARTNERSHIP OR NEW YORK S CORPORATION.

S 4. The tax law is amended by adding a new section 40 to read as follows:

S 40. THE TAX-FREE NY AREA TAX ELIMINATION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS IN THE CASE OF A BUSINESS TAXED AS A SOLE PROPRIETORSHIP, PARTNERSHIP OR NEW YORK S CORPORATION, THAT IS LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW AND IS SUBJECT TO TAX UNDER ARTICLE NINE-A, OR TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (E) OF THIS SECTION, TO BE COMPUTED AS HEREINAFTER PROVIDED.

(B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT OF: (1) THE TAX-FREE AREA ALLOCATION FACTOR; AND (2) THE TAX FACTOR.

(C) TAX-FREE AREA ALLOCATION FACTOR. THE TAX-FREE AREA ALLOCATION FACTOR SHALL BE THE PERCENTAGE REPRESENTING THE BUSINESS'S ECONOMIC PRESENCE IN THE TAX-FREE NY AREA IN WHICH THE BUSINESS WAS APPROVED TO LOCATE PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW. THIS PERCENTAGE SHALL BE COMPUTED BY:

(1) ASCERTAINING THE PERCENTAGE THAT THE AVERAGE VALUE OF THE BUSINESS'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, IN THE TAX-FREE NY AREA IN WHICH THE BUSINESS WAS LOCATED DURING THE PERIOD COVERED BY THE TAXPAYER'S REPORT OR RETURN BEARS TO THE AVERAGE VALUE OF THE BUSINESS'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, WITHIN THE STATE DURING SUCH PERIOD; PROVIDED THAT THE TERM "VALUE OF THE BUSINESS'S REAL AND TANGIBLE PERSONAL PROPERTY" SHALL HAVE THE SAME MEANING AS SUCH TERM HAS IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER; AND

(2) ASCERTAINING THE PERCENTAGE THAT THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF EMPLOYEES, EXCEPT GENERAL EXECUTIVE OFFICERS, EMPLOYED AT THE BUSINESS'S LOCATION IN THE TAX-FREE NY AREA, BEARS TO THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED,

DURING SUCH PERIOD, OF ALL THE BUSINESS'S EMPLOYEES WITHIN THE STATE, EXCEPT GENERAL EXECUTIVE OFFICERS; AND

(3) ADDING TOGETHER THE PERCENTAGES SO DETERMINED AND DIVIDING THE RESULT BY TWO.

FOR PURPOSES OF ARTICLE TWENTY-TWO OF THIS CHAPTER, REFERENCES IN THIS SUBDIVISION TO PROPERTY, WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION SHALL BE DEEMED TO BE REFERENCES TO SUCH ITEMS CONNECTED WITH THE CONDUCT OF A BUSINESS.

(D) TAX FACTOR. (1) GENERAL. THE TAX FACTOR SHALL BE, IN THE CASE OF ARTICLE NINE-A OF THIS CHAPTER, THE LARGEST OF THE AMOUNTS OF TAX DETERMINED FOR THE TAXABLE YEAR UNDER PARAGRAPHS (A) THROUGH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF SUCH ARTICLE AFTER THE DEDUCTION OF ANY OTHER CREDITS ALLOWABLE UNDER SUCH ARTICLE. THE TAX FACTOR SHALL BE, IN THE CASE OF ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TAX DETERMINED FOR THE TAXABLE YEAR UNDER SUBSECTIONS (A) THROUGH (D) OF SECTION SIX HUNDRED ONE OF SUCH ARTICLE AFTER THE DEDUCTION OF ANY OTHER CREDITS ALLOWABLE UNDER SUCH ARTICLE.

(2) SOLE PROPRIETORS, PARTNERS AND S CORPORATION SHAREHOLDERS. (A) WHERE THE TAXPAYER IS A SOLE PROPRIETOR OF A BUSINESS LOCATED IN A TAX-FREE NY AREA, THE TAXPAYER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION THAT IS ATTRIBUTABLE TO THE INCOME OF THE BUSINESS AT ITS LOCATION IN THE TAX-FREE NY AREA. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE TAXPAYER'S INCOME FROM SUCH BUSINESS ALLOCATED WITHIN THE STATE, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, TO THE TAXPAYER'S NEW YORK ADJUSTED GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT THAT REASONABLY REFLECTS THE PORTION OF THE TAXPAYER'S TAX ATTRIBUTABLE TO THE INCOME OF SUCH BUSINESS. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0. THE INCOME FROM SUCH BUSINESS ALLOCATED WITHIN THE STATE SHALL BE DETERMINED AS IF THE SOLE PROPRIETOR WAS A NON-RESIDENT.

(B)(I) WHERE THE TAXPAYER IS A MEMBER OF A PARTNERSHIP THAT IS A BUSINESS LOCATED IN A TAX-FREE NY AREA, THE TAXPAYER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION THAT IS ATTRIBUTABLE TO THE INCOME OF THE PARTNERSHIP. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE PARTNER'S INCOME FROM THE PARTNERSHIP ALLOCATED WITHIN THE STATE TO THE PARTNER'S ENTIRE INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT THAT REASONABLY REFLECTS THE PORTION OF THE PARTNER'S TAX ATTRIBUTABLE TO THE INCOME OF THE PARTNERSHIP. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0. THE INCOME FROM THE PARTNERSHIP ALLOCATED WITHIN THE STATE SHALL BE DETERMINED AS IF ANY OF THE PARTNERS WAS A NON-RESIDENT.

(II) FOR PURPOSES OF ARTICLE NINE-A OF THIS CHAPTER, THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO, ENTERING INTO ENTIRE NET INCOME OR MINIMUM TAXABLE INCOME AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS ENTIRE NET INCOME OR MINIMUM TAXABLE INCOME, ALLOCATED WITHIN THE STATE. FOR PURPOSES OF ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS NEW YORK ADJUSTED GROSS INCOME.

