

S. 5903

A. 8113

2013-2014 Regular Sessions

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

June 20, 2013

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

IN ASSEMBLY -- Introduced by M. of A. SILVER, MORELLE, GLICK, FARRELL -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

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

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

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

11 PART A

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

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

LBD12066-01-3

ARTICLE 21
START-UP NY PROGRAM

- SECTION 430. SHORT TITLE.
- 431. DEFINITIONS.
- 432. ELIGIBILITY CRITERIA FOR UNIVERSITIES AND COLLEGES.
- 433. ELIGIBILITY CRITERIA FOR BUSINESSES.
- 434. TAX BENEFITS.
- 435. APPROVAL OF TAX-FREE NY AREAS.
- 436. BUSINESSES LOCATING IN TAX-FREE NY AREAS.
- 437. MWBE AND PREVAILING WAGE REQUIREMENTS.
- 438. DISCLOSURE AUTHORIZATION AND REPORTING REQUIREMENTS.
- 439. CONFLICT OF INTEREST GUIDELINES.
- 440. PROHIBITION OF ANTI-COMPETITIVE BEHAVIOR.

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

S 431. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE:

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

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

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

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

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

(A) IS NEW TO THE STATE;

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

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

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

(E) IS FILLED FOR MORE THAN SIX MONTHS.

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

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

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

(C) THE BUSINESS IS NOT SUBSTANTIALLY SIMILAR IN OPERATION AND IN OWNERSHIP TO A BUSINESS ENTITY (OR ENTITIES) TAXABLE, OR PREVIOUSLY

1 TAXABLE WITHIN THE LAST FIVE TAXABLE YEARS, UNDER SECTION ONE HUNDRED
2 EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR, ONE HUNDRED EIGHTY-FIVE OR ONE
3 HUNDRED EIGHTY-SIX OF THE TAX LAW, ARTICLE NINE-A, THIRTY-TWO OR THIR-
4 TY-THREE OF THE TAX LAW, ARTICLE TWENTY-THREE OF THE TAX LAW OR WHICH
5 WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE TWENTY-THREE (AS SUCH
6 ARTICLE WAS IN EFFECT ON JANUARY FIRST, NINETEEN HUNDRED EIGHTY), OR THE
7 INCOME (OR LOSSES) OF WHICH IS (OR WAS) INCLUDABLE UNDER ARTICLE TWEN-
8 TY-TWO OF THE TAX LAW; AND

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

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

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

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

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

36 11. "UNDERUTILIZED PROPERTY" MEANS VACANT OR ABANDONED LAND OR SPACE
37 IN AN EXISTING INDUSTRIAL PARK, MANUFACTURING FACILITY, A BROWNFIELD
38 SITE AS DEFINED IN ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVA-
39 TION LAW, OR A DISTRESSED OR ABANDONED PROPERTY, WHICH SHALL BE DETER-
40 MINED BY FACTORS INCLUDING POVERTY, IDENTIFIED BY THE COUNTY OR THE
41 TOWN, VILLAGE OR CITY THAT CONTAINS SUCH DISTRESSED OR ABANDONED PROPER-
42 TY, AS OF THE EFFECTIVE DATE OF THIS ARTICLE. A COLLEGE OR UNIVERSITY
43 SHALL WORK WITH LOCAL MUNICIPALITIES OR LOCAL ECONOMIC DEVELOPMENT ENTI-
44 TIES TO IDENTIFY UNDERUTILIZED PROPERTIES.

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

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

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

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

1 (II) ANY VACANT LAND ON A CAMPUS OF A STATE UNIVERSITY CAMPUS, COMMU-
2 NITY COLLEGE OR CITY UNIVERSITY CAMPUS;

3 (III) FOR A STATE UNIVERSITY CAMPUS OR COMMUNITY COLLEGE, A TOTAL OF
4 TWO HUNDRED THOUSAND SQUARE FEET OF VACANT LAND OR VACANT BUILDING SPACE
5 THAT, EXCEPT AS PROVIDED UNDER PARAGRAPH (B) OF THIS SUBDIVISION, IS
6 LOCATED WITHIN ONE MILE OF A CAMPUS OF THE STATE UNIVERSITY CAMPUS OR
7 COMMUNITY COLLEGE; PROVIDED THAT THIS SUBPARAGRAPH SHALL NOT APPLY TO A
8 STATE UNIVERSITY CAMPUS OR COMMUNITY COLLEGE LOCATED IN NASSAU COUNTY,
9 SUFFOLK COUNTY OR WESTCHESTER COUNTY; AND

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

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

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

48 (I) A STATE UNIVERSITY CAMPUS OTHER THAN THE FOLLOWING: (A) ANY EMPIRE
49 STATE COLLEGE CAMPUS EXCEPT FOR THE EMPIRE STATE COLLEGE CAMPUS IN SARA-
50 TOGA SPRINGS, (B) ANY PROPERTY OF DOWNSTATE MEDICAL CENTER LOCATED IN
51 NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY
52 EXCEPT FOR PROPERTY AFFILIATED WITH DOWNSTATE MEDICAL CENTER THAT
53 CONSTITUTES A NEW YORK STATE INCUBATOR AS THE TERM IS USED IN SUBDIVI-
54 SION FOUR OF SECTION FOUR HUNDRED THIRTY-THREE OF THIS ARTICLE, AND (C)
55 ANY PROPERTY OF THE COLLEGE OF OPTOMETRY OR MARITIME COLLEGE LOCATED IN
56 NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY OR NEW YORK CITY.

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

5 (III) A TOTAL OF FIVE CITY UNIVERSITY CAMPUSES, ONE EACH IN THE
6 BOROUGH OF MANHATTAN, BROOKLYN, BRONX, QUEENS AND STATEN ISLAND, WHICH
7 WILL BE DESIGNATED BY THE BOARD OF TRUSTEES OF THE CITY UNIVERSITY OF
8 NEW YORK. THE CAMPUS DESIGNATED IN EACH BOROUGH MUST BE LOCATED IN AN
9 ECONOMICALLY DISTRESSED COMMUNITY. THE COMMISSIONER SHALL ESTABLISH A
10 LIST OF ECONOMICALLY DISTRESSED COMMUNITIES FOR THE PURPOSE OF THIS
11 DESIGNATION, BASED ON CRITERIA INDICATIVE OF ECONOMIC DISTRESS, INCLUD-
12 ING POVERTY RATES, NUMBERS OF PERSONS RECEIVING PUBLIC ASSISTANCE, UNEM-
13 PLOYMENT RATES, AND SUCH OTHER INDICATORS AS THE COMMISSIONER DEEMS
14 APPROPRIATE TO BE IN NEED OF ECONOMIC ASSISTANCE. IN ADDITION, PARA-
15 GRAPHS (A) AND (B) OF THIS SUBDIVISION SHALL APPLY TO PROPERTY OF THE
16 CITY UNIVERSITY LOCATED OUTSIDE OF NASSAU COUNTY, SUFFOLK COUNTY, WEST-
17 CHESTER COUNTY AND NEW YORK CITY.

