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

S. 2 A. 2

Extraordinary Session

S E N A T E - A S S E M B L Y

December 7, 2011

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to personal income tax rates and benefit recapture and repealing certain provisions of such law relating thereto (Part A); to amend the tax law, in relation to the tax rates and exclusions under the metropolitan commuter transportation mobility tax (Part B); to amend the tax law, in relation to tax rates imposed on New York manufacturers (Part C); to amend the labor law and the tax law, in relation to establishing the New York youth works tax credit program (Part D); to amend the economic development law and the tax law, in relation to creating the empire state jobs retention program (Part E); to permit authorized state entities to utilize the design-build method for infrastructure projects; and providing for the repeal of such provisions upon expiration thereof (Part F); to establish the Hurricane Irene and Tropical Storm Lee assessment relief act (Part G); to create the Hurricane Irene-Tropical Storm Lee Flood Recovery Grant Program (Part H); to amend the real property tax law, in relation to authorizing school districts to permit installment payments of real property taxes in certain school districts affected by floods or natural disasters; and providing for the repeal of certain provisions upon the expiration thereof (Part I); to amend the executive law, in relation to a prohibition on diversion of funds dedicated to the metropolitan transportation authority or the New York city transit authority and any of their subsidiaries (Part J); and to amend chapter 260 of the laws of 2011, relating to establishing components of the NY-SUNY 2020 challenge grant program, in relation to requiring compliance with project labor agreements (Part K)

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

LBD12105-01-1

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 issues deemed necessary for the state. Each component of this act is wholly contained within a Part identified as Parts A through K. 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 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. Paragraph 1 of subsection (a) of section 601 of the tax law is renumbered to be paragraph 1-a and a new paragraph 1 is added to read as follows:

(1) (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND ELEVEN AND BEFORE TWO THOUSAND FIFTEEN:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $16,000	4% OF TAXABLE INCOME
OVER $16,000 BUT NOT OVER $22,000	$640 PLUS 4.5% OF EXCESS OVER $16,000
OVER $22,000 BUT NOT OVER $26,000	$910 PLUS 5.25% OF EXCESS OVER $22,000
OVER $26,000 BUT NOT OVER $40,000	$1,120 PLUS 5.90% OF EXCESS OVER $26,000
OVER $40,000 BUT NOT OVER $150,000	$1,946 PLUS 6.45% OF EXCESS OVER $40,000
OVER $150,000 BUT NOT OVER $300,000	$9,041 PLUS 6.65% OF EXCESS OVER $150,000
OVER $300,000 BUT NOT OVER $2,000,000	$19,016 PLUS 6.85% OF EXCESS OVER $300,000
OVER $2,000,000	$135,466 PLUS 8.82% OF EXCESS OVER $2,000,000

(B) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN, THE FOLLOWING BRACKETS AND DOLLAR AMOUNTS SHALL APPLY, AS ADJUSTED BY THE COST OF LIVING ADJUSTMENT PRESCRIBED IN SECTION SIX HUNDRED ONE-A OF THIS PART FOR TAX YEARS TWO THOUSAND THIRTEEN AND TWO THOUSAND FOURTEEN:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $16,000	4% OF TAXABLE INCOME
OVER $16,000 BUT NOT OVER $22,000	$640 PLUS 4.5% OF EXCESS OVER $16,000
OVER $22,000 BUT NOT OVER $26,000	$910 PLUS 5.25% OF EXCESS OVER $22,000
OVER $26,000 BUT NOT OVER $40,000	$1,120 PLUS 5.90% OF EXCESS OVER $26,000
OVER $40,000	$1,946 PLUS 6.85% OF EXCESS OVER $40,000

S 2. The opening paragraph of paragraph 2 of subsection (a) of section 601 of the tax law, as amended by section 1 of part Z-1 of chapter 57 of the laws of 2009, is amended to read as follows:

For taxable years beginning after two thousand five and before two thousand nine [and after two thousand eleven]:

S 3. Paragraph 1 of subsection (b) of section 601 of the tax law is renumbered to be paragraph 1-a and a new paragraph 1 is added to read as follows:

(1) (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND ELEVEN AND BEFORE TWO THOUSAND FIFTEEN:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $12,000	4% OF TAXABLE INCOME
OVER $12,000 BUT NOT OVER $16,500	$480 PLUS 4.5% OF EXCESS OVER $12,000
OVER $16,500 BUT NOT OVER $19,500	$683 PLUS 5.25% OF EXCESS OVER $16,500
OVER $19,500 BUT NOT OVER $30,000	$840 PLUS 5.90% OF EXCESS OVER $19,500
OVER $30,000 BUT NOT OVER $100,000	$1,460 PLUS 6.45% OF EXCESS OVER $30,000
OVER $100,000 BUT NOT OVER $250,000	$5,975 PLUS 6.65% OF EXCESS OVER $100,000
OVER $250,000 BUT NOT OVER $1,500,000	$15,950 PLUS 6.85% OF EXCESS OVER $250,000
OVER $1,500,000	$101,575 PLUS 8.82% OF EXCESS OVER $1,500,000

(B) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN, THE FOLLOWING BRACKETS AND DOLLARS AMOUNTS SHALL APPLY, AS ADJUSTED BY THE COST OF LIVING ADJUSTMENT PRESCRIBED IN SECTION SIX HUNDRED ONE-A OF THIS PART FOR TAX YEARS TWO THOUSAND THIRTEEN AND TWO THOUSAND FOURTEEN:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $12,000	4% OF TAXABLE INCOME
OVER $12,000 BUT NOT OVER $16,500	$480 PLUS 4.5% OF EXCESS OVER $12,000
OVER $16,500 BUT NOT OVER $19,500	$683 PLUS 5.25% OF EXCESS OVER $16,500
OVER $19,500 BUT NOT OVER $30,000	$840 PLUS 5.90% OF EXCESS OVER $19,500
OVER $30,000	$1,460 PLUS 6.85% OF EXCESS OVER $30,000

S 4. The opening paragraph of paragraph 2 of subsection (b) of section 601 of the tax law, as amended by section 1 of part Z-1 of chapter 57 of the laws of 2009, is amended to read as follows:

For taxable years beginning after two thousand five and before two thousand nine [and after two thousand eleven]:

S 5. Paragraph 1 of subsection (c) of section 601 of the tax law is renumbered to be paragraph 1-a and a new paragraph 1 is added to read as follows:

(1) (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND ELEVEN AND BEFORE TWO THOUSAND FIFTEEN:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $8,000	4% OF TAXABLE INCOME
OVER $8,000 BUT NOT OVER $11,000	$320 PLUS 4.5% OF EXCESS OVER $8,000
OVER $11,000 BUT NOT OVER $13,000	$455 PLUS 5.25% OF EXCESS OVER $11,000
OVER $13,000 BUT NOT OVER $20,000	$560 PLUS 5.90% OF EXCESS OVER $13,000
OVER $20,000 BUT NOT OVER $75,000	$973 PLUS 6.45% OF EXCESS OVER $20,000
OVER $75,000 BUT NOT OVER $200,000	$4,521 PLUS 6.65% OF EXCESS OVER $75,000
OVER $200,000 BUT NOT OVER $1,000,000	$12,833 PLUS 6.85% OF EXCESS OVER $200,000
OVER $1,000,000	$67,633 PLUS 8.82% OF EXCESS OVER $1,000,000

(B) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN, THE FOLLOWING BRACKETS AND DOLLARS AMOUNTS SHALL APPLY, AS ADJUSTED BY THE COST OF LIVING ADJUSTMENT PRESCRIBED IN SECTION SIX HUNDRED ONE-A OF THIS PART FOR TAX YEARS TWO THOUSAND THIRTEEN AND TWO THOUSAND FOURTEEN:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $8,000	4% OF TAXABLE INCOME
OVER $8,000 BUT NOT OVER $11,000	$320 PLUS 4.5% OF EXCESS OVER $8,000
OVER $11,000 BUT NOT OVER $13,000	$455 PLUS 5.25% OF EXCESS OVER $11,000
OVER $13,000 BUT NOT OVER $20,000	$560 PLUS 5.90% OF EXCESS OVER $13,000
OVER $20,000	$973 PLUS 6.85% OF EXCESS OVER $20,000

S 6. The opening paragraph of paragraph 2 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, is amended to read as follows:

For taxable years beginning after two thousand five and before two thousand nine [and after two thousand eleven]:

S 7. Section 601 of the tax law is amended by adding a new subsection (d-1) to read as follows:

(D-1) ALTERNATIVE TAX TABLE BENEFIT RECAPTURE. NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND ELEVEN AND BEFORE TWO THOUSAND FIFTEEN, THERE IS HEREBY IMPOSED A SUPPLEMENTAL TAX IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTIONS (A), (B) AND (C) OF THIS SECTION FOR THE PURPOSE OF RECAPTURING THE BENEFIT OF THE TAX TABLES CONTAINED IN SUCH SUBSECTIONS. DURING THESE TAXABLE YEARS, ANY REFERENCE IN THIS CHAPTER TO SUBSECTION (D) OF THIS SECTION SHALL BE READ AS A REFERENCE TO THIS SUBSECTION.

(1) FOR RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS AND RESIDENT SURVIVING SPOUSES, THE SUPPLEMENTAL TAX SHALL BE AN AMOUNT EQUAL TO THE SUM OF THE TAX TABLE BENEFITS DESCRIBED IN SUBPARAGRAPHS (A), (B), (C) AND (D) OF THIS PARAGRAPH MULTIPLIED BY THEIR RESPECTIVE FRACTIONS IN SUCH SUBPARAGRAPHS.

(A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION NOT SUBJECT TO THE 6.45 PERCENT RATE OF TAX FOR THE

TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION. THE FRACTION FOR THIS SUBPARAGRAPH IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER ONE HUNDRED THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

(B) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION NOT SUBJECT TO THE 6.65 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION LESS THE TAX TABLE BENEFIT IN SUBPARAGRAPH (A) OF THIS PARAGRAPH. THE FRACTION FOR THIS SUBPARAGRAPH IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER ONE HUNDRED FIFTY THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THIS SUBPARAGRAPH SHALL NOT APPLY TO TAXPAYERS WHO ARE NOT SUBJECT TO THE 6.65 PERCENT TAX RATE.

(C) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION NOT SUBJECT TO THE 6.85 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION LESS THE SUM OF THE TAX TABLE BENEFIT IN SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH. THE FRACTION FOR THIS SUBPARAGRAPH IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER THREE HUNDRED THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THIS SUBPARAGRAPH SHALL NOT APPLY TO TAXPAYERS WHO ARE NOT SUBJECT TO THE 6.85 PERCENT TAX RATE.

(D) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION NOT SUBJECT TO THE 8.82 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION LESS THE SUM OF THE TAX TABLE BENEFITS IN SUBPARAGRAPHS (A), (B) AND (C) OF THIS PARAGRAPH. THE FRACTION FOR THIS SUBPARAGRAPH IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER TWO MILLION DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. THIS SUBPARAGRAPH SHALL APPLY ONLY TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN.

(E) PROVIDED, HOWEVER, THE TOTAL TAX PRIOR TO THE APPLICATION OF ANY TAX CREDITS SHALL NOT EXCEED THE HIGHEST RATE OF TAX SET FORTH IN THE TAX TABLES IN SUBSECTION (A) OF THIS SECTION MULTIPLIED BY THE TAXPAYER'S TAXABLE INCOME.

(2) FOR RESIDENT HEADS OF HOUSEHOLDS, THE SUPPLEMENTAL TAX SHALL BE AN AMOUNT EQUAL TO THE SUM OF THE TAX TABLE BENEFITS DESCRIBED IN SUBPARAGRAPHS (A), (B) AND (C) OF THIS PARAGRAPH MULTIPLIED BY THEIR RESPECTIVE FRACTIONS IN SUCH SUBPARAGRAPHS.

(A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (B) OF THIS SECTION NOT SUBJECT TO THE 6.65 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN PARAGRAPH ONE OF SUBSECTION (B) OF THIS SECTION. THE FRACTION FOR THIS SUBPARAGRAPH IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER ONE HUNDRED THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

(B) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (B) OF THIS SECTION NOT SUBJECT TO THE 6.85 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN PARAGRAPH ONE OF SUBSECTION (B) OF THIS SECTION LESS THE TAX TABLE BENEFIT IN SUBPARAGRAPH (A) OF THIS PARAGRAPH. THE FRACTION FOR THIS SUBPARAGRAPH IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER TWO HUNDRED FIFTY THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THIS SUBPARAGRAPH SHALL NOT APPLY TO TAXPAYERS WHO ARE NOT SUBJECT TO THE 6.85 PERCENT TAX RATE.