(C) WHERE THE TAXPAYER IS A SHAREHOLDER OF A NEW YORK S CORPORATION THAT IS A BUSINESS LOCATED IN A TAX-FREE NY AREA, THE SHAREHOLDER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE

OF THIS SUBDIVISION THAT IS ATTRIBUTABLE TO THE INCOME OF THE S CORPORATION. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE SHAREHOLDER'S INCOME FROM THE S CORPORATION ALLOCATED WITHIN THE STATE, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, TO THE SHAREHOLDER'S NEW YORK ADJUSTED GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT THAT REASONABLY REFLECTS THE PORTION OF THE SHAREHOLDER'S TAX ATTRIBUTABLE TO THE INCOME OF SUCH BUSINESS. THE INCOME OF THE S CORPORATION ALLOCATED WITHIN THE STATE SHALL BE DETERMINED BY MULTIPLYING THE INCOME OF THE S CORPORATION BY THE BUSINESS ALLOCATION FACTOR COMPUTED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE WITHOUT REGARD TO SUBPARAGRAPH TEN OF SUCH PARAGRAPH (A). IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

(3) COMBINED RETURNS OR REPORTS. (A) WHERE THE TAXPAYER IS A BUSINESS LOCATED IN A TAX-FREE NY AREA AND IS REQUIRED OR PERMITTED TO MAKE A RETURN OR REPORT ON A COMBINED BASIS UNDER ARTICLE NINE-A OF THIS CHAPTER, THE TAXPAYER'S TAX FACTOR SHALL BE THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION THAT IS ATTRIBUTABLE TO THE INCOME OF SUCH BUSINESS. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE BUSINESS'S INCOME ALLOCATED WITHIN THE STATE TO THE COMBINED GROUP'S INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT THAT REASONABLY REFLECTS THE PORTION OF THE COMBINED GROUP'S TAX ATTRIBUTABLE TO THE INCOME OF SUCH BUSINESS. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

(B) THE TERM "INCOME OF THE BUSINESS LOCATED IN A TAX-FREE NY AREA" MEANS ENTIRE NET INCOME OR MINIMUM TAXABLE INCOME CALCULATED AS IF THE TAXPAYER WAS FILING SEPARATELY AND THE TERM "COMBINED GROUP'S INCOME" MEANS ENTIRE NET INCOME OR MINIMUM TAXABLE INCOME AS SHOWN ON THE COMBINED REPORT, ALLOCATED WITHIN THE STATE.

(4) IF A BUSINESS IS GENERATING OR RECEIVING INCOME FROM A LINE OF BUSINESS OR INTANGIBLE PROPERTY THAT WAS PREVIOUSLY CONDUCTED, CREATED OR DEVELOPED BY THE BUSINESS OR A RELATED PERSON, AS THAT TERM IS DEFINED IN SECTION FOUR HUNDRED THIRTY-ONE OF THE ECONOMIC DEVELOPMENT LAW, THE TAX FACTOR SPECIFIED IN THIS SUBDIVISION SHALL BE ADJUSTED TO DISREGARD SUCH INCOME.

(E) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210, SUBDIVISION 47.

(2) ARTICLE 22: SECTION 606, SUBSECTION (I), PARAGRAPH (1), SUBPARAGRAPH (B), CLAUSE (XXXVI).

(3) ARTICLE 22: SECTION 606, SUBSECTION (WW).

S 5. Section 180 of the tax law is amended by adding a new subdivision 3 to read as follows:

3. A CORPORATION THAT IS LOCATED EXCLUSIVELY WITHIN THE STATE IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE EXEMPT FROM THE TAX IMPOSED BY THIS SECTION.

S 6. Section 181 of the tax law is amended by adding a new subdivision 3 to read as follows:

3. A CORPORATION THAT IS ACCEPTED TO LOCATE IN A TAX-FREE NY AREA AND IS LOCATED EXCLUSIVELY WITHIN THE STATE IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE EXEMPT FROM: (A) THE LICENSE FEE IMPOSED BY SUBDIVISION ONE OF THIS SECTION; AND (B) PROVIDED THAT THE CORPORATION SATISFIES THE REQUIREMENTS IN SUBDIVISION (A) OF SECTION THIRTY-NINE OF THIS CHAPTER, THE ANNUAL MAINTENANCE FEE IMPOSED BY SUBDIVISION TWO OF THIS SECTION.

S 7. Section 210 of the tax law is amended by adding a new subdivision 47 to read as follows:

47. THE TAX-FREE NY AREA TAX ELIMINATION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION FORTY OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. UNLESS THE TAXPAYER HAS A TAX-FREE NY AREA ALLOCATION FACTOR OF ONE HUNDRED PERCENT, THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE 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, ANY AMOUNT OF CREDIT 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. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxvi) to read as follows:

(XXXVI) TAX-FREE NY AREA TAX ELIMINATION CREDIT	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-SEVEN OF SECTION TWO HUNDRED TEN

S 9. Section 606 of the tax law is amended by adding a new subsection (ww) to read as follows:

(WW) TAX-FREE NY AREA TAX ELIMINATION CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED UNDER SECTION FORTY 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 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 10. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 40 to read as follows:

(40) ANY WAGES RECEIVED BY AN INDIVIDUAL AS AN EMPLOYEE OF A BUSINESS LOCATED WITHIN A TAX-FREE NY AREA DURING THE FIRST FIVE YEARS OF SUCH BUSINESS'S TEN YEAR TAXABLE PERIOD SPECIFIED IN SUBDIVISION (A) OF SECTION THIRTY-NINE OF THIS CHAPTER, TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME AND ALLOWED UNDER SECTION THIRTY-NINE OF THIS CHAPTER. DURING THE SECOND FIVE YEARS OF SUCH BUSINESS'S TEN YEAR TAXABLE PERIOD, THE FIRST TWO HUNDRED THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER FILING AS A SINGLE INDIVIDUAL, THE FIRST TWO HUNDRED FIFTY THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER FILING AS A HEAD OF HOUSEHOLD, AND THREE HUNDRED THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER FILING A JOINT RETURN, TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME AND ALLOWED UNDER SECTION THIRTY-NINE OF THIS CHAPTER.