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

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

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

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

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

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

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

1 (C) OF THE MAXIMUM AGGREGATE AMOUNT IN PARAGRAPH (B) OF THIS SUBDIVI-
2 SION, AN INITIAL AMOUNT OF SEVENTY-FIVE THOUSAND SQUARE FEET SHALL BE
3 DESIGNATED AS TAX-FREE NY AREAS IN EACH OF THE FOLLOWING: NASSAU COUNTY,
4 SUFFOLK COUNTY, WESTCHESTER COUNTY AND THE BOROUGHS OF BROOKLYN, BRONX,
5 MANHATTAN, QUEENS AND STATEN ISLAND. THE BOARD MAY APPROVE THE DESIG-
6 NATION OF UP TO AN ADDITIONAL SEVENTY-FIVE THOUSAND SQUARE FEET FOR ANY
7 COUNTY OR BOROUGH THAT REACHES THE INITIAL SEVENTY-FIVE THOUSAND SQUARE
8 FOOT LIMIT, PROVIDED THAT SUCH ADDITIONAL SEVENTY-FIVE THOUSAND SQUARE
9 FEET SHALL NOT COUNT AGAINST THE SQUARE FOOTAGE LIMITATIONS IN PARAGRAPH
10 (B) OF THIS SUBDIVISION. VACANT LAND AND VACANT SPACE IN A BUILDING ON
11 THE CAMPUS OF THE FOLLOWING SHALL BE ELIGIBLE FOR DESIGNATION UNDER THIS
12 PARAGRAPH:

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

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

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

19 (IV) A CITY UNIVERSITY CAMPUS THAT IS NOT DESIGNATED UNDER SUBPARA-
20 GRAPH (III) OF PARAGRAPH (C) OF SUBDIVISION ONE OF THIS SECTION.

21 (D) IN ADDITION, THE BOARD MAY APPROVE: (I) ONE APPLICATION THAT
22 INCLUDES ELIGIBLE LAND OWNED OR LEASED BY A CITY UNIVERSITY CAMPUS THAT
23 IS DIRECTLY ADJACENT TO SUCH CAMPUS; (II) ONE APPLICATION THAT INCLUDES
24 ELIGIBLE LAND OWNED OR LEASED BY A STATE UNIVERSITY CAMPUS, COMMUNITY
25 COLLEGE, OR PRIVATE UNIVERSITY OR COLLEGE IN NASSAU COUNTY OR SUFFOLK
26 COUNTY THAT IS DIRECTLY ADJACENT TO SUCH CAMPUS, UNIVERSITY OR COLLEGE;
27 AND (III) ONE APPLICATION THAT INCLUDES ELIGIBLE LAND OWNED OR LEASED BY
28 A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE, OR PRIVATE UNIVERSITY OR
29 COLLEGE IN WESTCHESTER COUNTY THAT IS DIRECTLY ADJACENT TO SUCH CAMPUS,
30 UNIVERSITY OR COLLEGE. THE BOARD MAY APPROVE AN ADDITIONAL APPLICATION,
31 FOR A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE, OR PRIVATE UNIVERSITY
32 OR COLLEGE IN THE COUNTY NOT PREVIOUSLY APPROVED UNDER SUBPARAGRAPH (II)
33 OF THIS PARAGRAPH, IN WHICH CASE IT SHALL ALSO APPROVE A SECOND APPLICA-
34 TION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

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

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

4 (A) THE MISSION AND ACTIVITIES OF THE BUSINESS MUST ALIGN WITH OR
5 FURTHER THE ACADEMIC MISSION OF THE CAMPUS, COLLEGE OR UNIVERSITY SPON-
6 SORING THE TAX-FREE NY AREA IN WHICH IT SEEKS TO LOCATE, AND THE BUSI-
7 NESS'S PARTICIPATION IN THE START-UP NY PROGRAM MUST HAVE POSITIVE
8 COMMUNITY AND ECONOMIC BENEFITS.

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

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

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

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

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

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

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

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

56 (A) RETAIL AND WHOLESALE BUSINESSES;

1 (B) RESTAURANTS;
2 (C) REAL ESTATE BROKERS;
3 (D) LAW FIRMS;
4 (E) MEDICAL OR DENTAL PRACTICES;
5 (F) REAL ESTATE MANAGEMENT COMPANIES;
6 (G) HOSPITALITY;
7 (H) FINANCE AND FINANCIAL SERVICES;
8 (I) BUSINESSES PROVIDING PERSONAL SERVICES;
9 (J) BUSINESSES PROVIDING BUSINESS ADMINISTRATIVE OR SUPPORT SERVICES,
10 UNLESS SUCH BUSINESS HAS RECEIVED PERMISSION FROM THE COMMISSIONER TO
11 APPLY TO PARTICIPATE IN THE START-UP NY PROGRAM UPON DEMONSTRATION THAT
12 THE BUSINESS WOULD CREATE NO FEWER THAN ONE HUNDRED NET NEW JOBS IN THE
13 TAX-FREE NY AREA;

14 (K) ACCOUNTING FIRMS;

15 (L) BUSINESSES PROVIDING UTILITIES; AND

16 (M) BUSINESSES ENGAGED IN THE GENERATION OR DISTRIBUTION OF ELECTRIC-
17 ITY, THE DISTRIBUTION OF NATURAL GAS, OR THE PRODUCTION OF STEAM ASSOCI-
18 ATED WITH THE GENERATION OF ELECTRICITY.

19 2-A. ADDITIONAL ELIGIBILITY REQUIREMENTS IN NASSAU COUNTY, SUFFOLK
20 COUNTY, WESTCHESTER COUNTY AND NEW YORK CITY. IN ORDER TO BE ELIGIBLE TO
21 PARTICIPATE IN THE START-UP NY PROGRAM IN NASSAU COUNTY, SUFFOLK COUNTY,
22 WESTCHESTER COUNTY OR NEW YORK CITY, A BUSINESS MUST BE:

23 (A) IN THE FORMATIVE STAGE OF DEVELOPMENT; OR

24 (B) ENGAGED IN THE DESIGN, DEVELOPMENT, AND INTRODUCTION OF NEW
25 BIOTECHNOLOGY, INFORMATION TECHNOLOGY, REMANUFACTURING, ADVANCED MATERI-
26 ALS, PROCESSING, ENGINEERING OR ELECTRONIC TECHNOLOGY PRODUCTS AND/OR
27 INNOVATIVE MANUFACTURING PROCESSES, AND MEET SUCH OTHER REQUIREMENTS FOR
28 A HIGH-TECH BUSINESS AS THE COMMISSIONER SHALL DEVELOP.

