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

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I N S E N A T E

March 1, 2010

Introduced by Sens. ALESI, SKELOS, DeFRANCISCO, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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

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

Section 1. This act enacts into law major components of legislation relating to taxes and regulatory reform and economic competitiveness. Each component is wholly contained within a Part identified as Parts A through D. 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 referenced 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 tax law is amended by adding a new section 31 to read as follows:

S 31. NEW YORK JOBS TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER, WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER AND WHICH CREATES A NEW JOB, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX. THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE EQUAL TO THE AMOUNT OF WITHHOLDING, REQUIRED BY ARTICLE TWENTY-TWO OF THIS CHAPTER, REMITTED TO THE STATE FOR EACH NEW EMPLOYEE. THE CREDIT SHALL

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

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NOT BE MORE THAN FIVE THOUSAND DOLLARS FOR ANY NEW EMPLOYEE FOR ONE FULL YEAR OF EMPLOYMENT; IF A NEW EMPLOYEE HAS BEEN HIRED FOR LESS THAN A FULL TAX YEAR THIS AMOUNT SHALL BE PRORATED AND APPORTIONED TO EACH TAX YEAR BUT SHALL IN NO WAY DECREASE THE FULL THREE YEARS OF CREDIT ELIGIBILITY. THE TAXPAYER MAY CLAIM THIS CREDIT FOR EACH NEW EMPLOYEE FOR A PERIOD OF THREE YEARS OF EMPLOYMENT. THE TAXPAYER MAY OFFSET QUARTERLY ESTIMATED RETURNS WITH THE AMOUNT OF THIS CREDIT EARNED IN ANY PREVIOUS QUARTER.

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

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

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

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

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

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

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

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

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

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

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

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL 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 WILL BE PAID THEREON.

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

(QQ) NEW YORK JOBS TAX CREDIT. (1) A TAXPAYER WILL BE ALLOWED A CREDIT, TO THE EXTENT ALLOWED UNDER SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST WILL BE PAID THEREON.

S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxi) to read as follows:

(XXXI) NEW YORK JOBS TAX CREDIT UNDER SUBSECTION (QQ)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN

S 5. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2010.

PART B

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

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

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

Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. There is hereby imposed for each taxable year on the New York taxable income of every resident individual who is not a married individual who makes a single return jointly with his spouse under subsection (b) of section six hundred fifty-one OF THIS ARTICLE or a resident head of a household or a

resident surviving spouse, and on the New York taxable income of every resident estate and trust a tax determined in accordance with the following tables. PROVIDED HOWEVER, FOR THE TAXABLE YEAR BEGINNING IN TWO THOUSAND ELEVEN, IF THE TAXPAYER HAS SMALL BUSINESS TAXABLE INCOME, AS CALCULATED IN SECTION SIX HUNDRED ELEVEN OF THIS ARTICLE, THEN THE TAX DETERMINED BY THIS SUBSECTION SHALL BE THE COMBINATION OF THE TAX ON SMALL BUSINESS TAXABLE INCOME DETERMINED BY USING THE TABLE IN PARAGRAPH TWO OF THIS SUBSECTION AND THE TAX ON THE AMOUNT RESULTING WHEN SMALL BUSINESS TAXABLE INCOME IS SUBTRACTED FROM NEW YORK TAXABLE INCOME, DETERMINED BY USING THE TABLE IN PARAGRAPH ONE OF THIS SUBSECTION:

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

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

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

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

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

BASE OF THE BUSINESS ENTITY IS LESS THAN TWO MILLION DOLLARS AND THE DENOMINATOR BEING THE TOTAL ADJUSTED GROSS INCOME OF THE TAXPAYER.

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

PART C

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

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

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

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

of the entire net income base over two hundred thousand dollars and (c) five percent of the excess of the entire net income base over two hundred fifty thousand dollars; (3) for taxable years beginning after June thirtieth, two thousand and before July first, two thousand one, the amount shall be the sum of (a) fifteen thousand dollars, (b) eight percent of the excess of the entire net income base over two hundred thousand dollars and (c) two and one-half percent of the excess of the entire net income base over two hundred fifty thousand dollars; (4) for taxable years beginning after June thirtieth, two thousand one and before July first, two thousand three, the amount shall be seven and one-half percent of the entire net income base; and (5) for taxable years beginning after June thirtieth, two thousand three and before January first, two thousand five, the amount shall be the sum of (a) thirteen thousand seven hundred dollars, (b) 7.5 percent of the excess of the entire net income base over two hundred thousand dollars and (c) 3.25 percent of the excess of the entire net income base over two hundred fifty thousand dollars;

(iii) for taxable years beginning on or after January first, two thousand five and ending before January first, two thousand seven, if the entire net income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the entire net income base; if the entire net income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-half percent of the excess of the entire net income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) seven and one-quarter percent of the excess of the entire net income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

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

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

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

(VII) if the taxable period to which subparagraphs (i), (ii), (iii), [and] (iv) AND (V) of this paragraph apply is less than twelve months, the amount prescribed by this paragraph shall be computed as follows:

(A) Multiply the entire net income base for such taxpayer by twelve;
(B) Divide the result obtained in (A) by the number of months in the taxable year;
(C) Compute an amount pursuant to subparagraphs (i) and (ii) OF THIS PARAGRAPH as if the result obtained in (B) were the taxpayer's entire net income base;
(D) Multiply the result obtained in (C) by the number of months in the taxpayer's taxable year;
(E) Divide the result obtained in (D) by twelve.
[(vi)] (VIII) for taxable years beginning on or after January thirty-first, two thousand seven, the amount prescribed by this paragraph for a taxpayer which is a qualified New York manufacturer, shall be computed at the rate of six and one-half (6.5) percent of the taxpayer's entire net income base. The term "manufacturer" shall mean a taxpayer which during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. However, the generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity shall not be qualifying activities for a manufacturer under this subparagraph. Moreover, the combined group shall be considered a "manufacturer" for purposes of this subparagraph only if the combined group during the taxable year is principally engaged in the activities set forth in this paragraph, or any combination thereof. A taxpayer or a combined group shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. A "qualified New York manufacturer" is a manufacturer which has property in New York which is described in clause (A) of subparagraph (i) of paragraph (b) of subdivision twelve of this section and either (I) the adjusted basis of such property for federal income tax purposes at the close of the taxable year is at least one million dollars or (II) all of its real and personal property is located in New York. In addition, a "qualified New York manufacturer" means a taxpayer which is defined as a qualified emerging technology company under paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law regardless of the ten million dollar limitation expressed in subparagraph one of such paragraph (c).
(IX) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, A TAXPAYER OR ITS AFFILIATES, WHETHER DOMICILED IN THIS STATE OR NOT, THAT IS A "SMALL MANUFACTURER", THE AMOUNT SHALL BE THREE AND ONE-QUARTER PERCENT OF THE ENTIRE INCOME BASE. A SMALL MANUFACTURER IS A TAXPAYER, THAT AT ANY TIME IN THE TAXPAYER'S TAXABLE YEAR EMPLOYS NO MORE THAN FIFTY PERSONS, OR THE TAXPAYER'S ENTIRE NET INCOME BASE IS LESS THAN TWO MILLION DOLLARS, AND THE TAXPAYER MEETS THE DEFINITION OF "MANUFACTURER" IN SUBPARAGRAPH (VIII) OF THIS PARAGRAPH;
(X) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, A TAXPAYER OR ITS AFFILIATES, WHETHER DOMICILED IN THIS STATE OR NOT, THAT IS A "SMALL MANUFACTURER", THE AMOUNT SHALL BE ZERO. A SMALL MANUFACTURER IS A TAXPAYER, THAT AT ANY TIME IN THE TAXPAYER'S TAXABLE YEAR EMPLOYS NO MORE THAN FIFTY PERSONS, OR THE TAXPAYER'S ENTIRE NET INCOME BASE IS LESS THAN TWO MILLION DOLLARS, AND THE TAXPAY-

ER MEETS THE DEFINITION OF "MANUFACTURER" IN SUBPARAGRAPH (VIII) OF THIS PARAGRAPH.

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

(b) Capital base. (1) The amount prescribed by this paragraph for taxable years beginning before January first, two thousand eight shall be computed at .178 percent for each dollar of the taxpayer's total business and investment capital, or the portion thereof allocated within the state as hereinafter provided. For taxable years beginning on or after January first, two thousand eight, the amount prescribed by this paragraph shall be computed at .15 percent for each dollar of the taxpayer's total business and investment capital, or the portion thereof allocated within the state as hereinafter provided. However, in the case of a cooperative housing corporation as defined in the internal revenue code, the applicable rate shall be .04 percent. IF A TAXPAYER EMPLOYS NO MORE THAN FIFTY EMPLOYEES AND HAS ENTIRE NET INCOME BASE LESS THAN TWO MILLION DOLLARS THEN THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE ZERO DOLLARS. In no event shall the amount prescribed by this paragraph exceed three hundred fifty thousand dollars for qualified New York manufacturers and for all other taxpayers ten million dollars for taxable years beginning on or after January first, two thousand eight but before January first, two thousand eleven and one million dollars for taxable years beginning on or after January first, two thousand eleven.