(C) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (B) OF THIS SECTION NOT SUBJECT TO THE 8.82 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN PARAGRAPH ONE OF SUBSECTION (B) OF THIS SECTION LESS THE SUM OF THE TAX TABLE BENEFITS IN SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH. THE FRACTION FOR THIS SUBPARAGRAPH IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. THIS SUBPARAGRAPH SHALL APPLY ONLY TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN.

(D) PROVIDED, HOWEVER, THE TOTAL TAX PRIOR TO THE APPLICATION OF ANY TAX CREDITS SHALL NOT EXCEED THE HIGHEST RATE OF TAX SET FORTH IN THE TAX TABLES IN SUBSECTION (B) OF THIS SECTION MULTIPLIED BY THE TAXPAYER'S TAXABLE INCOME.

(3) FOR RESIDENT UNMARRIED INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND RESIDENT ESTATES AND TRUSTS, THE SUPPLEMENTAL TAX SHALL BE AN AMOUNT EQUAL TO THE SUM OF THE TAX TABLE BENEFITS DESCRIBED IN SUBPARAGRAPHS (A), (B) AND (C) OF THIS PARAGRAPH MULTIPLIED BY THEIR RESPECTIVE FRACTIONS IN SUCH SUBPARAGRAPHS.

(A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (C) OF THIS SECTION NOT SUBJECT TO THE 6.65 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN PARAGRAPH ONE OF SUBSECTION (C) OF THIS SECTION. THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER ONE HUNDRED THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

(B) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (C) OF THIS SECTION NOT SUBJECT TO THE 6.85 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN PARAGRAPH ONE OF SUBSECTION (C) OF THIS SECTION LESS THE TAX TABLE BENEFIT IN SUBPARAGRAPH (A) OF THIS PARAGRAPH. THE FRACTION FOR THIS SUBPARAGRAPH IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER TWO HUNDRED THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THIS SUBPARAGRAPH SHALL NOT APPLY TO TAXPAYERS WHO ARE NOT SUBJECT TO THE 6.85 PERCENT TAX RATE.

(C) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (C) OF THIS SECTION NOT SUBJECT TO THE 8.82 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN PARAGRAPH ONE OF SUBSECTION (C) OF THIS SECTION LESS THE SUM OF THE TAX TABLE BENEFITS IN SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH. THE FRACTION FOR THIS SUBPARAGRAPH IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER ONE MILLION DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. THIS SUBPARAGRAPH SHALL APPLY ONLY TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN.

(D) PROVIDED, HOWEVER, THE TOTAL TAX PRIOR TO THE APPLICATION OF ANY TAX CREDITS SHALL NOT EXCEED THE HIGHEST RATE OF TAX SET FORTH IN THE TAX TABLES IN SUBSECTION (C) OF THIS SECTION MULTIPLIED BY THE TAXPAYER'S TAXABLE INCOME.

S 8. Section 601 of the tax law is amended by adding a new subsection (d-2) to read as follows:

(D-2) TAX TABLE BENEFIT RECAPTURE FOR TAX YEARS AFTER TWO THOUSAND FOURTEEN. FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN, THERE IS HEREBY IMPOSED A SUPPLEMENTAL TAX IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTIONS (A), (B) AND (C) OF THIS SECTION FOR THE PURPOSE OF RECAPTURING THE BENEFIT OF THE TAX TABLES CONTAINED IN SUCH SUBSECTIONS. THE SUPPLEMENTAL TAX SHALL BE AN AMOUNT EQUAL TO THE TABLE BENEFIT IN PARAGRAPH ONE OF THIS SUBSECTION MULTIPLIED BY THE FRACTION IN SUCH PARAGRAPH. ANY REFERENCE IN THIS CHAPTER TO SUBSECTION (D) OF THIS SECTION SHALL BE READ AS A REFERENCE TO THIS SUBSECTION.

(1) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS, RESIDENT SURVIVING SPOUSES, RESIDENT HEADS OF HOUSEHOLDS, RESIDENT UNMARRIED INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND RESIDENT ESTATES AND TRUSTS.

(A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN SUBSECTION (A), (B) OR (C), OF THIS SECTION, NOT SUBJECT TO THE 6.85 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN SUBSECTION (A), (B) OR (C) OF THIS SECTION.

(B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER ONE HUNDRED THOUSAND DOLLARS (AS SUCH AMOUNT IS ADJUSTED BY THE COST OF LIVING ADJUSTMENT PRESCRIBED IN

SECTION SIX HUNDRED ONE-A OF THIS PART FOR TAX YEARS TWO THOUSAND THIRTEEN AND TWO THOUSAND FOURTEEN) AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

S 9. The tax law is amended by adding a new section 601-a to read as follows:

S 601-A. COST OF LIVING ADJUSTMENT. (A) FOR TAX YEAR TWO THOUSAND THIRTEEN, THE COMMISSIONER, NOT LATER THAN SEPTEMBER FIRST, TWO THOUSAND TWELVE, SHALL MULTIPLY THE AMOUNTS SPECIFIED IN SUBSECTION (B) OF THIS SECTION FOR TAX YEAR TWO THOUSAND TWELVE BY ONE PLUS THE COST OF LIVING ADJUSTMENT DESCRIBED IN SUBSECTION (C) OF THIS SECTION. FOR TAX YEAR TWO THOUSAND FOURTEEN, THE COMMISSIONER, NOT LATER THAN SEPTEMBER FIRST, TWO THOUSAND THIRTEEN, SHALL MULTIPLY THE AMOUNTS SPECIFIED IN SUBSECTION (B) OF THIS SECTION FOR TAX YEAR TWO THOUSAND THIRTEEN BY ONE PLUS THE COST OF LIVING ADJUSTMENT.

(B) THE FOLLOWING AMOUNTS SHALL BE INDEXED BY THE COST OF LIVING ADJUSTMENT.

(1) THE DOLLAR AMOUNTS IN THE TAX TABLES SET FORTH IN PARAGRAPH ONE OF SUBSECTION (A), PARAGRAPH ONE OF SUBSECTION (B) AND PARAGRAPH ONE OF SUBSECTION (C) OF SECTION SIX HUNDRED ONE OF THIS PART.

(2) THE DOLLAR AMOUNT IN THE NUMERATOR OF THE FRACTIONS IN SUBSECTION (D) OF SECTION SIX HUNDRED ONE OF THIS PART THAT IS NOT FIFTY THOUSAND DOLLARS.

(3) THE NEW YORK STANDARD DEDUCTION OF A RESIDENT INDIVIDUAL IN SECTION SIX HUNDRED FOURTEEN OF THIS ARTICLE.

(C) THE COST OF LIVING ADJUSTMENT FOR A TAX YEAR IS THE PERCENTAGE IF ANY, BY WHICH THE AVERAGE MONTHLY VALUE OF THE CONSUMER PRICE INDEX FOR THE TWELVE MONTH PERIOD ENDING ON JUNE THIRTIETH OF THE YEAR IMMEDIATELY PRECEDING THE TAX YEAR FOR WHICH THE ADJUSTMENT IS BEING MADE (REFERRED TO AS THE ADJUSTMENT YEAR) EXCEEDS THE AVERAGE MONTHLY VALUE OF THE CONSUMER PRICE INDEX FOR THE TWELVE MONTH PERIOD ENDING ON JUNE THIRTIETH OF THE YEAR IMMEDIATELY PRECEDING THE ADJUSTMENT YEAR. FOR PURPOSES OF THIS SECTION, THE CONSUMER PRICE INDEX MEANS THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR.

(D) IF THE PRODUCT OF THE AMOUNTS IN SUBSECTION (B) AND SUBSECTION (C) OF THIS SECTION IS NOT A MULTIPLE OF FIFTY DOLLARS, SUCH INCREASE SHALL BE ROUNDED TO THE NEXT LOWEST MULTIPLE OF FIFTY DOLLARS.

S 10. Section 614 of the tax law is amended by adding a new subsection (f) to read as follows:

(F) ADJUSTED STANDARD DEDUCTION. FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN, THE STANDARD DEDUCTIONS SET FORTH IN THIS SECTION SHALL BE ADJUSTED BY THE COST OF LIVING ADJUSTMENT PRESCRIBED IN SECTION SIX HUNDRED ONE-A OF THIS PART FOR TAX YEARS TWO THOUSAND THIRTEEN AND TWO THOUSAND FOURTEEN.

S 11. Notwithstanding any provision of law to the contrary, the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 22 of the tax law in connection with the implementation of the provisions of this act shall be prescribed by regulations of the commissioner of taxation and finance with due consideration to the effect such withholding tables and methods would have on the receipt and amount of revenue. The commissioner of taxation and finance shall adjust such withholding tables and methods in regard to taxable years beginning in 2012 and after in such manner as to result, so far as practicable, in withholding from an employee's wages an amount substantially equivalent to the tax reasonably estimated to be due for such taxable years as a result of the

provisions of this act. Any such regulations to implement a change in withholding tables and methods for tax year 2012 shall be adopted and effective as soon as practicable and the commissioner of taxation and finance may adopt such regulations on an emergency basis notwithstanding anything to the contrary in section 202 of the state administrative procedure act. The commissioner of taxation and finance, in carrying out the duties and responsibilities under this section, may accompany such a rule making procedure with a similar procedure with respect to the taxes required to be deducted and withheld by local laws imposing taxes pursuant to the authority of articles 30, 30-A and 30-B of the tax law, the provisions of any other law in relation to such a procedure to the contrary notwithstanding. The withholding tables and methods for tax years 2013 and 2014 shall not be prescribed by regulation, notwithstanding any provision of the state administrative procedure act to the contrary.

S 12. This act shall take effect immediately.

PART B

Section 1. Subsection (b) of section 800 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:

(b) Employer. Employer means an employer required by section six hundred seventy-one of this chapter to deduct and withhold tax from wages, that has a payroll expense in excess of [two] THREE HUNDRED TWELVE thousand five hundred dollars in any calendar quarter; other than

(1) any agency or instrumentality of the United States;

(2) the United Nations; [or]

(3) an interstate agency or public corporation created pursuant to an agreement or compact with another state or the Dominion of Canada[.]; OR

(4) ANY ELIGIBLE EDUCATIONAL INSTITUTION. AN "ELIGIBLE EDUCATIONAL INSTITUTION" SHALL MEAN ANY PUBLIC SCHOOL DISTRICT, A BOARD OF COOPERATIVE EDUCATIONAL SERVICES, A PUBLIC ELEMENTARY OR SECONDARY SCHOOL, A SCHOOL APPROVED PURSUANT TO ARTICLE EIGHTY-FIVE OR EIGHTY-NINE OF THE EDUCATION LAW TO SERVE STUDENTS WITH DISABILITIES OF SCHOOL AGE, OR A NONPUBLIC ELEMENTARY OR SECONDARY SCHOOL THAT PROVIDES INSTRUCTION IN GRADE ONE OR ABOVE.

S 2. Subsection (a) of section 801 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:

(a) For the sole purpose of providing an additional stable and reliable dedicated funding source for the metropolitan transportation authority and its subsidiaries and affiliates to preserve, operate and improve essential transit and transportation services in the metropolitan commuter transportation district, a tax is hereby imposed [at a rate of thirty-four hundredths (.34) percent of (1) the payroll expense of every employer who engages] ON EMPLOYERS WHO ENGAGE in business within the MCTD (1) AT A RATE OF (A) ELEVEN HUNDREDTHS (.11) PERCENT FOR EMPLOYERS WITH PAYROLL EXPENSE NO GREATER THAN THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS IN ANY CALENDAR QUARTER, (B) TWENTY-THREE HUNDREDTHS (.23) PERCENT FOR EMPLOYERS WITH PAYROLL EXPENSE GREATER THAN THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS AND NO GREATER THAN FOUR HUNDRED THIRTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS IN ANY CALENDAR QUARTER, AND (C) THIRTY-FOUR HUNDREDTHS (.34) PERCENT FOR EMPLOYERS WITH PAYROLL EXPENSE IN EXCESS OF FOUR HUNDRED THIRTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS IN ANY CALENDAR QUARTER, and (2) AT A RATE OF

THIRTY-FOUR HUNDREDTHS (.34) PERCENT OF the net earnings from self-employment of individuals that are attributable to the MCTD if such earnings attributable to the MCTD exceed [ten] FIFTY thousand dollars for the tax year.