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

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

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

50 2. THE AGGREGATE NUMBER OF NET NEW JOBS APPROVED FOR PERSONAL INCOME
51 TAX BENEFITS UNDER THIS ARTICLE SHALL NOT EXCEED TEN THOUSAND JOBS PER
52 YEAR DURING THE PERIOD IN WHICH APPLICATIONS ARE ACCEPTED PURSUANT TO
53 SECTION FOUR HUNDRED THIRTY-SIX OF THIS ARTICLE. THE COMMISSIONER SHALL
54 ALLOCATE TO EACH BUSINESS ACCEPTED TO LOCATE IN A TAX-FREE NY AREA A
55 MAXIMUM NUMBER OF NET NEW JOBS THAT SHALL BE ELIGIBLE FOR THE PERSONAL
56 INCOME TAX BENEFITS DESCRIBED IN SUBDIVISION (E) OF SECTION THIRTY-NINE

1 OF THE TAX LAW BASED ON THE SCHEDULE OF JOB CREATION INCLUDED IN THE
2 APPLICATION OF SUCH BUSINESS. AT SUCH TIME AS THE TOTAL NUMBER OF NET
3 NEW JOBS UNDER SUCH APPROVED APPLICATIONS REACHES THE APPLICABLE ALLOW-
4 ABLE TOTAL OF AGGREGATE NET NEW JOBS FOR TAX BENEFITS FOR THE YEAR IN
5 WHICH THE APPLICATION IS ACCEPTED, THE COMMISSIONER SHALL STOP GRANTING
6 ELIGIBILITY FOR PERSONAL INCOME TAX BENEFITS FOR NET NEW JOBS UNTIL THE
7 NEXT YEAR. ANY BUSINESS NOT GRANTED SUCH PERSONAL INCOME TAX BENEFITS
8 FOR NET NEW JOBS FOR SUCH REASON SHALL BE GRANTED SUCH BENEFITS IN THE
9 NEXT YEAR PRIOR TO THE CONSIDERATION OF NEW APPLICANTS. IN ADDITION, IF
10 THE TOTAL NUMBER OF NET NEW JOBS APPROVED FOR TAX BENEFITS IN ANY GIVEN
11 YEAR IS LESS THAN THE MAXIMUM ALLOWED UNDER THIS SUBDIVISION, THE
12 DIFFERENCE SHALL BE CARRIED OVER TO THE NEXT YEAR. A BUSINESS MAY AMEND
13 ITS SCHEDULE OF JOB CREATION IN THE SAME MANNER THAT IT APPLIED FOR
14 PARTICIPATION IN THE START-UP NY PROGRAM, AND ANY INCREASE IN ELIGIBIL-
15 ITY FOR PERSONAL INCOME TAX BENEFITS ON BEHALF OF ADDITIONAL NET NEW
16 JOBS SHALL BE SUBJECT TO THE LIMITATIONS OF THIS SUBDIVISION. IF THE
17 BUSINESS ACCEPTED TO LOCATE IN A TAX-FREE NY AREA CREATES MORE NET NEW
18 JOBS THAN FOR WHICH IT IS ALLOCATED PERSONAL INCOME TAX BENEFITS, THE
19 PERSONAL INCOME TAX BENEFITS IT IS ALLOCATED SHALL BE PROVIDED TO THOSE
20 INDIVIDUALS EMPLOYED IN THOSE NET NEW JOBS BASED ON THE EMPLOYEES' DATES
21 OF HIRING.

22 S 435. APPROVAL OF TAX-FREE NY AREAS. 1. THE PRESIDENT OR CHIEF EXECU-
23 TIVE OFFICER OF ANY STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY
24 UNIVERSITY CAMPUS SEEKING TO SPONSOR A TAX-FREE NY AREA AND HAVE SOME OF
25 ITS ELIGIBLE LAND SPECIFIED UNDER SUBDIVISION ONE OF SECTION FOUR
26 HUNDRED THIRTY-TWO OF THIS ARTICLE BE DESIGNATED AS A TAX-FREE NY AREA
27 MUST SUBMIT A PLAN TO THE COMMISSIONER THAT SPECIFIES THE LAND OR SPACE
28 THE CAMPUS OR COLLEGE WANTS TO INCLUDE, DESCRIBES THE TYPE OF BUSINESS
29 OR BUSINESSES THAT MAY LOCATE ON THAT LAND OR IN THAT SPACE, EXPLAINS
30 HOW THOSE TYPES OF BUSINESSES ALIGN WITH OR FURTHER THE ACADEMIC MISSION
31 OF THE CAMPUS OR COLLEGE AND HOW PARTICIPATION BY THOSE TYPES OF BUSI-
32 NESSES IN THE START-UP NY PROGRAM WOULD HAVE POSITIVE COMMUNITY AND
33 ECONOMIC BENEFITS, AND DESCRIBES THE PROCESS THE CAMPUS OR COLLEGE WILL
34 FOLLOW TO SELECT PARTICIPATING BUSINESSES. AT LEAST THIRTY DAYS PRIOR TO
35 SUBMITTING SUCH PLAN, THE CAMPUS OR COLLEGE MUST PROVIDE THE MUNICI-
36 PALITY OR MUNICIPALITIES IN WHICH THE PROPOSED TAX-FREE NY AREA IS
37 LOCATED, LOCAL ECONOMIC DEVELOPMENT ENTITIES, THE APPLICABLE CAMPUS OR
38 COLLEGE FACULTY SENATE, UNION REPRESENTATIVES AND THE CAMPUS STUDENT
39 GOVERNMENT WITH A COPY OF THE PLAN. IN ADDITION, IF THE PLAN OF THE
40 CAMPUS OR COLLEGE INCLUDES LAND OR SPACE LOCATED OUTSIDE OF THE CAMPUS
41 BOUNDARIES, THE CAMPUS OR COLLEGE MUST CONSULT WITH THE MUNICIPALITY OR
42 MUNICIPALITIES IN WHICH SUCH LAND OR SPACE IS LOCATED PRIOR TO INCLUDING
43 SUCH SPACE OR LAND IN ITS PROPOSED TAX-FREE NY AREA AND SHALL GIVE PREF-
44 ERENCE TO UNDERUTILIZED PROPERTIES. BEFORE APPROVING OR REJECTING THE
45 PLAN SUBMITTED BY A STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY
46 UNIVERSITY CAMPUS, THE COMMISSIONER SHALL CONSULT WITH THE CHANCELLOR OF
47 THE APPLICABLE UNIVERSITY SYSTEM OR HIS OR HER DESIGNEE.

48 2. THE PRESIDENT OR CHIEF EXECUTIVE OFFICER OF ANY PRIVATE COLLEGE OR
49 UNIVERSITY OR OF ANY STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY
50 UNIVERSITY CAMPUS SEEKING TO SPONSOR A TAX-FREE NY AREA AND HAVE SOME OF
51 ITS ELIGIBLE LAND SPECIFIED UNDER SUBDIVISION TWO OF SECTION FOUR
52 HUNDRED THIRTY-TWO OF THIS ARTICLE BE DESIGNATED AS A TAX-FREE NY AREA
53 MUST SUBMIT A PLAN TO THE COMMISSIONER THAT SPECIFIES THE LAND OR SPACE
54 THE COLLEGE OR UNIVERSITY WANTS TO INCLUDE, DESCRIBES THE TYPE OF BUSI-
55 NESS OR BUSINESSES THAT MAY LOCATE ON THAT LAND OR IN THAT SPACE,
56 EXPLAINS HOW THOSE TYPES OF BUSINESSES ALIGN WITH OR FURTHER THE ACADEM-