S 11. Section 803 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

S 803. Exemption override. [Any] (A) EXCEPT AS PROVIDED IN SUBDIVISION (B) OF THIS SECTION, ANY exemption from tax specified in any other New York state law will not apply to the tax imposed by this article.

(B) IF A TAX-FREE NY AREA APPROVED PURSUANT TO THE PROVISIONS OF ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW IS LOCATED WITHIN THE MCTD, THE PAYROLL EXPENSE IN SUCH TAX-FREE NY AREA OF ANY EMPLOYER THAT IS LOCATED IN SUCH AREA AND ACCEPTED INTO THE START-UP NY PROGRAM SHALL

BE EXEMPT FROM THE TAX IMPOSED UNDER THIS ARTICLE. IN ADDITION, THE NET EARNINGS FROM SELF-EMPLOYMENT OF AN INDIVIDUAL FROM A BUSINESS IN SUCH TAX-FREE NY AREA THAT IS ACCEPTED INTO THE START-UP NY PROGRAM SHALL BE EXEMPT FROM THE TAX IMPOSED UNDER THIS ARTICLE.

S 12. Paragraphs 1 and 2 of subdivision (d) of section 1119 of the tax law, paragraph 1 as amended by section 6 of part C of chapter 59 of the laws of 2013 and paragraph 2 as added by section 31 of part S1 of chapter 57 of the laws of 2009, are 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 enterprise 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 OR TO A BUSINESS LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW, 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 (III) SUCH BUSINESS AT ITS LOCATION IN SUCH TAX-FREE NY AREA, 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 (III) SUCH BUSINESS AT ITS LOCATION IN SUCH TAX-FREE NY AREA, 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, OR AT ITS LOCATION IN SUCH TAX-FREE NY AREA; 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.

(2) 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, and consideration given or contracted to be given for, or for the use of, tangible personal property sold to a contractor, subcontractor or repairman for use in (A) erecting a structure or building of a qualified empire zone enterprise OR A BUSINESS LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW, (B) adding to, altering or improving real property, property or land of such an enterprise OR SUCH BUSINESS, or (C) maintaining, servicing or repairing real property, property or land of such an enterprise OR OF SUCH BUSINESS, as the terms real property, property or land are defined in the real property tax law; provided, however, no credit or refund will be allowed under this paragraph unless such tangible personal property is to become an integral component part of such structure, building, real property, property or land located in an area designated as an empire zone pursuant to article eighteen-B of the general municipal law in, and with respect to which such enterprise is certified pursuant to such article eighteen-B, OR IN AN AREA APPROVED AS A TAX-FREE NY AREA PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW WHERE SUCH BUSINESS IS LOCATED.

S 13. Subdivision (b) of section 1405 of the tax law is amended by adding a new paragraph 11 to read as follows:

11. CONVEYANCES OF REAL PROPERTY LOCATED IN TAX-FREE NY AREAS APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW TO BUSINESSES LOCATED IN SUCH AREAS THAT ARE PARTICIPATING IN THE START-UP NY PROGRAM PURSUANT TO SUCH ARTICLE TWENTY-ONE.

S 14. The exemption described in paragraph 11 of subdivision (b) of section 1405 of the tax law, as added by section thirteen of this act, shall also apply to any local real estate transfer tax or local real property transfer tax imposed by a county or municipality pursuant to the authority of the tax law.

S 15. Subdivision (c) of section 11-1712 of the administrative code of the city of New York is amended by adding a new paragraph 36 to read as follows:

(36) ANY WAGES RECEIVED BY AN INDIVIDUAL AS AN EMPLOYEE OF A BUSINESS LOCATED WITHIN A TAX-FREE NY AREA DURING THE FIRST FIVE YEARS OF SUCH BUSINESS'S TEN YEAR TAXABLE PERIOD SPECIFIED IN SUBDIVISION (A) OF SECTION THIRTY-NINE OF THE TAX LAW TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME AND ALLOWED UNDER SECTION THIRTY-NINE OF THE TAX LAW. DURING THE SECOND FIVE YEARS OF SUCH BUSINESS'S TEN YEAR TAXABLE PERIOD, THE FIRST TWO HUNDRED THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER FILING AS A SINGLE INDIVIDUAL, THE FIRST TWO HUNDRED FIFTY THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER FILING AS A HEAD OF HOUSEHOLD, AND THREE HUNDRED THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER FILING A JOINT RETURN, TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME AND ALLOWED UNDER SECTION THIRTY-NINE OF THE TAX LAW.