S 3. Any reductions in transit aid attributable to reductions in the metropolitan commuter transportation mobility tax authorized under article 23 of the tax law shall be offset through alternative sources that will be included in the state budget.

S 4. This act shall take effect immediately; provided however, that section one of this act and the amendments in section two of this act that concern employers shall take effect for the quarter beginning on April 1, 2012.

PART C

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

(vi) 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. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR A TAXPAYER WHICH IS AN ELIGIBLE QUALIFIED NEW YORK MANUFACTURER SHALL BE COMPUTED AT THE RATE OF THREE AND ONE-QUARTER (3.25) 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). THE COMMISSIONER SHALL ESTABLISH GUIDELINES AND CRITERIA THAT SPECIFY REQUIREMENTS BY WHICH A MANUFACTURER MAY BE CLAS-

SIFIED AS AN ELIGIBLE QUALIFIED NEW YORK MANUFACTURER. CRITERIA MAY INCLUDE BUT NOT BE LIMITED TO FACTORS SUCH AS REGIONAL UNEMPLOYMENT, THE ECONOMIC IMPACT THAT MANUFACTURING HAS ON THE SURROUNDING COMMUNITY, POPULATION DECLINE WITHIN THE REGION AND MEDIAN INCOME WITHIN THE REGION IN WHICH THE MANUFACTURER IS LOCATED. IN ESTABLISHING THESE GUIDELINES AND CRITERIA, THE COMMISSIONER SHALL ENDEAVOR THAT THE TOTAL ANNUAL COST OF THE LOWER RATES SHALL NOT EXCEED TWENTY-FIVE MILLION DOLLARS.

S 2. 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.] (A) 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 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.

(B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR AN ELIGIBLE QUALIFIED NEW YORK MANUFACTURER SHALL BE COMPUTED AT THE RATE OF SEVENTY-FIVE HUNDREDTHS (.75) PERCENT OF THE TAXPAYER'S MINIMUM TAXABLE INCOME BASE. FOR PURPOSES OF THIS CLAUSE, THE TERM "ELIGIBLE QUALIFIED NEW YORK MANUFACTURER" SHALL HAVE THE SAME MEANING AS IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF THIS SUBDIVISION.

S 3. Paragraph (d) of subdivision 1 of section 210 of the tax law is amended by adding a new subparagraph 5 to read as follows:

(5) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE AMOUNTS PRESCRIBED IN SUBPARAGRAPHS ONE AND FOUR OF THIS PARAGRAPH AS THE FIXED DOLLAR MINIMUM TAX FOR AN ELIGIBLE QUALIFIED NEW YORK MANUFACTURER SHALL BE ONE-HALF OF THE AMOUNTS STATED IN THOSE SUBPARAGRAPHS. FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "ELIGIBLE QUALIFIED NEW YORK MANUFACTURER" SHALL HAVE THE SAME MEANING AS IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF THIS SUBDIVISION.

S 4. This act shall take effect immediately.

PART D

Section 1. The labor law is amended by adding a new section 25-a to read as follows:

S 25-A. POWER TO ADMINISTER THE NEW YORK YOUTH WORKS TAX CREDIT PROGRAM. (A) THE COMMISSIONER IS AUTHORIZED TO ESTABLISH AND ADMINISTER THE NEW YORK YOUTH WORKS TAX CREDIT PROGRAM TO PROVIDE TAX INCENTIVES TO EMPLOYERS FOR EMPLOYING AT RISK YOUTH IN PART-TIME AND FULL-TIME POSITIONS IN TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN. THE COMMISSIONER IS AUTHORIZED TO ALLOCATE UP TO TWENTY-FIVE MILLION DOLLARS OF TAX CREDITS UNDER THIS PROGRAM.

(B) DEFINITIONS. (1) THE TERM "QUALIFIED EMPLOYER" MEANS AN EMPLOYER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER TO PARTICIPATE IN THE NEW YORK YOUTH WORKS TAX CREDIT PROGRAM AND THAT EMPLOYS ONE OR MORE QUALIFIED EMPLOYEES.

(2) THE TERM "QUALIFIED EMPLOYEE" MEANS AN INDIVIDUAL:

(I) WHO IS BETWEEN THE AGE OF SIXTEEN AND TWENTY-FOUR;

(II) WHO RESIDES IN A CITY WITH A POPULATION OF SIXTY-TWO THOUSAND OR MORE OR A TOWN WITH A POPULATION OF FOUR HUNDRED EIGHTY THOUSAND OR MORE;

(III) WHO IS LOW-INCOME OR AT-RISK, AS THOSE TERMS ARE DEFINED BY THE COMMISSIONER;

(IV) WHO IS UNEMPLOYED PRIOR TO BEING HIRED BY THE QUALIFIED EMPLOYER; AND

(V) WHO WILL BE WORKING FOR THE QUALIFIED EMPLOYER IN A FULL-TIME OR PART-TIME POSITION THAT PAYS WAGES THAT ARE EQUIVALENT TO THE WAGES PAID FOR SIMILAR JOBS, WITH APPROPRIATE ADJUSTMENTS FOR EXPERIENCE AND TRAINING, AND FOR WHICH NO OTHER EMPLOYEE HAS BEEN TERMINATED, OR WHERE THE EMPLOYER HAS NOT OTHERWISE REDUCED ITS WORKFORCE BY INVOLUNTARY TERMINATIONS WITH THE INTENTION OF FILLING THE VACANCY BY CREATING A NEW HIRE.

(C) A QUALIFIED EMPLOYER SHALL BE ENTITLED TO A TAX CREDIT EQUAL TO (1) FIVE HUNDRED DOLLARS PER MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A FULL-TIME JOB OR TWO HUNDRED FIFTY DOLLARS PER MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK, AND (2) ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK. THE TAX CREDITS SHALL BE CLAIMED BY THE QUALIFIED EMPLOYER AS SPECIFIED IN SUBDIVISION FORTY-FOUR OF SECTION TWO HUNDRED TEN AND SUBSECTION (TT) OF SECTION SIX HUNDRED SIX OF THE TAX LAW.

(D) TO PARTICIPATE IN THE NEW YORK YOUTH WORKS TAX CREDIT PROGRAM, AN EMPLOYER MUST SUBMIT AN APPLICATION (IN A FORM PRESCRIBED BY THE COMMISSIONER) TO THE COMMISSIONER AFTER JANUARY FIRST, TWO THOUSAND TWELVE BUT NO LATER THAN JUNE FIRST, TWO THOUSAND TWELVE. THE QUALIFIED EMPLOYEES MUST START THEIR EMPLOYMENT ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE BUT NO LATER THAN JULY FIRST, TWO THOUSAND TWELVE. THE COMMISSIONER SHALL ESTABLISH GUIDELINES AND CRITERIA THAT SPECIFY REQUIREMENTS FOR EMPLOYERS TO PARTICIPATE IN THE PROGRAM INCLUDING CRITERIA FOR CERTIFYING QUALIFIED EMPLOYEES. ANY REGULATIONS THAT THE COMMISSIONER DETERMINES ARE NECESSARY MAY BE ADOPTED ON AN EMERGENCY BASIS NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT. SUCH REQUIREMENTS MAY INCLUDE THE

TYPES OF INDUSTRIES THAT THE EMPLOYERS ARE ENGAGED IN. THE COMMISSIONER MAY GIVE PREFERENCE TO EMPLOYERS THAT ARE ENGAGED IN DEMAND OCCUPATIONS OR INDUSTRIES, OR IN REGIONAL GROWTH SECTORS, INCLUDING THOSE IDENTIFIED BY THE REGIONAL ECONOMIC DEVELOPMENT COUNCILS, SUCH AS CLEAN ENERGY, HEALTHCARE, ADVANCED MANUFACTURING AND CONSERVATION. IN ADDITION, THE COMMISSIONER SHALL GIVE PREFERENCE TO EMPLOYERS WHO OFFER ADVANCEMENT AND EMPLOYEE BENEFIT PACKAGES TO THE QUALIFIED INDIVIDUALS.

(E) IF, AFTER REVIEWING THE APPLICATION SUBMITTED BY AN EMPLOYER, THE COMMISSIONER DETERMINES THAT SUCH EMPLOYER IS ELIGIBLE TO PARTICIPATE IN THE NEW YORK YOUTH WORKS TAX CREDIT PROGRAM, THE COMMISSIONER SHALL ISSUE THE EMPLOYER A CERTIFICATE OF ELIGIBILITY THAT ESTABLISHES THE EMPLOYER AS A QUALIFIED EMPLOYER. THE CERTIFICATE OF ELIGIBILITY SHALL SPECIFY THE MAXIMUM AMOUNT OF NEW YORK YOUTH WORKS TAX CREDIT THAT THE EMPLOYER WILL BE ALLOWED TO CLAIM.

S 2. Section 210 of the tax law is amended by adding a new subdivision 44 to read as follows:

44. NEW YORK YOUTH WORKS TAX CREDIT. (A) A TAXPAYER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER OF LABOR AS A QUALIFIED EMPLOYER PURSUANT TO SECTION TWENTY-FIVE-A OF THE LABOR LAW SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO (I) FIVE HUNDRED DOLLARS PER MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A FULL-TIME JOB OR TWO HUNDRED FIFTY DOLLARS PER MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK, AND (II) ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "QUALIFIED EMPLOYEE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION (B) OF SECTION TWENTY-FIVE-A OF THE LABOR LAW. THE PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE ALLOWED FOR THE TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, AND THE PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL BE ALLOWED FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN.

(B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO THAT AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN THAT 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, NO INTEREST WILL BE PAID THEREON.

(C) THE TAXPAYER MAY BE REQUIRED TO ATTACH TO ITS TAX RETURN ITS CERTIFICATE OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION TWENTY-FIVE-A OF THE LABOR LAW. IN NO EVENT SHALL THE TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT OF THE CREDIT LISTED ON THE CERTIFICATE OF ELIGIBILITY. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER'S DESIGNEES MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER. PROVIDED, HOWEVER, IF A TAXPAYER CLAIMS THIS CREDIT BECAUSE IT IS A

MEMBER OF A LIMITED LIABILITY COMPANY OR A PARTNER IN A PARTNERSHIP, ONLY THE AMOUNT OF CREDIT EARNED BY THE ENTITY AND NOT THE AMOUNT OF CREDIT CLAIMED BY THE TAXPAYER MAY BE RELEASED.

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

(TT) NEW YORK YOUTH WORKS TAX CREDIT. (1) A TAXPAYER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER OF LABOR AS A QUALIFIED EMPLOYER PURSUANT TO SECTION TWENTY-FIVE-A OF THE LABOR LAW SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO (A) FIVE HUNDRED DOLLARS PER MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A FULL-TIME JOB OR TWO HUNDRED FIFTY DOLLARS PER MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK, AND (B) ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK. A TAXPAYER THAT IS A PARTNER IN A PARTNERSHIP, MEMBER OF A LIMITED LIABILITY COMPANY OR SHAREHOLDER IN AN S CORPORATION THAT HAS BEEN CERTIFIED BY THE COMMISSIONER OF LABOR AS A QUALIFIED EMPLOYER PURSUANT TO SECTION TWENTY-FIVE-A OF THE LABOR LAW SHALL BE ALLOWED ITS PRO RATA SHARE OF THE CREDIT EARNED BY THE PARTNERSHIP, LIMITED LIABILITY COMPANY OR S CORPORATION. FOR PURPOSES OF THIS SUBSECTION, THE TERM "QUALIFIED EMPLOYEE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION (B) OF SECTION TWENTY-FIVE-A OF THE LABOR LAW. THE PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE ALLOWED FOR THE TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, AND THE PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (B) OF THIS PARAGRAPH SHALL BE ALLOWED FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN.

(2) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION EXCEEDS THE TAXPAYER'S TAX FOR THE TAXABLE YEAR, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN THAT TAXABLE YEAR 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, NO INTEREST WILL BE PAID THEREON.