1 IC MISSION OF THE COLLEGE OR UNIVERSITY AND HOW PARTICIPATION BY THOSE
2 TYPES OF BUSINESSES IN THE START-UP NY PROGRAM WOULD HAVE POSITIVE
3 COMMUNITY AND ECONOMIC BENEFITS, AND DESCRIBES THE PROCESS THE CAMPUS OR
4 COLLEGE WILL FOLLOW TO SELECT PARTICIPATING BUSINESSES. IN ADDITION, IF
5 THE PLAN OF THE CAMPUS OR COLLEGE INCLUDES LAND OR SPACE LOCATED OUTSIDE
6 OF THE CAMPUS BOUNDARIES, THE CAMPUS OR COLLEGE MUST CONSULT WITH THE
7 MUNICIPALITY OR MUNICIPALITIES IN WHICH SUCH LAND OR SPACE IS LOCATED
8 PRIOR TO INCLUDING SUCH SPACE OR LAND IN ITS PROPOSED TAX-FREE NY AREA
9 AND SHALL NOTIFY LOCAL ECONOMIC DEVELOPMENT ENTITIES. THE COMMISSIONER
10 SHALL FORWARD THE PLAN SUBMITTED UNDER THIS SUBDIVISION TO THE START-UP
11 NY APPROVAL BOARD. IN EVALUATING SUCH PLANS, THE BOARD SHALL EXAMINE THE
12 MERITS OF EACH PROPOSAL, INCLUDING BUT NOT LIMITED TO, COMPLIANCE WITH
13 THE PROVISIONS OF THIS ARTICLE, REASONABLENESS OF THE ECONOMIC AND
14 FISCAL ASSUMPTIONS CONTAINED IN THE APPLICATION AND IN ANY SUPPORTING
15 DOCUMENTATION AND POTENTIAL OF THE PROPOSED PROJECT TO CREATE NEW JOBS,
16 AND, EXCEPT FOR PROPOSALS FOR DESIGNATION OF ELIGIBLE LAND UNDER PARA-
17 GRAPH (C) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED THIRTY-TWO OF THIS
18 ARTICLE, SHALL PRIORITIZE FOR ACCEPTANCE AND INCLUSION INTO THE START-UP
19 NY PROGRAM PLANS FOR TAX-FREE NY AREAS IN COUNTIES THAT CONTAIN A CITY
20 WITH A POPULATION OF ONE HUNDRED THOUSAND OR MORE WITHOUT A UNIVERSITY
21 CENTER AS DEFINED IN SUBDIVISION SEVEN OF SECTION THREE HUNDRED FIFTY OF
22 THE EDUCATION LAW ON THE EFFECTIVE DATE OF THIS ARTICLE. NO PREFERENCE
23 SHALL BE GIVEN BASED ON THE TIME OF SUBMISSION OF THE PLAN, PROVIDED
24 THAT ANY SUBMISSION DEADLINES ESTABLISHED BY THE BOARD ARE MET. IN
25 ADDITION, THE BOARD SHALL GIVE PREFERENCE TO PRIVATE COLLEGES OR UNIVER-
26 SITIES THAT INCLUDE UNDERUTILIZED PROPERTIES WITHIN THEIR PROPOSED TAX-
27 FREE NY AREAS. THE BOARD BY A MAJORITY VOTE SHALL APPROVE OR REJECT EACH
28 PLAN FORWARDED TO IT BY THE COMMISSIONER.

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

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

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

1 S 436. BUSINESSES LOCATING IN TAX-FREE NY AREAS. 1. A CAMPUS, UNIVER-
2 SITY OR COLLEGE THAT HAS SPONSORED A TAX-FREE NY AREA (INCLUDING ANY
3 STRATEGIC STATE ASSET AFFILIATED WITH THE CAMPUS, UNIVERSITY OR COLLEGE)
4 SHALL SOLICIT AND ACCEPT APPLICATIONS FROM BUSINESSES TO LOCATE IN SUCH
5 AREA THAT ARE CONSISTENT WITH THE PLAN OF SUCH CAMPUS, UNIVERSITY OR
6 COLLEGE OR STRATEGIC STATE ASSET THAT HAS BEEN APPROVED PURSUANT TO
7 SECTION FOUR HUNDRED THIRTY-FIVE OF THIS ARTICLE. ANY BUSINESS THAT
8 WANTS TO LOCATE IN A TAX-FREE NY AREA MUST SUBMIT AN APPLICATION TO THE
9 CAMPUS, UNIVERSITY OR COLLEGE WHICH IS SPONSORING THE TAX-FREE NY AREA
10 BY DECEMBER THIRTY-FIRST, TWO THOUSAND TWENTY. PRIOR TO SUCH DATE, THE
11 COMMISSIONER SHALL PREPARE AN EVALUATION ON THE EFFECTIVENESS OF THE
12 START-UP NY PROGRAM AND DELIVER IT TO THE GOVERNOR AND THE LEGISLATURE
13 TO DETERMINE CONTINUED ELIGIBILITY FOR APPLICATION SUBMISSIONS.

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

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

1 (C) IF A STATE UNIVERSITY CAMPUS PROPOSES TO ENTER INTO A LEASE WITH A
2 BUSINESS FOR ELIGIBLE LAND IN A TAX-FREE NY AREA WITH A TERM GREATER
3 THAN FORTY YEARS, INCLUDING ANY OPTIONS TO RENEW, OR FOR ELIGIBLE LAND
4 IN A TAX-FREE NY AREA OF ONE MILLION OR MORE SQUARE FEET, THE STATE
5 UNIVERSITY CAMPUS, AT THE SAME TIME AS THE APPLICATION IS PROVIDED TO
6 THE COMMISSIONER, ALSO MUST SUBMIT THE LEASE FOR REVIEW TO THE START-UP
7 NY APPROVAL BOARD. IF THE BOARD DOES NOT DISAPPROVE OF THE LEASE TERMS
8 WITHIN THIRTY DAYS, THE LEASE IS DEEMED APPROVED. IF THE BOARD DISAP-
9 PROVES THE LEASE TERMS, THE STATE UNIVERSITY CAMPUS MUST SUBMIT MODIFIED
10 LEASE TERMS TO THE COMMISSIONER FOR REVIEW. THE COMMISSIONER'S SIXTY DAY
11 REVIEW PERIOD IS SUSPENDED WHILE THE BOARD IS REVIEWING THE LEASE AND
12 DURING THE TIME IT TAKES FOR THE STATE UNIVERSITY CAMPUS TO MODIFY THE
13 LEASE TERMS.

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

21 3. THE BUSINESS SUBMITTING THE APPLICATION, AS PART OF THE APPLICA-
22 TION, MUST:

23 (A) AGREE TO ALLOW THE DEPARTMENT OF TAXATION AND FINANCE TO SHARE ITS
24 TAX INFORMATION WITH THE DEPARTMENT AND THE SPONSORING CAMPUS, UNIVERSI-
25 TY OR COLLEGE;

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

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

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

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

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

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

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

54 (G) CERTIFY, UNDER PENALTY OF PERJURY, THAT IT IS IN SUBSTANTIAL
55 COMPLIANCE WITH ALL ENVIRONMENTAL, WORKER PROTECTION, AND LOCAL, STATE,

1 AND FEDERAL TAX LAWS, AND THAT IT SATISFIES ALL THE ELIGIBILITY REQUIRE-
2 MENTS TO PARTICIPATE IN THE START-UP NY PROGRAM.