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

(ii) For taxable years beginning in nineteen hundred ninety, nineteen hundred ninety-one, nineteen hundred ninety-two, nineteen hundred ninety-three and nineteen hundred ninety-four the amount prescribed by this paragraph shall be computed at the rate of five percent of the taxpayer's minimum taxable income base. For taxable years beginning after nineteen hundred ninety-four and before July first, nineteen hundred ninety-eight, the amount prescribed by this paragraph shall be computed at the rate of three and one-half percent of the taxpayer's minimum taxable income base. For taxable years beginning after June thirtieth, nineteen hundred ninety-eight and before July first, nineteen hundred ninety-nine, the amount prescribed by this paragraph shall be computed at the rate of three and one-quarter percent of the taxpayer's minimum taxable income base. For taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand, the amount prescribed by this paragraph shall be computed at the rate of three percent of the taxpayer's minimum taxable income base. For taxable years beginning after June thirtieth, two thousand, the amount prescribed by this paragraph shall be computed at the rate of two and one-half percent of the taxpayer's minimum taxable income base. For taxable years beginning on or after January first, two thousand seven, amount prescribed by this paragraph shall be computed at the rate of one and one-half percent of the taxpayer's minimum taxable income base. The "taxpayer's minimum taxable income base" shall mean the portion of the taxpayer's minimum taxable income allocated within the state as hereinafter provided, subject to any modifications required by paragraphs (d) and (e) of subdivision three of this section. HOWEVER, IF A TAXPAYER EMPLOYS NO MORE THAN FIFTY EMPLOYEES AND HAS ENTIRE NET INCOME BASE LESS THAN TWO MILLION DOLLARS THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE COMPUTED AT THE RATE OF ZERO.

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

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

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

S 5. This act shall take effect immediately.

PART D

Section 1. Legislative findings. The legislature hereby finds and declares that the current regulatory environment in New York state has a significant impact on the state's businesses, economy and global economic competitiveness. In order to provide New York businesses the opportunity for growth and the ability to compete, along with providing the citizens of this state the ability to find gainful employment and the benefits of a strong economy, New York state must provide a regulatory environment that reduces the cost of doing business in the state, promotes business growth and encourages job creation.

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

S 2. Commission established. (a) There is hereby created in the executive department a commission to be known as the "Commission on Regulatory Reform and Economic Competitiveness," hereafter referred to as the "commission," which shall be charged with examining all current rules and regulations affecting the business community in New York state and recommending changes to that system in light of factors submitted pursuant to section five of this act and additional factors established by the commission. It shall be further charged to review the economic impact and cost of any new proposed rules or regulations and make recommendations pursuant to section nine of this act.

(b) The commission shall consist of seventeen members. The seventeen members shall be appointed as follows: (i) two members shall be appointed by the temporary president of the senate; (ii) two members shall be appointed by the speaker of the assembly; (iii) one member shall be appointed by the minority leader of the senate; (iv) one member shall be appointed by the minority leader of the assembly; and (v) eleven members shall be appointed by the governor to consist of the following: (1) two members of the business community; (2) one member of the small business community; (3) two members from the labor community; (4) one member from the agricultural community; (5) one member of the local

government community; and (6) four at large members. The governor shall designate the chair from among the members of the commission.

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

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

(e) The commission shall adopt by-laws for the management and regulation of its affairs.

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

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

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

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

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

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

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

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

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

(g) a summary of the agency or department's plans to create efficiencies, reduce paperwork and promote the business environment in the state.

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

S 6. Deliberations of commission. The deliberations, meetings and other proceedings of the commission and any committee thereof shall be governed by article 7 of the public officers law, provided that, notwithstanding section 105 of the public officers law, the commission and any committee thereof shall conduct business in executive session anytime it is addressing in detail the medical, financial, or credit history of a particular general hospital or nursing home. Any one or more members of a committee may participate in a meeting of such committee by means of a conference telephone, conference video or similar

communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. At any meetings of the commission conducted by means of a conference telephone, conference video or similar communications equipment, other than executive sessions, the public shall be given an opportunity to listen. If a meeting other than an executive session is to be conducted by means of a conference telephone, conference video or similar communications equipment, the public notice for the meeting shall inform the public that such equipment will be used, and identify the means by which the public may listen to such meeting.

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

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

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

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

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

(b) The provisions of subdivision (a) of this section shall not apply: (i) unless the governor has transmitted the commission's report under section seven of this act with his or her written approval of the recommendations of the commission pursuant to subdivisions (b) and (c) of section seven of this act to the head of each agency or department affected by these recommendations and transmitted a message to the legislature stating his or her approval of the report on or before December 5, 2012; and (ii) if a majority of the members of each house of the legislature vote to adopt a concurrent resolution rejecting the recommendations of the commission pursuant to subdivisions (b) and (c) of section seven of this act in their entirety by December 31, 2012, after receiving a message from the governor under this subdivision.

S 9. Continuing responsibility to review proposed rules and regulations. After submission of the commission's report to the governor and the legislature, the commission shall be responsible for the continued review of any agency or department's proposed rules or regulations which may impact the business environment of this state.

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

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

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

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

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

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

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

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

(c) provide an economic impact statement of the proposed rule or regulation to include but not be limited to (i) cost or benefit to the state; (ii) business sector or industry affected by the rule or regulation; (iii) number of jobs affected by the rule or regulation; and (iv) any other information which will assist the commission in understanding the economic impact of the rule or regulation.

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

S 12. 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 13. This act shall take effect immediately and shall expire June 30, 2015 when upon such date the provisions of this act shall be deemed repealed.

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 the 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 D of this act shall be as specifically set forth in the last section of such Parts.