(3) THE TAXPAYER MAY BE REQUIRED TO ATTACH TO ITS TAX RETURN ITS CERTIFICATE OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION TWENTY-FIVE-A OF THE LABOR LAW. IN NO EVENT SHALL THE TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT OF THE CREDIT LISTED ON THE CERTIFICATE OF ELIGIBILITY. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER'S DESIGNEES MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER. PROVIDED, HOWEVER, IF A TAXPAYER CLAIMS THIS CREDIT BECAUSE IT IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP, OR A SHAREHOLDER IN A SUBCHAPTER S CORPORATION, ONLY THE AMOUNT OF CREDIT EARNED BY THE ENTITY AND NOT THE AMOUNT OF CREDIT CLAIMED BY THE TAXPAYER MAY BE RELEASED.

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

(XXXIII)	NEW YORK YOUTH WORKS TAX CREDIT	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-FOUR OF

SECTION TWO HUNDRED TEN

S 5. This act shall take effect immediately.

PART E

Section 1. The economic development law is amended by adding a new article 20 to read as follows:

ARTICLE 20

EMPIRE STATE JOBS RETENTION PROGRAM

SECTION 420. SHORT TITLE.
421. STATEMENT OF LEGISLATIVE FINDINGS AND DECLARATION.
422. DEFINITIONS.
423. ELIGIBILITY CRITERIA.
424. APPLICATION AND APPROVAL PROCESS.
425. EMPIRE STATE JOBS RETENTION PROGRAM CREDIT.
426. POWERS AND DUTIES OF THE COMMISSIONER.
427. MAINTENANCE OF RECORDS.
428. REPORTING.
429. CAP ON TAX CREDIT.

S 420. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "EMPIRE STATE JOBS RETENTION PROGRAM."

S 421. STATEMENT OF LEGISLATIVE FINDINGS AND DECLARATION. IT IS HEREBY FOUND AND DECLARED THAT NEW YORK STATE NEEDS, AS A MATTER OF PUBLIC POLICY, TO CREATE COMPETITIVE FINANCIAL INCENTIVES TO RETAIN STRATEGIC BUSINESSES AND JOBS THAT ARE AT RISK OF LEAVING THE STATE DUE TO THE IMPACT ON ITS BUSINESS OPERATIONS OF AN EVENT LEADING TO AN EMERGENCY DECLARATION BY THE GOVERNOR. THE EMPIRE STATE JOBS RETENTION PROGRAM IS CREATED TO SUPPORT THE RETENTION OF THE STATE'S MOST STRATEGIC BUSINESSES IN THE EVENT OF AN EMERGENCY.

THIS LEGISLATION CREATES A JOBS TAX CREDIT FOR EACH JOB OF A STRATEGIC BUSINESS DIRECTLY IMPACTED BY AN EMERGENCY AND PROTECTS STATE TAXPAYERS' DOLLARS BY ENSURING THAT NEW YORK PROVIDES TAX BENEFITS ONLY TO BUSINESSES THAT CAN DEMONSTRATE SUBSTANTIAL PHYSICAL DAMAGE AND ECONOMIC HARM RESULTING FROM AN EVENT LEADING TO AN EMERGENCY DECLARATION BY THE GOVERNOR.

S 422. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "AGRICULTURE" MEANS BOTH AGRICULTURAL PRODUCTION (ESTABLISHMENTS PERFORMING THE COMPLETE FARM OR RANCH OPERATION, SUCH AS FARM OWNER-OPERATORS, TENANT FARM OPERATORS, AND SHARECROPPERS) AND AGRICULTURAL SUPPORT (ESTABLISHMENTS THAT PERFORM ONE OR MORE ACTIVITIES ASSOCIATED WITH FARM OPERATION, SUCH AS SOIL PREPARATION, PLANTING, HARVESTING, AND MANAGEMENT, ON A CONTRACT OR FEE BASIS).

2. "BACK OFFICE OPERATIONS" MEANS A BUSINESS FUNCTION THAT MAY INCLUDE ONE OR MORE OF THE FOLLOWING ACTIVITIES: CUSTOMER SERVICE, INFORMATION TECHNOLOGY AND DATA PROCESSING, HUMAN RESOURCES, ACCOUNTING AND RELATED ADMINISTRATIVE FUNCTIONS.

3. "CERTIFICATE OF ELIGIBILITY" MEANS THE DOCUMENT ISSUED BY THE DEPARTMENT TO AN APPLICANT THAT HAS COMPLETED AN APPLICATION TO BE ADMITTED INTO THE EMPIRE STATE JOBS RETENTION PROGRAM AND HAS BEEN ACCEPTED INTO THE PROGRAM BY THE DEPARTMENT. POSSESSION OF A CERTIFICATE OF ELIGIBILITY DOES NOT BY ITSELF GUARANTEE THE ELIGIBILITY TO CLAIM THE TAX CREDIT.

4. "CERTIFICATE OF TAX CREDIT" MEANS THE DOCUMENT ISSUED TO A PARTICIPANT BY THE DEPARTMENT, AFTER THE DEPARTMENT HAS VERIFIED THAT THE

PARTICIPANT HAS MET ALL APPLICABLE ELIGIBILITY CRITERIA IN THIS ARTICLE. THE CERTIFICATE SHALL BE ISSUED ANNUALLY IF SUCH CRITERIA ARE SATISFIED AND SHALL SPECIFY THE EXACT AMOUNT OF EACH TAX CREDIT UNDER THIS ARTICLE THAT A PARTICIPANT MAY CLAIM, PURSUANT TO SECTION FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE, AND SHALL SPECIFY THE TAXABLE YEAR IN WHICH SUCH CREDIT MAY BE CLAIMED.

5. "DISTRIBUTION CENTER" MEANS A LARGE SCALE FACILITY INVOLVING PROCESSING, REPACKAGING AND/OR MOVEMENT OF FINISHED OR SEMI-FINISHED GOODS TO RETAIL LOCATIONS ACROSS A MULTI-STATE AREA.

6. "FINANCIAL SERVICES DATA CENTERS" OR "FINANCIAL SERVICES CUSTOMER BACK OFFICE OPERATIONS" MEANS OPERATIONS THAT MANAGE THE DATA OR ACCOUNTS OF EXISTING CUSTOMERS OR PROVIDE PRODUCT OR SERVICE INFORMATION AND SUPPORT TO CUSTOMERS OF FINANCIAL SERVICES COMPANIES, INCLUDING BANKS, OTHER LENDERS, SECURITIES AND COMMODITIES BROKERS AND DEALERS, INVESTMENT BANKS, PORTFOLIO MANAGERS, TRUST OFFICES, AND INSURANCE COMPANIES.

7. "IMPACTED JOBS" MEANS JOBS EXISTING AT A BUSINESS ENTERPRISE AT A LOCATION OR LOCATIONS WITHIN THE COUNTY DECLARED AN EMERGENCY BY THE GOVERNOR ON THE DAY IMMEDIATELY PRECEDING THE DAY ON WHICH THE EVENT LEADING TO THE EMERGENCY DECLARATION BY THE GOVERNOR OCCURRED.

8. "MANUFACTURING" MEANS THE PROCESS OF WORKING RAW MATERIALS INTO PRODUCTS SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR NEW COMBINATIONS TO MATTER WHICH HAS ALREADY GONE THROUGH SOME ARTIFICIAL PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES, OR OTHER SIMILAR EQUIPMENT. "MANUFACTURING" DOES NOT INCLUDE AN OPERATION THAT INVOLVES ONLY THE ASSEMBLY OF COMPONENTS, PROVIDED, HOWEVER, THE ASSEMBLY OF MOTOR VEHICLES OR OTHER HIGH VALUE-ADDED PRODUCTS SHALL BE CONSIDERED MANUFACTURING.

9. "PARTICIPANT" MEANS A BUSINESS ENTITY THAT:

(A) HAS COMPLETED AN APPLICATION PRESCRIBED BY THE DEPARTMENT TO BE ADMITTED INTO THE PROGRAM;

(B) HAS BEEN ISSUED A CERTIFICATE OF ELIGIBILITY BY THE DEPARTMENT;

(C) HAS DEMONSTRATED THAT IT MEETS THE ELIGIBILITY CRITERIA IN SECTION FOUR HUNDRED TWENTY-THREE AND SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FOUR OF THIS ARTICLE; AND

(D) HAS BEEN CERTIFIED AS A PARTICIPANT BY THE COMMISSIONER.

10. "PRELIMINARY SCHEDULE OF BENEFITS" MEANS THE MAXIMUM AGGREGATE AMOUNT OF THE TAX CREDIT THAT A PARTICIPANT IN THE EMPIRE STATE JOBS RETENTION PROGRAM IS ELIGIBLE TO RECEIVE PURSUANT TO THIS ARTICLE. THE SCHEDULE SHALL INDICATE THE ANNUAL AMOUNT OF THE CREDIT A PARTICIPANT MAY CLAIM IN EACH OF ITS TEN YEARS OF ELIGIBILITY. THE PRELIMINARY SCHEDULE OF BENEFITS SHALL BE ISSUED BY THE DEPARTMENT WHEN THE DEPARTMENT APPROVES THE APPLICATION FOR ADMISSION INTO THE PROGRAM. THE COMMISSIONER MAY AMEND THAT SCHEDULE, PROVIDED THAT THE COMMISSIONER COMPLIES WITH THE CREDIT CAPS IN SECTION THREE HUNDRED FIFTY-NINE OF THIS CHAPTER.

11. "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.

12. "SCIENTIFIC RESEARCH AND DEVELOPMENT" MEANS CONDUCTING RESEARCH AND EXPERIMENTAL DEVELOPMENT IN THE PHYSICAL, ENGINEERING, AND LIFE SCIENCES, INCLUDING BUT NOT LIMITED TO AGRICULTURE, ELECTRONICS, ENVIRONMENTAL, BIOLOGY, BOTANY, BIOTECHNOLOGY, COMPUTERS, CHEMISTRY, FOOD, FISHERIES, FORESTS, GEOLOGY, HEALTH, MATHEMATICS, MEDICINE, OCEANOGRAPHY, PHARMACY, PHYSICS, VETERINARY, AND OTHER ALLIED SUBJECTS. FOR THE PURPOSES OF THIS ARTICLE, SCIENTIFIC RESEARCH AND DEVELOPMENT DOES NOT INCLUDE MEDICAL OR VETERINARY LABORATORY TESTING FACILITIES.

13. "SOFTWARE DEVELOPMENT" MEANS THE CREATION OF CODED COMPUTER INSTRUCTIONS AND INCLUDES NEW MEDIA AS DEFINED BY THE COMMISSIONER IN REGULATIONS.

S 423. ELIGIBILITY CRITERIA. 1. TO BE A PARTICIPANT IN THE EMPIRE STATE JOBS RETENTION PROGRAM, A BUSINESS ENTITY SHALL OPERATE IN NEW YORK STATE PREDOMINANTLY:

(A) AS A FINANCIAL SERVICES DATA CENTER OR A FINANCIAL SERVICES BACK OFFICE OPERATION;

(B) IN MANUFACTURING;

(C) IN SOFTWARE DEVELOPMENT AND NEW MEDIA;

(D) IN SCIENTIFIC RESEARCH AND DEVELOPMENT;

(E) IN AGRICULTURE;

(F) IN THE CREATION OR EXPANSION OF BACK OFFICE OPERATIONS IN THE STATE; OR

(G) IN A DISTRIBUTION CENTER.

2. WHEN DETERMINING WHETHER AN APPLICANT IS OPERATING PREDOMINANTLY IN ONE OF THE INDUSTRIES LISTED IN SUBDIVISION ONE OF THIS SECTION, THE COMMISSIONER WILL EXAMINE THE NATURE OF THE BUSINESS ACTIVITY AT THE LOCATION FOR THE PROPOSED PROJECT AND WILL MAKE ELIGIBILITY DETERMINATIONS BASED ON SUCH ACTIVITY.