S 16. Section 1340 of the tax law is amended by adding a new subsection (d) to read as follows:

(D) ANY WAGES RECEIVED BY AN INDIVIDUAL AS AN EMPLOYEE OF A BUSINESS LOCATED IN A TAX-FREE NY AREA WITHIN THE CITY DURING THE FIRST FIVE YEARS OF SUCH BUSINESS'S TEN YEAR TAXABLE PERIOD SPECIFIED IN SUBDIVISION (A) OF SECTION THIRTY-NINE OF THIS CHAPTER AND EARNED AT SUCH LOCATION SHALL BE EXEMPT FROM THE TAX AUTHORIZED TO BE IMPOSED BY THIS ARTICLE TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME AND ALLOWED UNDER SECTION THIRTY-NINE OF THIS CHAPTER. DURING THE SECOND FIVE YEARS OF SUCH BUSINESS'S TEN YEAR TAXABLE PERIOD, THE FIRST TWO HUNDRED THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER FILING

AS A SINGLE INDIVIDUAL, THE FIRST TWO HUNDRED FIFTY THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER FILING AS A HEAD OF HOUSEHOLD, AND THREE HUNDRED THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER FILING A JOINT RETURN, TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME AND ALLOWED UNDER SECTION THIRTY-NINE OF THIS CHAPTER.

S 17. Subdivision 2 of section 420-a of the real property tax law, as amended by chapter 534 of the laws of 2003, is amended to read as follows:

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of such purposes but is leased or otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt; provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or sections four hundred twenty-b, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight, four hundred thirty or four hundred fifty of this chapter by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which are exempt pursuant to section four hundred six or section four hundred eight of this chapter by a corporation which owns real property exempt from taxation pursuant to such section or if it owned any would be exempt from taxation pursuant to such section, (c) for purposes which are exempt pursuant to section four hundred sixteen of this chapter by an organization which owns real property exempt from taxation pursuant to such section or whose real property if it owned any would be exempt from taxation pursuant to such section [or], (d) for purposes relating to civil defense pursuant to the New York state defense emergency act, including but not limited to activities in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with drill or test ordered or directed by civil defense authorities, OR (E) FOR PURPOSES OF A TAX-FREE NY AREA THAT HAS BEEN APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW, SUBJECT TO THE CONDITIONS THAT THE REAL PROPERTY MUST HAVE BEEN OWNED BY THE CORPORATION OR ASSOCIATION ORGANIZED EXCLUSIVELY FOR EDUCATIONAL PURPOSES AND EXEMPT PURSUANT TO THIS SECTION ON JUNE FIRST, TWO THOUSAND THIRTEEN, AND THAT THE EXEMPTION SHALL APPLY ONLY TO THE PORTION OF SUCH REAL PROPERTY THAT IS USED FOR PURPOSES OF THE START-UP NY PROGRAM; and provided further that such real property shall be exempt from taxation only so long as it or a portion thereof, as the case may be, is devoted to such exempt purposes and so long as any moneys paid for such use do not exceed the amount of the carrying, maintenance and depreciation charges of the property or portion thereof, as the case may be.

S 18. Paragraph a of subdivision 2 of section 355 of the education law, as amended by section 1 of subpart A of part D of chapter 58 of the laws of 2011, is amended to read as follows:

a. To take, hold and administer on behalf of the state university or any institution therein, real and personal property or any interest therein and the income thereof either absolutely or in trust for any educational or other purpose within the jurisdiction and corporate purposes of the state university. The trustees may acquire property for such purposes by purchase, appropriation or lease and by the acceptance of gifts, grants, bequests and devises, and, within appropriations made therefor, may equip and furnish buildings and otherwise improve property owned, used or occupied by the state university or any institution ther-

ein. The trustees may acquire property by the acceptance of conditional gifts, grants, devises or bequests, the provisions of section eleven of the state finance law notwithstanding. Where real property is to be acquired by purchase or appropriation, such acquisition shall be in accordance with the provisions of section three hundred seven of this chapter except that the powers and duties in said section mentioned to be performed by the commissioner shall be performed by the state university trustees. THE PROVISIONS OF SECTION THREE OF THE PUBLIC LANDS LAW NOTWITHSTANDING, THE TRUSTEES MAY PROVIDE FOR THE LEASE OF STATE-OWNED REAL PROPERTY UNDER THE JURISDICTION OF THE STATE UNIVERSITY THAT IS PART OF A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW, IN SUCH MANNER AND UPON SUCH TERMS AS THE TRUSTEES SHALL DETERMINE, PROVIDED SUCH LEASE IS CONSISTENT WITH THE APPROVED PLAN FOR SUCH TAX-FREE NY AREA.

S 19. Paragraph s of subdivision 2 of section 355 of the education law, as amended by chapter 552 of the laws of 1985, is amended to read as follows:

s. To lease or make available to the state university construction fund, the dormitory authority or other public benefit corporation, the New York state teachers' retirement system [or], the New York state employees' retirement system, OR A BUSINESS THAT INTENDS TO LOCATE IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW, a portion of the grounds or real property occupied by a state-operated institution or statutory or contract college for the construction, acquisition, reconstruction, rehabilitation or improvement of academic buildings, dormitories or other facilities thereon pursuant to article eight-A of this chapter and for the purpose of facilitating such construction, acquisition, reconstruction, rehabilitation or improvement, to enter into leases and agreements for the use of any such academic building, dormitory or other facility in accordance with the provisions of section three hundred seventy-eight of this chapter; provided, however, that nothing herein contained shall affect the provisions of any lease or agreement heretofore executed by the state university with the dormitory authority. The state university trustees may also enter into agreements with the state university construction fund, the dormitory authority or other public benefit corporation, the New York state teachers' retirement system [or], the New York state employees' retirement system OR ANY BUSINESS THAT INTENDS TO LOCATE IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW, to furnish heat from a central heating plant to any academic building, dormitory or other facility erected by them or with moneys supplied by them. Any such academic building, dormitory or other facility shall not be subject to taxation for any purpose.

S 20. Subdivision 2 of section 355 of the education law is amended by adding a new paragraph z to read as follows:

Z. IN CONNECTION WITH BUSINESS/UNIVERSITY PARTNERSHIPS IN SUPPORT OF THE CORPORATE PURPOSES OF THE STATE UNIVERSITY, TO PARTICIPATE IN JOINT AND COOPERATIVE ARRANGEMENTS WITH BUSINESSES THAT HAVE LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW PROVIDED SUCH ARRANGEMENTS ARE CONSISTENT WITH THE APPROVED PLAN FOR SUCH TAX-FREE NY AREA.