3 4. (A) AT THE CONCLUSION OF THE LEASE TERM OF A LEASE BY THE SPONSOR-
4 ING CAMPUS, UNIVERSITY OR COLLEGE TO A BUSINESS OF LAND OR SPACE IN A
5 TAX-FREE NY AREA OWNED BY THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE,
6 THE LEASED LAND OR SPACE AND ANY IMPROVEMENTS THEREON SHALL REVERT TO
7 THE SPONSORING CAMPUS, UNIVERSITY OR COLLEGE, UNLESS THE LEASE IS
8 RENEWED.

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

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

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

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

52 3. ANY INDIVIDUAL, PUBLIC CORPORATION OR AUTHORITY, PRIVATE CORPO-
53 RATION, LIMITED LIABILITY COMPANY OR PARTNERSHIP OR OTHER ENTITY ENTER-
54 ING INTO A CONTRACT, SUBCONTRACT, LEASE, GRANT, BOND, COVENANT OR OTHER
55 AGREEMENT FOR A PROJECT UNDERTAKEN ON A STRATEGIC STATE ASSET IN A TAX-
56 FREE NY AREA SHALL BE DEEMED A STATE AGENCY AS THAT TERM IS DEFINED IN

1 ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW AND SUCH CONTRACTS SHALL BE
2 DEEMED STATE CONTRACTS WITHIN THE MEANING OF THAT TERM AS SET FORTH IN
3 SUCH ARTICLE.

4 4. A BUSINESS ON A STRATEGIC STATE ASSET IN A TAX-FREE NY AREA MAY
5 REQUIRE A CONTRACTOR AWARDED A CONTRACT, SUBCONTRACT, LEASE, GRANT,
6 BOND, COVENANT OR OTHER AGREEMENT FOR A PROJECT TO ENTER INTO A PROJECT
7 LABOR AGREEMENT PURSUANT TO SECTION TWO HUNDRED TWENTY-TWO OF THE LABOR
8 LAW DURING AND FOR THE WORK INVOLVED WITH SUCH PROJECT WHEN SUCH
9 REQUIREMENT IS PART OF THE BUSINESS'S REQUEST FOR PROPOSALS FOR THE
10 PROJECT AND WHEN THE BUSINESS DETERMINES THAT THE RECORD SUPPORTING THE
11 DECISION TO ENTER INTO SUCH AN AGREEMENT ESTABLISHES THAT THE INTERESTS
12 UNDERLYING THE COMPETITIVE BIDDING LAWS ARE BEST MET BY REQUIRING A
13 PROJECT LABOR AGREEMENT INCLUDING: OBTAINING THE BEST WORK AT THE LOWEST
14 POSSIBLE PRICE; PREVENTING FAVORITISM, FRAUD AND CORRUPTION; THE IMPACT
15 OF DELAY; THE POSSIBILITY OF COST SAVINGS; AND ANY LOCAL HISTORY OF
16 LABOR UNREST.

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

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

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

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

54 S 439. CONFLICT OF INTEREST GUIDELINES. 1. EACH CAMPUS, UNIVERSITY OR
55 COLLEGE PARTICIPATING IN THE START-UP NY PROGRAM SHALL ADOPT A CONFLICT
56 OF INTEREST POLICY. SUCH CONFLICT OF INTEREST POLICY SHALL PROVIDE, AS

1 IT RELATES TO THE START-UP NY PROGRAM: (A) AS A GENERAL PRINCIPLE, THAT
2 SERVICE AS AN OFFICIAL OF THE CAMPUS, UNIVERSITY OR COLLEGE SHALL NOT BE
3 USED AS A MEANS FOR PRIVATE BENEFIT OR INUREMENT FOR THE OFFICIAL, A
4 RELATIVE THEREOF, OR ANY ENTITY IN WHICH THE OFFICIAL, OR RELATIVE THERE-
5 EOF, HAS A BUSINESS INTEREST; (B) NO OFFICIAL WHO IS A VENDOR OR EMPLOY-
6 EE OF A VENDOR OF GOODS OR SERVICES TO THE CAMPUS, UNIVERSITY OR
7 COLLEGE, OR WHO HAS A BUSINESS INTEREST IN SUCH VENDOR, OR WHOSE RELA-
8 TIVE HAS A BUSINESS INTEREST IN SUCH VENDOR, SHALL VOTE ON, OR PARTIC-
9 IPATE IN THE ADMINISTRATION BY THE CAMPUS, UNIVERSITY OR COLLEGE, AS THE
10 CASE MAY BE, OF ANY TRANSACTION WITH SUCH VENDOR; AND (C) UPON BECOMING
11 AWARE OF AN ACTUAL OR POTENTIAL CONFLICT OF INTEREST, AN OFFICIAL SHALL
12 ADVISE THE PRESIDENT OR CHIEF EXECUTIVE OFFICER OF THE CAMPUS, UNIVERSI-
13 TY OR COLLEGE, AS THE CASE MAY BE, OF HIS OR HER OR A RELATIVE'S BUSI-
14 NESS INTEREST IN ANY SUCH EXISTING OR PROPOSED VENDOR WITH THE CAMPUS,
15 UNIVERSITY OR COLLEGE. EACH CAMPUS, UNIVERSITY OR COLLEGE SHALL MAINTAIN
16 A WRITTEN RECORD OF ALL DISCLOSURES OF ACTUAL OR POTENTIAL CONFLICTS OF
17 INTEREST MADE PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, AND SHALL
18 REPORT SUCH DISCLOSURES, ON A CALENDAR YEAR BASIS, BY JANUARY
19 THIRTY-FIRST OF EACH YEAR, TO THE AUDITOR FOR SUCH CAMPUS, UNIVERSITY OR
20 COLLEGE. THE AUDITOR SHALL FORWARD SUCH REPORTS TO THE COMMISSIONER, WHO
21 SHALL MAKE PUBLIC SUCH REPORTS.

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

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

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

48 S 39. TAX BENEFITS FOR BUSINESSES LOCATED IN TAX-FREE NY AREAS AND
49 EMPLOYEES OF SUCH BUSINESSES. (A) (1) ANY BUSINESS OR OWNER OF A BUSI-
50 NESS IN THE CASE OF A BUSINESS TAXED AS A SOLE PROPRIETORSHIP, PARTNER-
51 SHIP OR NEW YORK S CORPORATION, THAT IS LOCATED IN A TAX-FREE NY AREA
52 APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW
53 IS ELIGIBLE FOR THE TAX BENEFITS DESCRIBED IN THIS SECTION. UNLESS
54 OTHERWISE SPECIFIED, SUCH BUSINESS OR OWNER OF SUCH BUSINESS SHALL BE
55 ELIGIBLE FOR THESE TAX BENEFITS FOR A PERIOD OF TEN CONSECUTIVE TAXABLE

1 YEARS, COMMENCING WITH THE TAXABLE YEAR DURING WHICH IT LOCATES IN THE
2 TAX-FREE NY AREA.

3 (2) IN ORDER TO BE ELIGIBLE FOR THESE TAX BENEFITS DURING ANY TAXABLE
4 YEAR, CALENDAR QUARTER OR SALES TAX QUARTER, SUCH BUSINESS MUST BE
5 APPROVED TO PARTICIPATE IN THE START-UP NY PROGRAM, MUST OPERATE AT THE
6 APPROVED LOCATION IN THE TAX-FREE NY AREA, AND MUST SATISFY THE ELIGI-
7 BILITY CRITERIA SPECIFIED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION
8 FOUR HUNDRED THIRTY-THREE OF THE ECONOMIC DEVELOPMENT LAW.