3. FOR THE PURPOSES OF THIS ARTICLE, IN ORDER TO PARTICIPATE IN THE EMPIRE STATE JOBS RETENTION PROGRAM, A BUSINESS ENTITY OPERATING IN ONE OF THE STRATEGIC INDUSTRIES LISTED IN SUBDIVISION ONE OF THIS SECTION (A) MUST BE LOCATED IN A COUNTY IN WHICH AN EMERGENCY HAS BEEN DECLARED BY THE GOVERNOR ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, (B) MUST DEMONSTRATE SUBSTANTIAL PHYSICAL DAMAGE AND ECONOMIC HARM RESULTING FROM THE EVENT LEADING TO THE EMERGENCY DECLARATION BY THE GOVERNOR, AND (C) MUST HAVE HAD AT LEAST ONE HUNDRED FULL-TIME EQUIVALENT JOBS IN THE COUNTY IN WHICH AN EMERGENCY HAS BEEN DECLARED BY THE GOVERNOR ON THE DAY IMMEDIATELY PRECEDING THE DAY ON WHICH THE EVENT LEADING TO THE EMERGENCY DECLARATION BY THE GOVERNOR OCCURRED, AND MUST RETAIN OR EXCEED THAT NUMBER OF JOBS IN NEW YORK STATE.

4. A NOT-FOR-PROFIT BUSINESS ENTITY, A BUSINESS ENTITY WHOSE PRIMARY FUNCTION IS THE PROVISION OF SERVICES INCLUDING PERSONAL SERVICES, BUSINESS SERVICES, OR THE PROVISION OF UTILITIES, A BUSINESS ENTITY ENGAGED PREDOMINANTLY IN THE RETAIL OR ENTERTAINMENT INDUSTRY, OR A COMPANY ENGAGED IN THE GENERATION OR DISTRIBUTION OF ELECTRICITY, THE DISTRIBUTION OF NATURAL GAS, OR THE PRODUCTION OF STEAM ASSOCIATED WITH THE GENERATION OF ELECTRICITY ARE NOT ELIGIBLE TO RECEIVE THE TAX CREDIT DESCRIBED IN THIS ARTICLE.

5. A BUSINESS ENTITY MUST BE IN COMPLIANCE WITH ALL WORKER PROTECTION AND ENVIRONMENTAL LAWS AND REGULATIONS. IN ADDITION, A BUSINESS ENTITY MAY NOT OWE PAST DUE STATE TAXES. IN ADDITION, A BUSINESS ENTITY MUST NOT OWE LOCAL PROPERTY TAXES FOR ANY YEAR PRIOR TO THE YEAR IN WHICH IT APPLIES TO PARTICIPATE IN THE EMPIRE STATE JOBS RETENTION PROGRAM.

S 424. APPLICATION AND APPROVAL PROCESS. 1. A BUSINESS ENTERPRISE MUST SUBMIT A COMPLETED APPLICATION AS PRESCRIBED BY THE COMMISSIONER. SUCH COMPLETED APPLICATION MUST BE SUBMITTED TO THE COMMISSIONER WITHIN (A) ONE HUNDRED EIGHTY DAYS OF THE DECLARATION OF AN EMERGENCY BY THE GOVERNOR IN THE COUNTY IN WHICH THE BUSINESS ENTERPRISE IS LOCATED OR (B) ONE HUNDRED EIGHTY DAYS OF THE ENACTMENT OF THIS ARTICLE, IF SUCH DATE IS LATER THAN THE DATE SPECIFIED IN PARAGRAPH (A) OF THIS SUBDIVISION.

2. AS PART OF SUCH APPLICATION, EACH BUSINESS ENTERPRISE MUST:

(A) AGREE TO ALLOW THE DEPARTMENT OF TAXATION AND FINANCE TO SHARE ITS TAX INFORMATION WITH THE DEPARTMENT. HOWEVER, ANY INFORMATION SHARED AS

A RESULT OF THIS AGREEMENT SHALL NOT BE AVAILABLE FOR DISCLOSURE OR INSPECTION UNDER THE STATE FREEDOM OF INFORMATION LAW.

(B) AGREE TO ALLOW THE DEPARTMENT OF LABOR TO SHARE ITS TAX AND EMPLOYER INFORMATION WITH THE DEPARTMENT. HOWEVER, ANY INFORMATION SHARED AS A RESULT OF THIS AGREEMENT SHALL NOT BE AVAILABLE FOR DISCLOSURE OR INSPECTION UNDER THE STATE FREEDOM OF INFORMATION LAW.

(C) ALLOW THE DEPARTMENT AND ITS AGENTS ACCESS TO ANY AND ALL BOOKS AND RECORDS THE DEPARTMENT MAY REQUIRE TO MONITOR COMPLIANCE.

(D) AGREE TO BE PERMANENTLY DISQUALIFIED FOR EMPIRE ZONE TAX BENEFITS AT ANY LOCATION OR LOCATIONS THAT QUALIFY FOR EMPIRE STATE JOBS RETENTION PROGRAM BENEFITS IF ADMITTED INTO THE EMPIRE STATE JOBS RETENTION PROGRAM.

(E) PROVIDE THE FOLLOWING INFORMATION TO THE DEPARTMENT UPON REQUEST:

(I) A PLAN OUTLINING THE SCHEDULE FOR MEETING THE JOBS RETENTION REQUIREMENTS AS SET FORTH IN SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-THREE OF THIS ARTICLE. SUCH PLAN MUST INCLUDE DETAILS ON JOBS TITLES AND EXPECTED SALARIES;

(II) 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; AND

(III) THE EMPLOYER IDENTIFICATION OR SOCIAL SECURITY NUMBERS FOR ALL RELATED PERSONS TO THE APPLICANT, 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 APPLICANT TO ASSURE THE DEPARTMENT THAT JOBS ARE NOT BEING SHIFTED WITHIN THE STATE.

(G) CERTIFY, UNDER PENALTY OF PERJURY, THAT IT IS IN SUBSTANTIAL COMPLIANCE WITH ALL ENVIRONMENTAL, WORKER PROTECTION, AND LOCAL, STATE, AND FEDERAL TAX LAWS.

3. AFTER REVIEWING A BUSINESS ENTERPRISE'S COMPLETED APPLICATION AND DETERMINING THAT THE BUSINESS ENTERPRISE WILL MEET THE CONDITIONS SET FORTH IN SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-THREE OF THIS ARTICLE, THE DEPARTMENT MAY ADMIT THE APPLICANT INTO THE PROGRAM AND PROVIDE THE APPLICANT WITH A CERTIFICATE OF ELIGIBILITY AND A PRELIMINARY SCHEDULE OF BENEFITS BY YEAR BASED ON THE APPLICANT'S PROJECTIONS AS SET FORTH IN ITS APPLICATION. THIS PRELIMINARY SCHEDULE OF BENEFITS DELINEATES THE MAXIMUM POSSIBLE BENEFITS AN APPLICANT MAY RECEIVE.

4. IN ORDER TO BECOME A PARTICIPANT IN THE PROGRAM, AN APPLICANT MUST SUBMIT EVIDENCE THAT IT SATISFIES THE ELIGIBILITY CRITERIA SPECIFIED IN SECTION FOUR HUNDRED TWENTY-THREE OF THIS ARTICLE AND SUBDIVISION TWO OF THIS SECTION IN SUCH FORM AS THE COMMISSIONER MAY PRESCRIBE. AFTER REVIEWING SUCH EVIDENCE AND FINDING IT SUFFICIENT, THE DEPARTMENT SHALL CERTIFY THE APPLICANT AS A PARTICIPANT AND ISSUE TO THAT PARTICIPANT A CERTIFICATE OF TAX CREDIT FOR ONE TAXABLE YEAR. TO RECEIVE A CERTIFICATE OF TAX CREDIT FOR SUBSEQUENT TAXABLE YEARS, THE PARTICIPANT MUST SUBMIT TO THE DEPARTMENT A PERFORMANCE REPORT DEMONSTRATING THAT THE PARTICIPANT CONTINUES TO SATISFY THE ELIGIBILITY CRITERIA SPECIFIED IN SECTION FOUR HUNDRED TWENTY-THREE OF THIS ARTICLE AND SUBDIVISION TWO OF THIS SECTION.

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 FOUR HUNDRED TWENTY-THREE OF THIS

ARTICLE AND SUBDIVISION TWO OF THIS SECTION IN EACH OF THOSE TAXABLE YEARS.

S 425. EMPIRE STATE JOBS RETENTION PROGRAM CREDIT. 1. A PARTICIPANT IN THE EMPIRE STATE JOBS RETENTION PROGRAM SHALL BE ELIGIBLE TO CLAIM A CREDIT FOR THE IMPACTED JOBS. THE AMOUNT OF SUCH CREDIT SHALL BE EQUAL TO THE PRODUCT OF THE GROSS WAGES PAID FOR THE IMPACTED JOBS AND 6.85 PERCENT.

2. THE TAX CREDIT ESTABLISHED IN THIS SECTION SHALL BE REFUNDABLE AS PROVIDED IN THE TAX LAW. IF A PARTICIPANT FAILS TO SATISFY THE ELIGIBILITY CRITERIA IN ANY ONE YEAR, IT WILL LOSE THE ABILITY TO CLAIM CREDIT FOR THAT YEAR. THE EVENT OF SUCH FAILURE SHALL NOT EXTEND THE ORIGINAL TEN-YEAR ELIGIBILITY PERIOD.

3. THE BUSINESS ENTERPRISE SHALL BE ALLOWED TO CLAIM THE CREDIT AS PRESCRIBED IN SECTION THIRTY-SIX OF THE TAX LAW; PROVIDED, HOWEVER, A BUSINESS ENTERPRISE SHALL NOT BE ALLOWED TO CLAIM THE CREDIT PRIOR TO TAX YEAR TWO THOUSAND TWELVE.

4. A PARTICIPANT MAY BE ELIGIBLE FOR BENEFITS UNDER THIS ARTICLE AS WELL AS ARTICLE SEVENTEEN OF THIS CHAPTER, PROVIDED THE PARTICIPANT CAN ONLY RECEIVE BENEFITS PURSUANT TO SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OF THIS CHAPTER FOR COSTS IN EXCESS OF COSTS RECOVERED BY INSURANCE.

S 426. POWERS AND DUTIES OF THE COMMISSIONER. 1. THE COMMISSIONER SHALL PROMULGATE REGULATIONS ESTABLISHING AN APPLICATION PROCESS AND ELIGIBILITY CRITERIA, THAT WILL BE APPLIED CONSISTENT WITH THE PURPOSES OF THIS ARTICLE, SO AS NOT TO EXCEED THE ANNUAL CAP ON TAX CREDITS SET FORTH IN SECTION THREE HUNDRED FIFTY-NINE OF THIS CHAPTER WHICH, NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY IN THE STATE ADMINISTRATIVE PROCEDURE ACT, MAY BE ADOPTED ON AN EMERGENCY BASIS. SUCH REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, CRITERIA FOR DETERMINING WHETHER A BUSINESS ENTITY DEMONSTRATES SUBSTANTIAL PHYSICAL DAMAGE AND ECONOMIC HARM FROM THE EVENT LEADING TO AN EMERGENCY DECLARATION BY THE GOVERNOR.

2. THE COMMISSIONER SHALL, IN CONSULTATION WITH THE DEPARTMENT OF TAXATION AND FINANCE, DEVELOP A CERTIFICATE OF TAX CREDIT THAT SHALL BE ISSUED BY THE COMMISSIONER TO PARTICIPANTS. PARTICIPANTS MAY BE REQUIRED BY THE COMMISSIONER OF TAXATION AND FINANCE TO INCLUDE THE CERTIFICATE OF TAX CREDIT WITH THEIR TAX RETURN TO RECEIVE ANY TAX BENEFITS UNDER THIS ARTICLE.

3. THE COMMISSIONER SHALL SOLELY DETERMINE THE ELIGIBILITY OF ANY APPLICANT APPLYING FOR ENTRY INTO THE PROGRAM AND SHALL REMOVE ANY PARTICIPANT FROM THE PROGRAM FOR FAILING TO MEET ANY OF THE REQUIREMENTS SET FORTH IN SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FOUR OF THIS ARTICLE, OR FOR FAILING TO MEET THE JOB RETENTION REQUIREMENTS SET FORTH IN SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-THREE OF THIS ARTICLE, OR FOR FAILING TO MEET THE REQUIREMENTS OF SUBDIVISION FIVE OF SECTION FOUR HUNDRED TWENTY-THREE OF THIS ARTICLE.

S 427. MAINTENANCE OF RECORDS. EACH PARTICIPANT SHALL KEEP ALL RELEVANT RECORDS FOR THE DURATION OF ITS PROGRAM PARTICIPATION PLUS THREE YEARS.