S 21. The education law is amended by adding a new section 361 to read as follows:

S 361. START-UP NY PROGRAM LEASES. 1. ANY LEASE OR CONTRACT BETWEEN A STATE UNIVERSITY CAMPUS, CITY UNIVERSITY CAMPUS OR COMMUNITY COLLEGE AS DEFINED IN SECTION FOUR HUNDRED THIRTY-ONE OF THE ECONOMIC DEVELOPMENT

LAW AND A BUSINESS FOR THE USE OF VACANT LAND OR VACANT SPACE OWNED OR LEASED BY SUCH STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW SHALL PROVIDE:

(A) THE TERM OF THE LEASE OR CONTRACT.

(B) A REQUIREMENT THAT ANY CONTRACT TO WHICH A CAMPUS OR COLLEGE IS A PARTY, AND ANY CONTRACT ENTERED INTO BY A THIRD PARTY ACTING IN PLACE OF, ON BEHALF OF AND FOR THE BENEFIT OF THE CAMPUS OR COLLEGE THEREIN PURSUANT TO ANY LEASE, PERMIT OR OTHER AGREEMENT BETWEEN SUCH THIRD PARTY AND THE CAMPUS OR COLLEGE FOR THE USE OF VACANT LAND OR VACANT SPACE OWNED OR LEASED BY THE STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY UNIVERSITY CAMPUS FOR THE CONSTRUCTION, RECONSTRUCTION, DEMOLITION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION, ALTERATION OR IMPROVEMENT OF A PROJECT SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF ARTICLE EIGHT OF THE LABOR LAW, INCLUDING THE ENFORCEMENT OF PREVAILING WAGE REQUIREMENTS BY THE FISCAL OFFICER AS DEFINED IN PARAGRAPH E OF SUBDIVISION FIVE OF SECTION TWO HUNDRED TWENTY OF THE LABOR LAW TO THE SAME EXTENT AS A CONTRACT OF THE STATE, AND SHALL BE DEEMED A PUBLIC WORK FOR PURPOSES OF SUCH ARTICLE.

(C) WHENEVER A PARTY TO ANY LEASE OR CONTRACT FOR PROJECTS AUTHORIZED PURSUANT TO THIS SECTION ON LANDS LEASED OR OWNED BY THE CITY UNIVERSITY OF NEW YORK, ENTERS INTO A CONTRACT UNDER WHICH EMPLOYEES ARE EMPLOYED TO PERFORM BUILDING SERVICE WORK, AS THAT TERM IS DEFINED IN SECTION TWO HUNDRED THIRTY OF THE LABOR LAW, SUCH WORK SHALL BE SUBJECT TO ARTICLE NINE OF THE LABOR LAW TO THE SAME EXTENT AS BUILDING SERVICE WORK PERFORMED PURSUANT TO A CONTRACT WITH A PUBLIC AGENCY.

(D) A REQUIREMENT THAT FOR THE PURPOSES OF ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW, ANY INDIVIDUAL, PUBLIC CORPORATION OR AUTHORITY, PRIVATE CORPORATION, LIMITED LIABILITY COMPANY OR PARTNERSHIP OR OTHER ENTITY ENTERING INTO A CONTRACT, SUBCONTRACT, LEASE, GRANT, BOND, COVENANT OR OTHER AGREEMENT FOR A PROJECT UNDERTAKEN BY A BUSINESS AUTHORIZED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE DEEMED A STATE AGENCY AS THAT TERM IS DEFINED IN SUCH ARTICLE AND SUCH CONTRACTS SHALL BE DEEMED STATE CONTRACTS WITHIN THE MEANING OF THAT TERM AS SET FORTH IN SUCH ARTICLE, EXCEPT THAT THIS PARAGRAPH SHALL NOT APPLY TO ANY LEASE OR CONTRACT ENTERED INTO BY A COMMUNITY COLLEGE OF THE STATE UNIVERSITY OF NEW YORK OR CITY UNIVERSITY OF NEW YORK.

(E) THE METES AND BOUNDS OR OTHER APPLICABLE DESCRIPTION THAT CAN BE EASILY IDENTIFIED, SHARED AND VERIFIED BY AN INDEPENDENT THIRD PARTY OF THE VACANT LAND OR VACANT SPACE SUBJECT TO THE CONTRACT OR LEASE.

(F) A REQUIREMENT THAT ANY LEASE, CONTRACT OR OTHER AGREEMENT SHALL INCLUDE AN INDEMNITY PROVISION WHEREBY THE LESSEE OR SUBLESSEE PROMISES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE LESSOR AGAINST ALL CLAIMS, SUITS, ACTIONS, AND LIABILITY TO ALL PERSONS ON THE LEASED PREMISES, INCLUDING TENANT, TENANT'S AGENTS, CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, CUSTOMERS, GUESTS, LICENSEES, INVITEES, AND MEMBERS OF THE PUBLIC, FOR DAMAGE TO ANY SUCH PERSON'S PROPERTY, WHETHER REAL OR PERSONAL, OR FOR PERSONAL INJURIES ARISING OUT OF TENANT'S USE OR OCCUPATION OF THE DEMISED PREMISES.

(G) A REQUIREMENT THAT UPON THE EXPIRATION OF THE LEASE OR AGREEMENT COVERING PROPERTY OWNED BY THE CAMPUS OR COLLEGE THE DEMISED PREMISES AND ANY IMPROVEMENTS THEREON SHALL REVERT TO THE CAMPUS OR COLLEGE, UNLESS THE LEASE IS RENEWED.