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

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

17 (D) METROPOLITAN COMMUTER TRANSPORTATION DISTRICT MOBILITY TAX. IF THE
18 TAX-FREE NY AREA AT WHICH SUCH BUSINESS IS LOCATED IS WITHIN THE METRO-
19 POLITAN COMMUTER TRANSPORTATION DISTRICT (MCTD), AND SUCH BUSINESS IS AN
20 EMPLOYER ENGAGED IN BUSINESS WITHIN THE MCTD, THE PAYROLL EXPENSE OF
21 SUCH BUSINESS AT SUCH LOCATION WITHIN THE TAX-FREE NY AREA SHALL BE
22 EXEMPT FROM THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT MOBILITY
23 TAX IMPOSED UNDER ARTICLE TWENTY-THREE OF THIS CHAPTER FOR FORTY CONSEC-
24 UTIVE CALENDAR QUARTERS, COMMENCING WITH THE CALENDAR QUARTER DURING
25 WHICH THE EMPLOYER LOCATES IN THE TAX-FREE NY AREA WITHIN THE MCTD. IF
26 THE TAX-FREE NY AREA AT WHICH SUCH BUSINESS IS LOCATED IS WITHIN THE
27 MCTD AND THE OWNER OF SUCH BUSINESS IS AN INDIVIDUAL WHO HAS NET EARN-
28 INGS FROM SELF-EMPLOYMENT AT SUCH LOCATION, SUCH NET EARNINGS SHALL BE
29 EXEMPT FROM THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT MOBILITY
30 TAX IMPOSED UNDER ARTICLE TWENTY-THREE OF THIS CHAPTER FOR TEN CONSEC-
31 UTIVE TAXABLE YEARS COMMENCING WITH THE TAXABLE YEAR DURING WHICH THE
32 BUSINESS LOCATES IN THE TAX-FREE NY AREA.

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

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

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

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

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

53 (F) SALES AND USE TAX. SUCH BUSINESS SHALL BE ELIGIBLE FOR A CREDIT OR
54 REFUND FOR SALES AND USE TAXES IMPOSED ON THE RETAIL SALE OF TANGIBLE
55 PERSONAL PROPERTY OR SERVICES UNDER SUBDIVISIONS (A), (B), AND (C) OF
56 SECTION ELEVEN HUNDRED FIVE AND SECTION ELEVEN HUNDRED TEN OF THIS CHAP-

1 TER AND SIMILAR TAXES IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE TWEN-
2 TY-NINE OF THIS CHAPTER. THE CREDIT OR REFUND SHALL BE ALLOWED FOR ONE
3 HUNDRED TWENTY CONSECUTIVE MONTHS BEGINNING WITH THE MONTH DURING WHICH
4 SUCH BUSINESS LOCATES IN THE TAX-FREE NY AREA.

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

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

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

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

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

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

50 (1) SECTION 40.

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

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

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

54 (5) ARTICLE 22: SECTION 606, SUBSECTION (I), PARAGRAPH (1), SUBPARA-
55 GRAPH (B), CLAUSE (XXXVI).

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

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

2 (8) ARTICLE 23: SECTION 803.

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

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

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

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

14 (A) SHALL BE IMMEDIATELY TERMINATED FROM SUCH PROGRAM;

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

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

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

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

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

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

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

55 (2) ASCERTAINING THE PERCENTAGE THAT THE TOTAL WAGES, SALARIES AND
56 OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH

1 PERIOD OF EMPLOYEES, EXCEPT GENERAL EXECUTIVE OFFICERS, EMPLOYED AT THE
2 BUSINESS'S LOCATION IN THE TAX-FREE NY AREA, BEARS TO THE TOTAL WAGES,
3 SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED,
4 DURING SUCH PERIOD, OF ALL THE BUSINESS'S EMPLOYEES WITHIN THE STATE,
5 EXCEPT GENERAL EXECUTIVE OFFICERS; AND

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

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

12 (D) TAX FACTOR. (1) GENERAL. THE TAX FACTOR SHALL BE, IN THE CASE OF
13 ARTICLE NINE-A OF THIS CHAPTER, THE LARGEST OF THE AMOUNTS OF TAX DETER-
14 MINED FOR THE TAXABLE YEAR UNDER PARAGRAPHS (A) THROUGH (D) OF SUBDIVI-
15 SION ONE OF SECTION TWO HUNDRED TEN OF SUCH ARTICLE AFTER THE DEDUCTION
16 OF ANY OTHER CREDITS ALLOWABLE UNDER SUCH ARTICLE. THE TAX FACTOR SHALL
17 BE, IN THE CASE OF ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TAX DETER-
18 MINED FOR THE TAXABLE YEAR UNDER SUBSECTIONS (A) THROUGH (D) OF SECTION
19 SIX HUNDRED ONE OF SUCH ARTICLE AFTER THE DEDUCTION OF ANY OTHER CREDITS
20 ALLOWABLE UNDER SUCH ARTICLE.

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

35 (B)(I) WHERE THE TAXPAYER IS A MEMBER OF A PARTNERSHIP THAT IS A BUSI-
36 NESS LOCATED IN A TAX-FREE NY AREA, THE TAXPAYER'S TAX FACTOR SHALL BE
37 THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVI-
38 SION THAT IS ATTRIBUTABLE TO THE INCOME OF THE PARTNERSHIP. SUCH ATTRI-
39 BUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE PARTNER'S
40 INCOME FROM THE PARTNERSHIP ALLOCATED WITHIN THE STATE TO THE PARTNER'S
41 ENTIRE INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMIS-
42 SIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT THAT REASONABLY
43 REFLECTS THE PORTION OF THE PARTNER'S TAX ATTRIBUTABLE TO THE INCOME OF
44 THE PARTNERSHIP. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0. THE
45 INCOME FROM THE PARTNERSHIP ALLOCATED WITHIN THE STATE SHALL BE DETER-
46 MINED AS IF ANY OF THE PARTNERS WAS A NON-RESIDENT.

47 (II) FOR PURPOSES OF ARTICLE NINE-A OF THIS CHAPTER, THE TERM "PART-
48 NER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF INCOME,
49 GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO, ENTERING
50 INTO ENTIRE NET INCOME OR MINIMUM TAXABLE INCOME AND THE TERM "PARTNER'S
51 ENTIRE INCOME" MEANS ENTIRE NET INCOME OR MINIMUM TAXABLE INCOME, ALLO-
52 CATED WITHIN THE STATE. FOR PURPOSES OF ARTICLE TWENTY-TWO OF THIS CHAP-
53 TER, THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP
54 ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS
55 THERETO, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, AND THE TERM
56 "PARTNER'S ENTIRE INCOME" MEANS NEW YORK ADJUSTED GROSS INCOME.