S 428. REPORTING. 1. EACH PARTICIPANT MUST SUBMIT A PERFORMANCE REPORT ANNUALLY, IN SUCH FORM AS THE COMMISSIONER MAY REQUIRE, WITHIN THIRTY DAYS OF THE END OF THEIR TAXABLE YEAR.

2. THE COMMISSIONER SHALL PREPARE ON A QUARTERLY BASIS A PROGRAM REPORT FOR POSTING ON THE DEPARTMENT'S WEBSITE. THE FIRST REPORT WILL BE DUE JUNE THIRTIETH, TWO THOUSAND THIRTEEN, AND EVERY THREE MONTHS THEREAFTER. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

NUMBER OF APPLICANTS; NUMBER OF PARTICIPANTS APPROVED; NAMES OF PARTICIPANTS; TOTAL AMOUNT OF BENEFITS CERTIFIED; BENEFITS RECEIVED PER PARTICIPANT; TOTAL NUMBER OF RETAINED JOBS; AND SUCH OTHER INFORMATION AS THE COMMISSIONER DETERMINES.

S 429. 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 SECTION THREE HUNDRED FIFTY-NINE OF THIS CHAPTER, AND SHALL BE ALLOTTED FROM THE FUNDS AVAILABLE FOR TAX CREDITS UNDER THE EXCELSIOR JOBS PROGRAM ACT.

S 2. The tax law is amended by adding a new section 36 to read as follows:

S 36. EMPIRE STATE JOBS RETENTION PROGRAM CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (E) OF THIS SECTION. THE AMOUNT OF THE CREDIT, ALLOWABLE FOR TEN CONSECUTIVE TAX YEARS, IS EQUAL TO THE AMOUNT DETERMINED PURSUANT TO SECTION FOUR HUNDRED TWENTY-FIVE OF THE ECONOMIC DEVELOPMENT LAW.

(B) ELIGIBILITY. TO BE ELIGIBLE FOR THE EMPIRE STATE JOBS RETENTION CREDIT, THE TAXPAYER SHALL HAVE BEEN ISSUED A CERTIFICATE OF TAX CREDIT BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT PURSUANT TO SUBDIVISION FOUR OF SECTION FOUR HUNDRED TWENTY-FOUR OF THE ECONOMIC DEVELOPMENT LAW, WHICH CERTIFICATE SHALL SET FORTH THE AMOUNT OF THE CREDIT THAT MAY BE CLAIMED FOR THE TAXABLE YEAR. A TAXPAYER MAY CLAIM SUCH CREDIT FOR UP TO TEN CONSECUTIVE TAXABLE YEARS COMMENCING IN THE FIRST TAXABLE YEAR THAT THE TAXPAYER RECEIVES A CERTIFICATE OF TAX CREDIT OR THE FIRST TAXABLE YEAR LISTED ON ITS PRELIMINARY SCHEDULE OF BENEFITS, WHICHEVER IS LATER. HOWEVER, A TAXPAYER SHALL NOT BE ALLOWED TO CLAIM THE CREDIT PRIOR TO THE TAX YEAR COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN. THE TAXPAYER SHALL BE ALLOWED TO CLAIM ONLY THE AMOUNT LISTED ON THE CERTIFICATE OF TAX CREDIT FOR THAT TAXABLE YEAR. SUCH CERTIFICATE, IF REQUIRED BY THE COMMISSIONER, SHALL BE ATTACHED TO THE TAXPAYER'S RETURN. NO COST OR EXPENSE PAID OR INCURRED BY THE TAXPAYER WHICH IS INCLUDED AS PART OF THE CALCULATION OF THIS CREDIT SHALL BE THE BASIS OF ANY OTHER TAX CREDIT.

(C) INFORMATION SHARING. (1) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, EMPLOYEES AND OFFICERS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE:

(A) INFORMATION DERIVED FROM TAX RETURNS OR REPORTS THAT IS RELEVANT TO A TAXPAYER'S ELIGIBILITY TO PARTICIPATE IN THE EMPIRE STATE JOBS RETENTION PROGRAM;

(B) INFORMATION REGARDING THE CREDIT APPLIED FOR, ALLOWED OR CLAIMED PURSUANT TO THIS SECTION AND TAXPAYERS WHO ARE APPLYING FOR THE CREDIT OR WHO ARE CLAIMING THE CREDIT; AND

(C) INFORMATION CONTAINED IN OR DERIVED FROM CREDIT CLAIM FORMS SUBMITTED TO THE DEPARTMENT AND APPLICATIONS FOR ADMISSION INTO THE EMPIRE STATE JOBS RETENTION PROGRAM.

EXCEPT AS PROVIDED IN PARAGRAPH TWO OF THIS SUBDIVISION, ALL INFORMATION EXCHANGED BETWEEN THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT SHALL NOT BE SUBJECT TO DISCLOSURE OR INSPECTION UNDER THE STATE'S FREEDOM OF INFORMATION LAW.

(2) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE IS AUTHORIZED TO RELEASE THE NAME OF EACH TAXPAYER CLAIMING THE CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY EACH TAXPAYER. HOWEVER, IF THE TAXPAYER CLAIMS A CREDIT BECAUSE THE TAXPAYER

IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER S CORPORATION, ONLY THE NAME OF A LIMITED LIABILITY COMPANY, PARTNERSHIP OR SUBCHAPTER S CORPORATION PARTICIPATING IN THE EMPIRE STATE JOBS RETENTION PROGRAM AND THE AMOUNT OF CREDIT EARNED BY THAT ENTITY MAY BE RELEASED.

(D) CREDIT RECAPTURE. IF A CERTIFICATE OF ELIGIBILITY OR A CERTIFICATE OF TAX CREDIT ISSUED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT UNDER ARTICLE TWENTY OF THE ECONOMIC DEVELOPMENT LAW IS REVOKED BY SUCH DEPARTMENT, THE AMOUNT OF CREDIT DESCRIBED IN THIS SECTION AND CLAIMED BY THE TAXPAYER PRIOR TO THAT REVOCATION SHALL BE ADDED BACK TO TAX IN THE TAXABLE YEAR IN WHICH ANY SUCH REVOCATION BECOMES FINAL.

(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 44;

(2) ARTICLE 22: SECTION 606, SUBSECTION (TT);

(3) ARTICLE 32: SECTION 1456, SUBSECTION (Y);

(4) ARTICLE 33, SECTION 1511, SUBDIVISION (BB).

S 3. Section 210 of the tax law is amended by adding a new subdivision 44 to read as follows:

44. EMPIRE STATE JOBS RETENTION PROGRAM CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SIX OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. 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 4. Section 606 of the tax law is amended by adding a new subsection (tt) to read as follows:

(TT) EMPIRE STATE JOBS PROGRAM RETENTION CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SIX 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 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxiii) to read as follows:

(XXXIII) EMPIRE STATE JOBS RETENTION PROGRAM CREDIT	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-FOUR OF SECTION TWO HUNDRED TEN OR UNDER SUBSECTION (Y) OF SECTION FOURTEEN HUNDRED FIFTY-SIX

S 6. Section 1456 of the tax law is amended by adding a new subsection (y) to read as follows:

(Y) EMPIRE STATE JOBS RETENTION PROGRAM CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SIX OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR 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 7. Section 1511 of the tax law is amended by adding a new subdivision (bb) to read as follows:

(BB) EMPIRE STATE JOBS RETENTION PROGRAM CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SIX OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. 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 8. This act shall take effect immediately; provided however that sections two, three, four, five, six and seven of this act shall apply to taxable years beginning on and after January 1, 2012.

PART F

Section 1. This act shall be known and may be cited as the "Infrastructure investment act".

S 2. The legislature hereby finds and declares as follows:

(1) Our state's aging infrastructure, the on-going economic crisis and the resulting increase in unemployment in the state have all contributed to a decline in our state's competitiveness and in a significant decrease in New York state tax revenues.

(2) Sufficient modern infrastructure is of paramount importance not only as a catalyst for job creation but also as a key driver for the state's economic performance and competitiveness and the health, safety, education and quality of life of our citizens and as the means to ensure the efficient movement of people and goods.

(3) Expediting the delivery of projects in New York state would lead directly to job creation and increases in the state's competitiveness.

(4) Businesses in New York state have extensive and diverse experience in alternative project delivery methods for the study, planning, design, development, financing, acquisition, installation, construction, reconstruction, improvement, maintenance and management of public infrastructure facilities. These alternative project delivery methods provide significant benefits to the public by:

(a) Reducing the public cost of delivering and obtaining services for infrastructure assets;
(b) Expediting project delivery;
(c) Encouraging life cycle efficiencies;
(d) Providing better use and leverage of public human and capital resources, and enhancing capital formation for large projects;
(e) Creating jobs;
(f) Promoting performance efficiencies; and
(g) Bringing additional innovative best practice contracting by the private sector to bear on public infrastructure needs within the state.
(5) For certain projects, the design-build project delivery method has the potential to achieve projects delivered on guaranteed or accelerated schedules, lower costs and risk shifting to the private sector generally retained in conventional design-bid-build projects as well as to accelerate capital investments throughout the state.
(6) Recognizing the need to repair the state's aging infrastructure and maximize job creation in New York, the Governor and Legislature seek to:
(a) accelerate capital investment in New York state's infrastructure;
(b) coordinate among New York state's agencies and authorities on capital investment;
(c) encourage private sector capital investment in New York;
(d) ensure that job creation benefits New York workers; and
(e) assist the use of the most efficient and effective procurement and project management for infrastructure projects in the transportation, energy, environment, public facilities, and economic development sectors.
S 3. For the purposes of this act:
(a) "authorized state entity" shall mean the New York state thruway authority, the department of transportation, the office of parks, recreation and historic preservation, the department of environmental conservation and the New York state bridge authority.
(b) "best value" shall mean the basis for awarding contracts for services to the offerer that optimize quality, cost and efficiency, price and performance criteria, which may include, but is not limited to:
1. The quality of the contractor's performance on previous projects;
2. The timeliness of the contractor's performance on previous projects;
3. The level of customer satisfaction with the contractor's performance on previous projects;
4. The contractor's record of performing previous projects on budget and ability to minimize cost overruns;
5. The contractor's ability to limit change orders;
6. The contractor's ability to prepare appropriate project plans;
7. The contractor's technical capacities;
8. The individual qualifications of the contractor's key personnel;
9. The contractor's ability to assess and manage risk and minimize risk impact; and
10. The contractor's past record of compliance with article 15-A of the executive law.
Such basis shall reflect, wherever possible, objective and quantifiable analysis.
(c) "capital project" shall have the same meaning as such term is defined by subdivision 2-a of section 2 of the state finance law.

(d) "cost plus" shall mean compensating a contractor for the cost to complete a contract by reimbursing actual costs for labor, equipment and materials plus an additional amount for overhead and profit.

(e) "design-build contract" shall mean a contract for the design and construction of a capital project with a single entity, which may be a team comprised of separate entities.

(f) "procurement record" means documentation of the decisions made and the approach taken in the procurement process.

S 4. Notwithstanding the provisions of section 38 of the highway law, section 136-a of the state finance law, section 359 of the public authorities law, section 7210 of the education law, and the provisions of any other law to the contrary, and in conformity with the requirements of this act, an authorized state entity may utilize the alternative delivery method referred to as design-build contracts for capital projects related to the state's physical infrastructure, including, but not limited to, the state's highways, bridges, dams, flood control projects, canals, and parks, including, but not limited to, to repair damage caused by natural disaster, to correct health and safety defects, to comply with federal and state laws, standards, and regulations, to extend the useful life of or replace the state's highways, bridges, dams, flood control projects, canals, and parks or to improve or add to the state's highways, bridges, dams, flood control projects, canals, and parks; provided that for the contracts executed by the department of transportation, the office of parks, recreation and historic preservation, or the department of environmental conservation, the total cost of each such project shall not be less than one million two hundred thousand dollars ($1,200,000).