(H) A REQUIREMENT THAT IN THE EVENT THE DEMISED PREMISES SHALL CEASE TO BE USED FOR THE PURPOSES DESCRIBED IN THE LEASE OR CONTRACT COVERING PROPERTY OWNED BY THE CAMPUS OR COLLEGE, THE LEASE OR CONTRACT SHALL

TERMINATE ON THE THIRTIETH DAY AFTER NOTICE OF SUCH TERMINATION IS MAILED TO THE BUSINESS, THE DEMISED PREMISES AND ANY IMPROVEMENTS THEREON SHALL REVERT TO THE CAMPUS OR COLLEGE.

(I) A REQUIREMENT THAT ANY AND ALL PROCEEDS RELATING TO THE LEASE OR CONTRACT SHALL BE ALLOCATED BY THE BOARD OF TRUSTEES TO THE CAMPUS OR COLLEGE FOR WHICH SUCH CONTRACT OR LEASE APPLIES, DEPOSITED IN THE GENERAL FUND OF SUCH CAMPUS OR COLLEGE, AND USED FOR PURPOSES INCLUDING BUT NOT LIMITED TO STUDENT FINANCIAL AID FOR STUDENTS WHO ARE ELIGIBLE TO RECEIVE A TUITION ASSISTANCE AWARD OR SUPPLEMENTAL TUITION ASSISTANCE PURSUANT TO SECTION SIX HUNDRED SIXTY-SEVEN OR SIX HUNDRED SIXTY-SEVEN-A OF THE EDUCATION LAW AND TO SUPPORT ADDITIONAL FULL-TIME FACULTY POSITIONS.

2. FOR THE PURPOSES OF THIS SECTION AND FOR THE PURPOSES OF ANY LEASE OR CONTRACT AUTHORIZED PURSUANT TO THIS SECTION: "PROJECT" SHALL MEAN CAPITAL IMPROVEMENT WORK ON REAL PROPERTY UNDER THE JURISDICTION OF THE CAMPUS OR COLLEGE TO BE SUBJECT TO ANY LEASE, TRANSFER OR CONVEYANCE, OTHER THAN CONVEYANCE OF TITLE. SUCH CAPITAL IMPROVEMENT WORK SHALL INCLUDE THE DESIGN, CONSTRUCTION, RECONSTRUCTION, DEMOLITION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION, ALTERATION OR IMPROVEMENT OF REAL PROPERTY UNDER THE JURISDICTION OF THE CAMPUS OR COLLEGE.

3. A PARTY TO ANY LEASE OR CONTRACT AUTHORIZED PURSUANT TO THIS SECTION MAY REQUIRE A CONTRACTOR AWARDED A CONTRACT, SUBCONTRACT, LEASE, GRANT, BOND, COVENANT OR OTHER AGREEMENT FOR A PROJECT TO ENTER INTO A PROJECT LABOR AGREEMENT PURSUANT TO SECTION TWO HUNDRED TWENTY-TWO OF THE LABOR LAW DURING AND FOR THE WORK INVOLVED WITH SUCH PROJECT WHEN SUCH REQUIREMENT IS PART OF SUCH PARTY'S REQUEST FOR PROPOSALS FOR THE PROJECT AND WHEN THE PARTY DETERMINES THAT THE RECORD SUPPORTING THE DECISION TO ENTER INTO SUCH AN AGREEMENT ESTABLISHES THAT THE INTERESTS UNDERLYING THE COMPETITIVE BIDDING LAWS ARE BEST MET BY REQUIRING A PROJECT LABOR AGREEMENT INCLUDING: OBTAINING THE BEST WORK AT THE LOWEST POSSIBLE PRICE; PREVENTING FAVORITISM, FRAUD AND CORRUPTION; THE IMPACT OF DELAY; THE POSSIBILITY OF COST SAVINGS; AND ANY LOCAL HISTORY OF LABOR UNREST.

S 22. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 23. This act shall take effect immediately; provided however that the tax benefits specified in section 39 of the tax law, as added by section two of this act shall apply to taxable years beginning on or after January 1, 2014, calendar quarters beginning on or after January 1, 2014, sales tax quarters beginning on or after March 1, 2014, or transactions occurring on or after January 1, 2014, whichever is applicable; provided, further, that the amendments to paragraph a of subdivision 2 of section 355 of the education law made by section eighteen of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith.

PART B

Section 1. Section 666 of the executive law, as added by section 2 of subpart H of part C of chapter 97 of the laws of 2011, is amended to read as follows:

S 666. Mandate AND REGULATORY relief council. 1. Definitions. a. "Mandate" means (I) any requirement that a local government perform or administer any program, project or activity, required or imposed by a state law or state agency that requires a higher level of service for an existing local government program, project or activity; OR (II) ANY REQUIREMENT A BUSINESS MUST PERFORM IN ORDER TO DO BUSINESS IN NEW YORK STATE.

b. "Local government" means a county, city, town, village, school district, or special district.

c. "State agency" or "agency" means any state agency, department, office, board, bureau, division, committee, council or office under the direction or control of the executive.

D. "BUSINESS" MEANS ANY ENTITY DOING BUSINESS IN OR AUTHORIZED TO OPERATE IN THE STATE OF NEW YORK, INCLUDING, BUT NOT LIMITED TO, FOR-PROFIT AND NOT-FOR-PROFIT CORPORATIONS, SOLE PROPRIETORSHIPS, PARTNERSHIPS, AND LIMITED LIABILITY COMPANIES.