1 (C) WHERE THE TAXPAYER IS A SHAREHOLDER OF A NEW YORK S CORPORATION
2 THAT IS A BUSINESS LOCATED IN A TAX-FREE NY AREA, THE SHAREHOLDER'S TAX
3 FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE
4 OF THIS SUBDIVISION THAT IS ATTRIBUTABLE TO THE INCOME OF THE S CORPO-
5 RATION. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF
6 THE SHAREHOLDER'S INCOME FROM THE S CORPORATION ALLOCATED WITHIN THE
7 STATE, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, TO THE SHAREHOLD-
8 ER'S NEW YORK ADJUSTED GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER
9 METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT
10 THAT REASONABLY REFLECTS THE PORTION OF THE SHAREHOLDER'S TAX ATTRIBUT-
11 ABLE TO THE INCOME OF SUCH BUSINESS. THE INCOME OF THE S CORPORATION
12 ALLOCATED WITHIN THE STATE SHALL BE DETERMINED BY MULTIPLYING THE INCOME
13 OF THE S CORPORATION BY THE BUSINESS ALLOCATION FACTOR COMPUTED UNDER
14 PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION TWO HUNDRED TEN OF THIS
15 ARTICLE WITHOUT REGARD TO SUBPARAGRAPH TEN OF SUCH PARAGRAPH (A). IN NO
16 EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

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

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

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

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

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

42 (2) ARTICLE 22: SECTION 606, SUBSECTION (I), PARAGRAPH (1), SUBPARA-
43 GRAPH (B), CLAUSE (XXXVI).

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

45 S 5. Section 180 of the tax law is amended by adding a new subdivision
46 3 to read as follows:

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

50 S 6. Section 181 of the tax law is amended by adding a new subdivision
51 3 to read as follows:

52 3. A CORPORATION THAT IS ACCEPTED TO LOCATE IN A TAX-FREE NY AREA AND
53 IS LOCATED EXCLUSIVELY WITHIN THE STATE IN A TAX-FREE NY AREA APPROVED
54 PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE
55 EXEMPT FROM: (A) THE LICENSE FEE IMPOSED BY SUBDIVISION ONE OF THIS
56 SECTION; AND (B) PROVIDED THAT THE CORPORATION SATISFIES THE REQUIRE-

1 MENTS IN SUBDIVISION (A) OF SECTION THIRTY-NINE OF THIS CHAPTER, THE
2 ANNUAL MAINTENANCE FEE IMPOSED BY SUBDIVISION TWO OF THIS SECTION.

3 S 7. Section 210 of the tax law is amended by adding a new subdivision
4 47 to read as follows:

5 47. THE TAX-FREE NY AREA TAX ELIMINATION CREDIT. A TAXPAYER SHALL BE
6 ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION FORTY OF THIS
7 CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. UNLESS THE TAXPAYER
8 HAS A TAX-FREE NY AREA ALLOCATION FACTOR OF ONE HUNDRED PERCENT, THE
9 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT
10 REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN
11 PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, ANY AMOUNT OF
12 CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVER-
13 PAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE
14 PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED,
15 HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHT-
16 Y-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THER-
17 EON.

18 S 8. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
19 of the tax law is amended by adding a new clause (xxxvi) to read as
20 follows:

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

23
24 S 9. Section 606 of the tax law is amended by adding a new subsection
25 (ww) to read as follows:

26 (WW) TAX-FREE NY AREA TAX ELIMINATION CREDIT. (1) ALLOWANCE OF CREDIT.
27 A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED UNDER
28 SECTION FORTY OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

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

35 S 10. Subsection (c) of section 612 of the tax law is amended by
36 adding a new paragraph 40 to read as follows:

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

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

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

55 (B) IF A TAX-FREE NY AREA APPROVED PURSUANT TO THE PROVISIONS OF ARTI-
56 CLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW IS LOCATED WITHIN THE

1 MCTD, THE PAYROLL EXPENSE IN SUCH TAX-FREE NY AREA OF ANY EMPLOYER THAT
2 IS LOCATED IN SUCH AREA AND ACCEPTED INTO THE START-UP NY PROGRAM SHALL
3 BE EXEMPT FROM THE TAX IMPOSED UNDER THIS ARTICLE. IN ADDITION, THE NET
4 EARNINGS FROM SELF-EMPLOYMENT OF AN INDIVIDUAL FROM A BUSINESS IN SUCH
5 TAX-FREE NY AREA THAT IS ACCEPTED INTO THE START-UP NY PROGRAM SHALL BE
6 EXEMPT FROM THE TAX IMPOSED UNDER THIS ARTICLE.

7 S 12. Paragraphs 1 and 2 of subdivision (d) of section 1119 of the tax
8 law, paragraph 1 as amended by section 6 of part C of chapter 59 of the
9 laws of 2013 and paragraph 2 as added by section 31 of part S1 of chap-
10 ter 57 of the laws of 2009, are amended to read as follows:

11 (1) Subject to the conditions and limitations provided for in this
12 section, a refund or credit will be allowed for taxes imposed on the
13 retail sale of tangible personal property described in subdivision (a)
14 of section eleven hundred five of this article, and on every sale of
15 services described in subdivisions (b) and (c) of such section, and
16 consideration given or contracted to be given for, or for the use of,
17 such tangible personal property or services, where such tangible
18 personal property or services are sold to a qualified empire zone enter-
19 prise or to a qualified entity that is also a tenant in or part of a New
20 York state innovation hot spot as provided in section thirty-eight of
21 this chapter OR TO A BUSINESS LOCATED IN A TAX-FREE NY AREA APPROVED
22 PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW, provided
23 that (A) such tangible personal property or tangible personal property
24 upon which such a service has been performed or such service (other than
25 a service described in subdivision (b) of section eleven hundred five of
26 this article) is directly and predominantly, or such a service described
27 in clause (A) or (D) of paragraph one of such subdivision (b) of section
28 eleven hundred five of this article is directly and exclusively, used or
29 consumed by (i) such qualified empire zone enterprise in an area desig-
30 nated as an empire zone pursuant to article eighteen-B of the general
31 municipal law with respect to which such enterprise is certified pursu-
32 ant to such article eighteen-B, or (ii) such qualified entity at its
33 location in or as part of a New York state innovation hot spot, OR (III)
34 SUCH BUSINESS AT ITS LOCATION IN SUCH TAX-FREE NY AREA, or (B) such a
35 service described in clause (B) or (C) of paragraph one of subdivision
36 (b) of section eleven hundred five of this article is delivered and
37 billed to (i) such enterprise at an address in such empire zone or (ii)
38 such qualified entity at its location in or as part of the New York
39 state innovation hot spot, or (III) SUCH BUSINESS AT ITS LOCATION IN
40 SUCH TAX-FREE NY AREA, OR (C) the enterprise's place of primary use of
41 the service described in paragraph two of such subdivision (b) of
42 section eleven hundred five is at an address in such empire zone or at
43 its location in or as part of a New York state innovation hot spot, OR
44 AT ITS LOCATION IN SUCH TAX-FREE NY AREA; provided, further, that, in
45 order for a motor vehicle, as defined in subdivision (c) of section
46 eleven hundred seventeen of this article, or tangible personal property
47 related to such a motor vehicle to be found to be used predominantly in
48 such a zone, at least fifty percent of such motor vehicle's use shall be
49 exclusively within such zone or at least fifty percent of such motor
50 vehicle's use shall be in activities originating or terminating in such
51 zone, or both; and either or both such usages shall be computed either
52 on the basis of mileage or hours of use, at the discretion of such
53 enterprise. For purposes of this subdivision, tangible personal property
54 related to such a motor vehicle shall include a battery, diesel motor
55 fuel, an engine, engine components, motor fuel, a muffler, tires and
56 similar tangible personal property used in or on such a motor vehicle.