S 5. An entity selected by an authorized state entity to enter into a design-build contract shall be selected through a two-step method, as follows:

(a) Step one. Generation of a list of entities that have demonstrated the general capability to perform the design-build contract. Such list shall consist of a specified number of entities, as determined by an authorized state entity, and shall be generated based upon the authorized state entity's review of responses to a publicly advertised request for qualifications. The authorized state entity's request for qualifications shall include a general description of the project, the maximum number of entities to be included on the list, and the selection criteria to be used in generating the list. Such selection criteria shall include the qualifications and experience of the design and construction team, organization, demonstrated responsibility, ability of the team or of a member or members of the team to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law, past record of compliance with the labor law, and such other qualifications the authorized state entity deems appropriate which may include but are not limited to project understanding, financial capability and record of past performance. The authorized state entity shall evaluate and rate all entities responding to the request for qualifications. Based upon such ratings, the authorized state entity shall list the entities that shall receive a request for proposals in accordance with subdivision (b) of this section. To the extent consistent with applicable federal law, the authorized state entity shall consider, when awarding any contract pursuant to this section, the participation of: (i) firms certified pursuant to article 15-A of the executive law as minority or women-owned businesses and the ability of other businesses under consideration to work with minority and women-owned businesses so

as to promote and assist participation by such businesses; and (ii) small business concerns identified pursuant to subdivision (b) of section 139-g of the state finance law.

(b) Step two. Selection of the proposal which is the best value to the state. The authorized state entity shall issue a request for proposals to the entities listed pursuant to subdivision (a) of this section. If such an entity consists of a team of separate entities, the entities that comprise such a team must remain unchanged from the entity as listed pursuant to subdivision (a) of this section unless otherwise approved by the authorized state entity. The request for proposals shall set forth the project's scope of work, and other requirements, as determined by the authorized state entity. The request for proposals shall specify the criteria to be used to evaluate the responses and the relative weight of each such criteria. Such criteria shall include the proposal's cost, the quality of the proposal's solution, the qualifications and experience of the design-build entity, and other factors deemed pertinent by the authorized state entity, which may include, but shall not be limited to, the proposal's project implementation, ability to complete the work in a timely and satisfactory manner, maintenance costs of the completed project, maintenance of traffic approach, and community impact. Any contract awarded pursuant to this act shall be awarded to a responsive and responsible entity that submits the proposal, which, in consideration of these and other specified criteria deemed pertinent to the project, offers the best value to the state, as determined by the authorized state entity. Nothing herein shall be construed to prohibit the authorized entity from negotiating final contract terms and conditions including cost.

S 6. Any contract entered into pursuant to this act shall include a clause requiring that any professional services regulated by articles 145, 147 and 148 of the education law shall be performed and stamped and sealed, where appropriate, by a professional licensed in accordance with such articles.

S 7. Construction for each capital project undertaken by the authorized state entity pursuant to this act shall be deemed a "public work" to be performed in accordance with the provisions of article 8 of the labor law, as well as subject to sections 200, 240, 241 and 242 of the labor law and enforcement of prevailing wage requirements by the New York state department of labor.

S 8. If otherwise applicable, capital projects undertaken by the authorized state entity pursuant to this act shall be subject to section 135 of the state finance law and section 222 of the labor law.

S 9. Each contract entered into by the authorized state entity pursuant to this section shall comply with the objectives and goals of minority and women-owned business enterprises pursuant to article 15-A of the executive law or, for projects receiving federal aid, shall comply with applicable federal requirements for disadvantaged business enterprises.

S 10. Capital projects undertaken by the authorized state entity pursuant to this act shall be subject to the requirements of article eight of the environmental conservation law, and, where applicable, the requirements of the national environmental policy act.

S 11. If otherwise applicable, capital projects undertaken by the authorized state entity pursuant to this act shall be governed by sections 139-d, 139-j, 139-k, paragraph f of subdivision 1 and paragraph g of subdivision 9 of section 163 of the state finance law.

S 12. The submission of a proposal or responses or the execution of a design-build contract pursuant to this act shall not be construed to be a violation of section 6512 of the education law.

S 13. Nothing contained in this act shall limit the right or obligation of the authorized state entity to comply with the provisions of any existing contract, including any existing contract with or for the benefit of the holders of the obligations of the authorized state entity, or to award contracts as otherwise provided by law.

S 14. Alternative construction awarding processes. (i) Notwithstanding the provisions of any other law to the contrary, the authorized state entity may award a construction contract:

1. To the contractor offering the best value; or

2. Utilizing a cost-plus not to exceed guaranteed maximum price form of contract in which the authorized state entity shall be entitled to monitor and audit all project costs. In establishing the schedule and process for determining a guaranteed maximum price, the contract between the authorized state entity and the contractor shall:

(a) describe the scope of the work and the cost of performing such work;

(b) include a detailed line item cost breakdown;

(c) include a list of all drawings, specifications and other information on which the guaranteed maximum price is based;

(d) include the dates for substantial and final completion on which the guaranteed maximum price is based; and

(e) include a schedule of unit prices; or

3. Utilizing a lump sum contract in which the contractor agrees to accept a set dollar amount for a contract which comprises a single bid without providing a cost breakdown for all costs such as for equipment, labor, materials, as well as such contractor's profit for completing all items of work comprising the project.

(ii) Capital projects undertaken by an authorized state entity may include an incentive clause in the contract for various performance objectives, but the incentive clause shall not include an incentive that exceeds the quantifiable value of the benefit received by the state. The authorized state entity shall establish such performance and payment bonds as it deems necessary.

S 15. Prequalified contractors. (a) Notwithstanding any other provision of law, the authorized state entity may maintain a list of prequalified contractors who are eligible to submit a proposal pursuant to this act and entry into such list shall be continuously available. Prospective contractors may be prequalified as contractors to provide particular types of construction, in accordance with general criteria established by the authorized state entity which may include, but shall not be limited to, the experience, past performance, ability to undertake the type and complexity of work, financial capability, responsibility, compliance with equal employment opportunity requirements and anti-discrimination laws, and reliability. Such prequalification may be by categories designed by size and other factors.

(b) A contractor who is denied prequalification or whose prequalification is revoked or suspended by the authorized state entity may appeal such decision to the authorized state entity. If such a suspension extends for more than three months, it shall be deemed a revocation of the prequalification. The authorized state entity may proceed with the contract award during any appeal.

S 16. Nothing in this act shall affect existing powers of New York state public entities to use alternative project delivery methods.

S 17. This act shall take effect immediately and shall expire and be deemed repealed 3 years after such date, provided that, projects with requests for qualifications issued prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

PART G

Section 1. Short title. This act shall be known and may be cited as the "Hurricane Irene and Tropical Storm Lee assessment relief act".

S 2. Definitions. For the purposes of this act, the following terms shall have the following meanings:

1. "Eligible county" shall mean those counties which have been included in the federal disaster declarations for either Hurricane Irene or Tropical Storm Lee or both.

2. "Catastrophically impacted property" shall mean a property which is located in an eligible municipality and which lost fifty percent or more of its value as a result of either Hurricane Irene or Tropical Storm Lee or both.

3. "Eligible municipality" shall mean a municipal corporation, as defined by subdivision ten of section one hundred two of the real property tax law, which is either (a) an eligible county, or (b) a city, town, village or school district that is wholly or partly contained within an eligible county.

4. "Impacted assessment roll" shall mean a final assessment roll which satisfies both of the following conditions: (a) the roll is based upon a taxable status date occurring prior to August twenty-seventh, two thousand eleven, and (b) taxes levied upon that roll by or on behalf of a participating municipality are payable without interest on or after August twenty-seventh, two thousand eleven.

5. "Participating municipality" shall mean an eligible municipal corporation that has chosen to provide assessment relief to owners of catastrophically impacted properties pursuant to section three of this act.

S 3. Local option. An eligible municipality may exercise the provisions of this act if its governing body shall, by the forty-fifth day following the date upon which this act is approved by the governor, pass a resolution adopting the provisions of this act.

S 4. Assessment relief for flood victims. (a) Notwithstanding any provision of law to the contrary, where property was catastrophically impacted by either Hurricane Irene or Tropical Storm Lee or both and is located within a participating municipality, assessment relief shall be granted as follows:

i. If the property lost at least fifty but less than sixty percent of its value due to either Hurricane Irene or Tropical Storm Lee or both, the taxable assessed value of the property shall be reduced by fifty-five percent for purposes of the participating municipality on the impacted assessment roll.

ii. If the property lost at least sixty but less than seventy percent of its value due to either Hurricane Irene or Tropical Storm Lee or both, the taxable assessed value of the property shall be reduced by sixty-five percent for purposes of the participating municipality on the impacted assessment roll.

iii. If the property lost at least seventy but less than eighty percent of its value due to either Hurricane Irene or Tropical Storm Lee or both, the taxable assessed value of the property shall be reduced by

seventy-five percent for purposes of the participating municipality on the impacted assessment roll.

iv. If the property lost at least eighty but less than ninety percent of its value due to either Hurricane Irene or Tropical Storm Lee or both, the taxable assessed value of the property shall be reduced by eighty-five percent for purposes of the participating municipality on the impacted assessment roll.

v. If the property lost at least ninety but less than one hundred percent of its value due to either Hurricane Irene or Tropical Storm Lee or both, the taxable assessed value of the property shall be reduced by ninety-five percent for purposes of the participating municipality on the impacted assessment roll.

vi. If the property lost all of its value due to either Hurricane Irene or Tropical Storm Lee or both, the taxable assessed value of the property shall be reduced to zero for purposes of the participating municipality on the impacted assessment roll.

vii. The percentage loss in value for this purpose shall be determined by the assessor in the manner provided by this act, subject to review by the board of assessment review.

viii. No reduction in taxable assessed value shall be granted pursuant to this act except as specified above. No reduction in taxable assessed value shall be granted pursuant to this section for purposes of any county, city, town, village or school district which has not adopted the provisions of this act.

(b) To receive such relief pursuant to this act, the property owner shall submit a written request to the assessor within ninety days following the date upon which this act is approved by the governor. Such request need not be in a particular format but shall describe in reasonable detail the damage caused to the property by either Hurricane Irene or Tropical Storm Lee or both and the condition of the property following the hurricane or storm or both, and shall be accompanied by supporting documentation if available.

(c) Upon receiving such a request, the assessor shall make a finding as to whether the property lost at least half of its value as a result of the hurricane or storm or both, and if so, shall classify the percentage loss of value within one of the following ranges:

i. At least fifty percent but less than sixty percent,

ii. At least sixty percent but less than seventy percent,

iii. At least seventy percent but less than eighty percent,

iv. At least eighty percent but less than ninety percent,

v. At least ninety percent but less than one hundred percent, or

vi. one hundred percent.

(d) The assessor shall mail written notice of such finding to the property owner and the participating municipality. Where the assessor finds that the loss in value is less than fifty percent, or classifies the loss within a lower range than the property owner believes is warranted, the property owner may file a complaint with the board of assessment review. Such board shall reconvene upon ten days written notice to the property owner and assessor to hear the appeal and determine the matter, and shall mail written notice of its determination to the assessor and property owner. The provisions of article five of the real property tax law shall govern the review process to the extent practicable.

(e) Where property has lost at least fifty percent of its value due to either Hurricane Irene or Tropical Storm Lee or both, the taxable assessed value of the property on the impacted assessment roll shall be

reduced by the appropriate percentage specified in paragraph (a) of this section, provided that any exemptions which the property may be receiving shall be adjusted as necessary to account for such reduction in the taxable assessed value. To the extent the taxable assessed value of the property originally appearing on such roll exceeds the amount to which it should be reduced pursuant to this act, the excess shall be considered an error in essential fact as defined by section five hundred fifty of the real property tax law. If the error appears on a tax roll, the tax roll shall be corrected in the manner provided by section five hundred fifty-four of the real property tax law or a refund or credit of taxes shall be granted in the manner provided by section five hundred fifty-six or five hundred fifty-six-b of the real property tax law. If the error appears on a final assessment roll but not on a tax roll, such final assessment roll shall be corrected in the manner provided by section five hundred fifty-three of the real property tax law.

(f) The rights contained in this act shall not otherwise diminish any other legally available right of any property owner or party who may otherwise lawfully challenge the valuation or assessment of any real property or improvements thereon. All remaining rights hereby remain and shall be available to the party to whom such rights would otherwise be available notwithstanding this act.

S 5. School districts held harmless. Each school district that is wholly or partially contained within an eligible county, as defined in subdivision one of section two of this act, shall be held harmless by the state for any reduction in state aid that would have been paid as tax savings pursuant to section 1306-a of the real property tax law incurred due to the provisions of this act.

S 6. The director of the office of real property tax services, or other chief administrative official of that office within the department of taxation and finance is authorized to develop a guidance memorandum for use by assessing units. Such guidance memorandum shall assist with the implementation of this act and shall be deemed to be binding on all assessing units in counties which implement the provisions of this act. The guidance memorandum shall have no force or effect or serve as authority for any other act of assessing units or of the interpretation or implementation of the laws of the state of New York except as they relate to the specific implementation of this act.