2. Mandate relief council. There is hereby created within the executive department the mandate relief council, which shall be comprised of eleven members as follows: the secretary to the governor, who shall chair the council, the counsel to the governor, the director of the division of the budget, the secretary of state, and three additional members to be appointed by the governor from among his or her executive chamber staff, two members to be appointed by the temporary president of the senate, and two members to be appointed by the speaker of the assembly.

a. Six members of the council, or their designees in the case of the director of the division of the budget and the secretary of state, shall constitute a quorum.

b. The council shall meet regularly upon the call of its chair and as frequently as its business may require. The members of the council shall serve without compensation but shall receive reimbursement for their reasonable and necessary expenses.

c. The council shall, upon request of a local government OR BUSINESS or one of the members of the council, identify and review mandates that can be eliminated or reformed, and make such other and further inquiries, reports and recommendations as the council may deem necessary and prudent to effectuate its mission of mandate relief. In identifying and determining whether such mandates are unsound, unduly burdensome or costly, the council shall receive and consider public comment about them and shall review them in light of cost-benefit principles and such other and further factors as the council shall deem necessary and prudent. The council shall not make a referral to the governor that a mandate be eliminated or reformed regarding any of the following mandates:

(i) those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;

(ii) those which reapportion the costs of activities between boards of education, counties, and municipalities;

(iii) those which implement provisions of the state constitution; and

(iv) those which the council determines are necessary for the maintenance of the public health or safety of the people of New York state.

d. All votes of the council, and all deliberations and reports of its proceedings shall be open to the public pursuant to article seven of the public officers law.

3. Council actions on regulatory mandates. Upon a determination that a mandate in any regulation, rule or order of any state agency has been imposed upon any local government OR BUSINESS in an unsound, unduly burdensome or costly manner so as to necessitate that it be eliminated or reformed, the council shall have the power to:

a. refer a request by a local government for a review of such regulatory mandate, for petition by such local government for a waiver, modification or repeal of such regulatory mandate pursuant to section two hundred four-a of the state administrative procedure act. In the event the council votes to make such referral on behalf of a local government, the state agency that is charged with reviewing the petition shall provide the technical assistance and support for such local government to properly prepare and submit such petition. In the event that such state agency reviewing the petition of the local government pursuant to section two hundred four-a of the state administrative procedure act does not provide the remedy sought by such local government, the council may hear and consider an appeal of such decision and grant such relief as it deems appropriate, including the making of a referral to the governor for the waiving, modifying or repealing of such regulatory mandate. The council shall adopt procedures by which it shall consider, decide and effectuate the remedies of such appeals consistent with this section.

b. upon a two-thirds vote, refer a regulation to the governor for repeal or modification, where the council has previously determined that such regulation imposes upon any local government a mandate in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. Upon receipt of such referral by the council, the governor shall within sixty days, direct the state agency responsible for the promulgation, repeal or modification of such regulation to effectuate such repeal or modification of the regulation pursuant to the procedures that such agency would otherwise be required to follow under the law, had such agency on its own accord sought to repeal or modify the regulation.

4. Council actions on statutory mandates. The council may, upon a vote of seven members, refer a statute to the governor for repeal or modification, where the council has previously determined that such statute imposes upon any local government OR BUSINESS a mandate in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. Upon receipt of the referral by the council, the governor, within sixty days, shall have prepared a governor's program bill, for introduction in both houses of the legislature, to effectuate such repeal or modification of the statute.

5. Local government request. A local government may, by resolution of its governing body, ask the council to review a specific statute, regulation, rule or order of state government to determine whether such statute, regulation, rule or order of state government is an unfunded mandate or is otherwise unsound, unduly burdensome or costly so as to require that it be eliminated or reformed. No local government may make more than three such requests in each calendar year. Upon such review, the council shall, by majority vote, determine whether such mandate has been imposed upon such local government in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. A determination of the council shall resolve any dispute regarding whether such a statute, regulation, rule or order constitutes such an unfunded mandate, but shall not be deemed a judicial determination under the law.

6. Appeals. Upon an appeal of a petition previously decided by a state agency pursuant to section two hundred four-a of the state administrative procedure act, the council, upon request of the local government, shall review the state agency's determination and may affirm, modify or reject such determination. Such appeal shall not preclude or limit a local government or any other party with standing from pursuing any right it may have pursuant to a proceeding instituted in accordance with the provisions of article seventy-eight of the civil practice law and rules or any other statute.

7. Reports. The council shall by December fifteenth of each year report to the governor and legislature regarding its activities, and regarding the issues, statutes, regulations, rules and orders which it reviewed, examined, proposed, referred, and/or considered. Such reports, which shall be adopted upon a majority vote of the members of the council, or their designees in the case of the director of the division of the budget or the secretary of state. All reports of the council shall be posted on a publicly accessible website.

8. Assistance of other agencies. To effectuate the purposes of this section, any state agency shall, at the request of the council, provide to the council such facilities, assistance and data as will enable the council to properly carry out its responsibilities and duties.

S 2. This act shall take effect immediately, provided that the amendments to section 666 of the executive law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART C

Section 1. Subdivisions 3 and 4 of section 353 of the economic development law, as amended by section 2 of part G of chapter 61 of the laws of 2011, are amended to read as follows:

3. For the purposes of this article, in order to participate in the excelsior jobs program, a business entity operating predominantly in manufacturing must create at least [twenty-five] TEN net new jobs; a business entity operating predominately in agriculture must create at least [ten] FIVE net new jobs; a business entity operating predominantly as a financial service data center or financial services customer back office operation must create at least [one hundred] FIFTY net new jobs; a business entity operating predominantly in scientific research and development must create at least [ten] FIVE net new jobs; a business entity operating predominantly in software development must create at least [ten] FIVE net new jobs; a business entity creating or expanding back office operations MUST CREATE AT LEAST FIFTY NET NEW JOBS; or A BUSINESS ENTITY OPERATING PREDOMINANTLY AS a distribution center in the state must create at least [one hundred fifty] SEVENTY-FIVE net new jobs, notwithstanding subdivision five of this section; or a business entity must be a regionally significant project as defined in this article; or

4. A business entity operating predominantly in one of the industries referenced in paragraphs (a) through (h) of subdivision one of this section but which does not meet the job requirements of subdivision three of this section must have at least [fifty] TWENTY-FIVE full-time job equivalents UNLESS SUCH BUSINESS IS A BUSINESS ENTITY OPERATING PREDOMINANTLY IN MANUFACTURING THEN IT MUST HAVE AT LEAST TEN FULL-TIME JOB EQUIVALENTS and must demonstrate that its benefit-cost ratio is at least ten to one.

S 2. Subdivision 2 of section 355 of the economic development law, as amended by section 4 of part G of chapter 61 of the laws of 2011, is amended to read as follows:

2. Excelsior investment tax credit component. A participant in the excelsior jobs program shall be eligible to claim a credit on qualified investments. The credit shall be equal to [two] FIVE percent of the cost or other basis for federal income tax purposes of the qualified investment. A participant may not claim both the excelsior investment tax credit component and the investment tax credit set forth in subdivision twelve of section two hundred ten, subsection (a) of section six hundred six, subsection (i) of section fourteen hundred fifty-six, or subdivision (q) of section fifteen hundred eleven of the tax law for the same property in any taxable year, except that a participant may claim both the excelsior investment tax credit component and the investment tax credit for research and development property. In addition, a taxpayer who or which is qualified to claim the excelsior investment tax credit component and is also qualified to claim the brownfield tangible property credit component under section twenty-one of the tax law may claim either the excelsior investment tax credit component or such tangible property credit component, but not both with regard to a particular piece of property. A credit may not be claimed until a business enterprise has received a certificate of tax credit, provided that qualified investments made on or after the issuance of the certificate of eligibility but before the issuance of the certificate of tax credit to the business enterprise, may be claimed in the first taxable year for which the business enterprise is allowed to claim the credit. Expenses incurred prior to the date the certificate of eligibility is issued are not eligible to be included in the calculation of the credit.

S 3. Subdivision 5 of section 354 of the economic development law, as amended by section 3 of part G of chapter 61 of the laws of 2011, is amended to read as follows:

5. A participant may claim tax benefits commencing in the first taxable year that the business enterprise receives a certificate of tax credit or the first taxable year listed on its preliminary schedule of benefits, whichever is later. A participant may claim such benefits for the next nine consecutive taxable years, provided that the participant demonstrates to the department that it continues to satisfy the eligibility criteria specified in section three hundred fifty-three of this article and subdivision two of this section in each of those taxable years. IF, IN ANY GIVEN YEAR, A PARTICIPANT WHO HAS SATISFIED THE ELIGIBILITY CRITERIA SPECIFIED IN SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE REALIZES JOB CREATION LESS THAN THE ESTIMATED AMOUNT, THE CREDIT SHALL BE REDUCED BY THE PROPORTION OF ACTUAL JOB CREATION TO THE ESTIMATED AMOUNT, PROVIDED THE PROPORTION IS AT LEAST SEVENTY-FIVE PERCENT OF THE JOBS ESTIMATED.

S 4. Section 359 of the economic development law, as amended by section 6 of part G of chapter 61 of the laws of 2011, is amended to read as follows:

S 359. Cap on tax credit. The total amount of tax credits listed on certificates of tax credit issued by the commissioner for any taxable year may not exceed the limitations set forth in this section. [Any] ONE-HALF OF ANY amount of tax credits not awarded for a particular taxable year may [not] be used by the commissioner to award tax credits in another taxable year.

Credit components in the aggregate With respect to taxable

shall not exceed:	years beginning in:
$ 50 million	2011
$ 100 million	2012
$ 150 million	2013
$ 200 million	2014
$ 250 million	2015
$ 200 million	2016
$ 200 million	2017
$ 200 million	2018
$ 200 million	2019
$ 200 million	2020
$ 200 million	2021
$ 150 million	2022
$ 100 million	2023
$ 50 million	2024

Twenty-five percent of tax credits shall be allocated to businesses accepted into the program under subdivision four of section three hundred fifty-three of this article and seventy-five percent of tax credits shall be allocated to businesses accepted into the program under subdivision three of section three hundred fifty-three of this article.

Provided, however, if by September thirtieth of a calendar year, the department has not allocated the full amount of credits available in that year to either: (i) businesses accepted into the program under subdivision four of section three hundred fifty-three of this article or (ii) businesses accepted into the program under subdivision three of section three hundred fifty-three of this article, the commissioner may allocate any remaining tax credits to businesses referenced in paragraphs (i) and (ii) of this section as needed; provided, however, that under no circumstances may the statutory cap be exceeded.

S 5. Section 31 of the tax law, as amended by section 2 of part MM of chapter 59 of the laws of 2010, is amended by adding a new subdivision (f-1) to read as follows:

(F-1) CREDIT RECAPTURE FOR UNREALIZED JOB CREATION. IF, IN ANY GIVEN YEAR, A TAXPAYER WHO HAS SATISFIED THE ELIGIBILITY CRITERIA SPECIFIED IN SECTION THREE HUNDRED FIFTY-THREE OF THE ECONOMIC DEVELOPMENT LAW REALIZES JOB CREATION LESS THAN THE ESTIMATED AMOUNT, THE CREDIT DESCRIBED IN THIS SECTION ALLOWED IN THAT YEAR SHALL BE REDUCED BY THE PROPORTION OF ACTUAL JOB CREATION TO THE ESTIMATED AMOUNT, PROVIDED THE PROPORTION IS AT LEAST SEVENTY-FIVE PERCENT OF THE JOBS ESTIMATED.

S 6. This act shall take effect on the sixtieth day after it shall have become a law.

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

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