S 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after August 26, 2011.

PART H

Section 1. There is hereby created the Hurricane Irene-Tropical Storm Lee Flood Recovery Grant Program.

1. (a) Small businesses, farms, multiple dwellings and not-for-profit organizations that sustained direct physical flood-related damage as a result of Hurricane Irene or Tropical Storm Lee are eligible to apply for a grant under this section. Such grant shall be in an amount no more than $20,000 and shall be used for storm-related repairs and restoration to structures, and for other storm-related costs, which were not covered by any other federal, state or local recovery program or any third-party payors.

(b) Empire state development shall administer this grant program, which shall not exceed $21,000,000. Empire state development is hereby empowered to establish grant guidelines and additional eligibility criteria, based on available flood damage data provided by applicable

federal agencies, as it deems necessary to effectuate the administration of this program. In providing assistance pursuant to this section, empire state development shall give preference to applicants that demonstrate the greatest need, based on available flood damage data provided by applicable federal agencies.

2. (a) Empire state development, in consultation with the department of environmental conservation, shall administer a grant program for counties for flood mitigation or flood control projects in creeks, streams, and brooks. Only counties that have been included in the federal disaster declarations for Hurricane Irene or Tropical Storm Lee are eligible to apply for a grant under this subdivision.

(b) This grant program shall not exceed $9,000,000. Individual grants shall be not less than $300,000 and not more than $500,000, provided however, counties may jointly apply for such grants, and the amount for such joint grants may equal the sum of the amounts that would have been separately available to the individual counties making such joint application. Empire state development, in consultation with the department of environmental conservation, is hereby empowered to establish grant guidelines and additional eligibility criteria, based on available flood damage data provided by applicable federal agencies, as it deems necessary to effectuate the administration of this program. In providing assistance pursuant to this section, empire state development shall give preference to applicants that demonstrate the greatest need, based on available flood damage data provided by applicable federal agencies. Priority also may be given to remediation which if not undertaken may result in additional flooding.

3. The director of the budget, in consultation with the temporary president of the senate and the speaker of the assembly, shall develop a plan and criteria regarding distribution of funding to municipalities located in an area which was included in a federal disaster declaration for either Hurricane Irene or Tropical Storm Lee. Such program shall not exceed $20,000,000. The director of the budget may direct and authorize any other state agency to assist in administration and distribution of these funds.

S 2. This act shall take effect immediately.

PART I

Section 1. The real property tax law is amended by adding a new section 1326-b to read as follows:

S 1326-B. PAYMENT OF TAXES IN INSTALLMENTS IN CERTAIN SCHOOL DISTRICTS AFFECTED BY FLOODS OR NATURAL DISASTERS. 1. NOTWITHSTANDING ANY PROVISIONS OF THIS CHAPTER OR ANY OTHER GENERAL OR SPECIAL LAW TO THE CONTRARY, A SCHOOL DISTRICT WHICH IS WHOLLY OR PARTIALLY CONTAINED WITHIN A COUNTY WHICH HAS BEEN INCLUDED IN A FEDERAL DISASTER DECLARATION MAY, BY RESOLUTION IN ANY YEAR DURING WHICH A FLOOD OR OTHER NATURAL DISASTER OCCURS IN THE SIX MONTHS PRECEDING THE DUE DATE FOR SCHOOL TAXES, PROVIDE THAT EVERY TAX IN EXCESS OF FIFTY DOLLARS LEVIED BY THE BOARD PURSUANT TO LAW MAY BE PAID IN INSTALLMENTS IN AMOUNTS AND DATES SPECIFIED IN THE RESOLUTION. SUCH RESOLUTION SHALL APPLY ONLY FOR ONE YEAR; PROVIDED THAT NOTHING SHALL PRECLUDE THE ADOPTION OF ADDITIONAL SUCH AUTHORIZATIONS IF SUBSEQUENT DISASTERS OCCUR.

2. WHEN SUCH A RESOLUTION IS IN EFFECT IN A SCHOOL DISTRICT, THE COLLECTING OFFICER SHALL BE AUTHORIZED TO RECEIVE SUCH TAXES UNTIL THE DATE SPECIFIED IN THE RESOLUTION FOR THE PAYMENT OF TAXES. THE COLLECTING OFFICER SHALL BE IN ATTENDANCE TO RECEIVE THE INSTALLMENTS OF TAXES

AT THE SAME PLACES AND HOURS SPECIFIED FOR THE RECEIPT OF THE FIRST INSTALLMENT, AT LEAST THREE DAYS IN EACH WEEK FOR THE TWO WEEKS PRECEDING THE FINAL DATE FOR PAYMENT OF THE INSTALLMENTS. IN THE EVENT THAT THE FIRST INSTALLMENT OF ANY TAX IS NOT PAID WITHIN THE TIME SPECIFIED, THE COLLECTING OFFICER MAY RECEIVE THE SAME AT ANY TIME UNTIL THE EXPIRATION OF HIS WARRANT WITH INTEREST AS DETERMINED PURSUANT TO SECTION NINE HUNDRED TWENTY-FOUR-A OF THIS CHAPTER UNTIL PAID. THE COLLECTING OFFICER'S WARRANT AND NOTICE OF RECEIPT THEREOF SHALL BE CONFORMED IN ACCORDANCE WITH THIS SECTION.

3. AT THE EXPIRATION OF HIS WARRANT, THE COLLECTING OFFICER SHALL MAKE A RETURN OF UNPAID TAXES IN THE SAME MANNER AS PROVIDED IN SECTION THIRTEEN HUNDRED THIRTY OR SECTION THIRTEEN HUNDRED THIRTY-TWO OF THIS ARTICLE, AS APPLICABLE.

4. FOR SCHOOL AID PAYMENTS FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, THE STATE IS AUTHORIZED TO ADVANCE TO ANY SCHOOL DISTRICT WHICH ADOPTS A RESOLUTION PURSUANT TO THIS SECTION ANY SCHOOL AID PAYMENT OR PORTION THEREOF AT ANY TIME AUTHORIZED BY THE COMMISSIONER OF EDUCATION, THE COMPTROLLER, AND THE DIRECTOR OF THE DIVISION OF THE BUDGET.

5. A SCHOOL DISTRICT IS AUTHORIZED TO REFUND TO TAXPAYERS ANY PORTIONS PREVIOUSLY PAID BY TAXPAYERS IF THE SCHOOL BOARD ADOPTS A RESOLUTION TO THAT EFFECT, WHICH ESTABLISHES AN INSTALLMENT PAYMENT SCHEDULE. IF SUCH RESOLUTION IS ADOPTED, THEN ANY TAXPAYER HAVING PAID ALL OR A PORTION OF THEIR TAX PAYMENT SHALL BE ENTITLED TO SUCH REFUND UPON ENTERING INTO AN AGREEMENT WITH THE SCHOOL DISTRICT FOR THE PAYMENT OF THEIR TAXES ACCORDING TO THE SCHEDULE ADOPTED BY THE SCHOOL DISTRICT. ANY UNPAID TAXES SHALL BE TIMELY PAID IF THE PAYMENT OTHERWISE COMPORTS WITH THE RESOLUTION SCHEDULE ADOPTED BY THE SCHOOL DISTRICT.

S 2. This act shall take effect immediately; provided however that subdivision 4 of section 1326-b of the real property tax law, as added by section one of this act shall expire and be deemed repealed on June 30, 2012.

PART J

Section 1. Section 182 of the executive law, as added by a chapter of the laws of 2011, amending the executive law, in relation to a prohibition on diversion of resources from dedicated funds derived from taxes and fees that support the metropolitan transportation authority or the New York city transit authority and their subsidiaries in certain instances, as proposed in legislative bills numbers S. 4257-C and A. 6766-C, is amended to read as follows:

S 182. Diversion of funds dedicated to the metropolitan transportation authority or the New York city transit authority and any of their subsidiaries to the general fund of the state is prohibited. [1.] The director shall be prohibited from diverting revenues derived from taxes and fees paid by the public into any fund created by law including, but not limited to sections eighty-eight-a and eighty-nine-c of the state finance law and chapter twenty-five of the laws of two thousand nine for the purpose of funding the metropolitan transportation authority or the New York city transit authority and any of their subsidiaries into the general fund of the state or into any other fund maintained for the support of another governmental purpose. No diversion of funds can occur contrary to this section by an administrative act of the director or any other person in the executive branch [but can occur only upon] UNLESS THE GOVERNOR DECLARES A FISCAL EMERGENCY, AND COMMUNICATES SUCH EMERGEN-

CY TO THE TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY, AND a statute IS enacted into law authorizing a diversion that would otherwise be prohibited by this section.

[2. If any diversion of funds occurs by passage of legislation during a regular or extraordinary session of the legislature, the budget or legislation diverting funds shall include a diversion impact statement which includes the following information:

(a) The amount of the diversion from dedicated mass transit funds;

(b) The amount diverted from each fund;

(c) The amount diverted expressed as current monthly transit fares;

(d) The cumulative amount of diversion from dedicated mass transit funds during the preceding five years;

(e) The date or dates when the diversion is to occur; and

(f) A detailed estimate of the impact of diversion from dedicated mass transit funds will have on the level of mass transit service, maintenance, security, and the current capital program.]

S 2. This act shall take effect on the same date as a chapter of the laws of 2011, amending the executive law, in relation to a prohibition on diversion of resources from dedicated funds derived from taxes and fees that support the metropolitan transportation authority or the New York city transit authority and their subsidiaries in certain instances, as proposed in legislative bills numbers S. 4257-C and A. 6766-C, takes effect.

PART K

Section 1. Subdivision (b) of section 13 of chapter 260 of the laws of 2011, relating to establishing components of the NY-SUNY 2020 challenge grant program, is amended to read as follows:

(b) [If any such university center campus related foundation, alumni association or affiliate thereof, any not-for-profit corporation or association organized by the president of a university center to further its purposes, or any limited liability company whose sole member is any of the foregoing entities, or by the State University of New York, the State University Construction Fund, or the Dormitory Authority of the State of New York, on behalf of a university center at Albany, Binghamton, or Stony Brook does not require a project labor agreement, then any contractor, subcontractor, lease, grant, bond, covenant or other agreements for a project shall be awarded pursuant to section 135 of the state finance law] NOTWITHSTANDING SUBDIVISION (A) OF THIS SECTION, ANY CONTRACTS AWARDED OR ENTERED INTO PURSUANT TO THE SUNY 2020 CHALLENGE GRANT PROGRAM BY ANY UNIVERSITY CENTER CAMPUS RELATED FOUNDATION, ALUMNI ASSOCIATION OR AFFILIATE THEREOF, ANY NOT-FOR-PROFIT CORPORATION OR ASSOCIATION ORGANIZED BY THE PRESIDENT OF A UNIVERSITY CENTER TO FURTHER ITS PURPOSES, OR ANY LIMITED LIABILITY COMPANY WHOSE SOLE MEMBER IS ANY OF THE FOREGOING ENTITIES, OR BY THE STATE UNIVERSITY OF NEW YORK, THE STATE UNIVERSITY CONSTRUCTION FUND, OR THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK, ON BEHALF OF A UNIVERSITY CENTER AT ALBANY, BINGHAMTON, OR STONY BROOK SHALL BE UNDERTAKEN PURSUANT TO A PROJECT LABOR AGREEMENT, AS DEFINED IN SUBDIVISION 1 OF SECTION 222 OF THE LABOR LAW, PROVIDED A STUDY DONE BY OR FOR THE CONTRACTING ENTITY DETERMINES THAT A PROJECT LABOR AGREEMENT WILL BENEFIT SUCH CONSTRUCTION, RECONSTRUCTION, RENOVATION, REHABILITATION, IMPROVEMENT OR EXPANSION THROUGH REDUCED RISK OF DELAY, POTENTIAL COST SAVINGS OR POTENTIAL REDUCTION IN THE RISK OF LABOR UNREST IN LIGHT OF ANY PERTINENT LOCAL HISTORY THEREOF.

S 2. This act shall take effect immediately; provided, however, that the amendments to section 13 of chapter 260 of the laws of 2011 made by section one of this act shall not affect the expiration of such section and shall be deemed to expire therewith.

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