1 (2) Subject to the conditions and limitations provided for in this
2 section, a refund or credit will be allowed for taxes imposed on the
3 retail sale of, and consideration given or contracted to be given for,
4 or for the use of, tangible personal property sold to a contractor,
5 subcontractor or repairman for use in (A) erecting a structure or build-
6 ing of a qualified empire zone enterprise OR A BUSINESS LOCATED IN A
7 TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC
8 DEVELOPMENT LAW, (B) adding to, altering or improving real property,
9 property or land of such an enterprise OR SUCH BUSINESS, or (C) main-
10 taining, servicing or repairing real property, property or land of such
11 an enterprise OR OF SUCH BUSINESS, as the terms real property, property
12 or land are defined in the real property tax law; provided, however, no
13 credit or refund will be allowed under this paragraph unless such tangi-
14 ble personal property is to become an integral component part of such
15 structure, building, real property, property or land located in an area
16 designated as an empire zone pursuant to article eighteen-B of the
17 general municipal law in, and with respect to which such enterprise is
18 certified pursuant to such article eighteen-B, OR IN AN AREA APPROVED AS
19 A TAX-FREE NY AREA PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVEL-
20 OPMENT LAW WHERE SUCH BUSINESS IS LOCATED.

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

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

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

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

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

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

50 (D) ANY WAGES RECEIVED BY AN INDIVIDUAL AS AN EMPLOYEE OF A BUSINESS
51 LOCATED IN A TAX-FREE NY AREA WITHIN THE CITY DURING THE FIRST FIVE
52 YEARS OF SUCH BUSINESS'S TEN YEAR TAXABLE PERIOD SPECIFIED IN SUBDIVI-
53 SION (A) OF SECTION THIRTY-NINE OF THIS CHAPTER AND EARNED AT SUCH
54 LOCATION SHALL BE EXEMPT FROM THE TAX AUTHORIZED TO BE IMPOSED BY THIS
55 ARTICLE TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME AND
56 ALLOWED UNDER SECTION THIRTY-NINE OF THIS CHAPTER. DURING THE SECOND

1 FIVE YEARS OF SUCH BUSINESS'S TEN YEAR TAXABLE PERIOD, THE FIRST TWO
2 HUNDRED THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER FILING
3 AS A SINGLE INDIVIDUAL, THE FIRST TWO HUNDRED FIFTY THOUSAND DOLLARS OF
4 SUCH WAGES IN THE CASE OF A TAXPAYER FILING AS A HEAD OF HOUSEHOLD, AND
5 THREE HUNDRED THOUSAND DOLLARS OF SUCH WAGES IN THE CASE OF A TAXPAYER
6 FILING A JOINT RETURN, TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS
7 INCOME AND ALLOWED UNDER SECTION THIRTY-NINE OF THIS CHAPTER.

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

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

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

50 a. To take, hold and administer on behalf of the state university or
51 any institution therein, real and personal property or any interest
52 therein and the income thereof either absolutely or in trust for any
53 educational or other purpose within the jurisdiction and corporate
54 purposes of the state university. The trustees may acquire property for
55 such purposes by purchase, appropriation or lease and by the acceptance
56 of gifts, grants, bequests and devises, and, within appropriations made

1 therefor, may equip and furnish buildings and otherwise improve property
2 owned, used or occupied by the state university or any institution ther-
3 ein. The trustees may acquire property by the acceptance of conditional
4 gifts, grants, devises or bequests, the provisions of section eleven of
5 the state finance law notwithstanding. Where real property is to be
6 acquired by purchase or appropriation, such acquisition shall be in
7 accordance with the provisions of section three hundred seven of this
8 chapter except that the powers and duties in said section mentioned to
9 be performed by the commissioner shall be performed by the state univer-
10 sity trustees. THE PROVISIONS OF SECTION THREE OF THE PUBLIC LANDS LAW
11 NOTWITHSTANDING, THE TRUSTEES MAY PROVIDE FOR THE LEASE OF STATE-OWNED
12 REAL PROPERTY UNDER THE JURISDICTION OF THE STATE UNIVERSITY THAT IS
13 PART OF A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF
14 THE ECONOMIC DEVELOPMENT LAW, IN SUCH MANNER AND UPON SUCH TERMS AS THE
15 TRUSTEES SHALL DETERMINE, PROVIDED SUCH LEASE IS CONSISTENT WITH THE
16 APPROVED PLAN FOR SUCH TAX-FREE NY AREA.

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

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

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

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

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

1 S 361. START-UP NY PROGRAM LEASES. 1. ANY LEASE OR CONTRACT BETWEEN A
2 STATE UNIVERSITY CAMPUS, CITY UNIVERSITY CAMPUS OR COMMUNITY COLLEGE AS
3 DEFINED IN SECTION FOUR HUNDRED THIRTY-ONE OF THE ECONOMIC DEVELOPMENT
4 LAW AND A BUSINESS FOR THE USE OF VACANT LAND OR VACANT SPACE OWNED OR
5 LEASED BY SUCH STATE UNIVERSITY CAMPUS, COMMUNITY COLLEGE OR CITY
6 UNIVERSITY CAMPUS IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE
7 TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW SHALL PROVIDE:

8 (A) THE TERM OF THE LEASE OR CONTRACT.

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

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

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

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

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

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

1 (H) A REQUIREMENT THAT IN THE EVENT THE DEMISED PREMISES SHALL CEASE
2 TO BE USED FOR THE PURPOSES DESCRIBED IN THE LEASE OR CONTRACT COVERING
3 PROPERTY OWNED BY THE CAMPUS OR COLLEGE, THE LEASE OR CONTRACT SHALL
4 TERMINATE ON THE THIRTIETH DAY AFTER NOTICE OF SUCH TERMINATION IS
5 MAILED TO THE BUSINESS, THE DEMISED PREMISES AND ANY IMPROVEMENTS THERE-
6 ON SHALL REVERT TO THE CAMPUS OR COLLEGE.

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

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

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

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

46 S 23. This act shall take effect immediately; provided however that
47 the tax benefits specified in section 39 of the tax law, as added by
48 section two of this act shall apply to taxable years beginning on or
49 after January 1, 2014, calendar quarters beginning on or after January
50 1, 2014, sales tax quarters beginning on or after March 1, 2014, or
51 transactions occurring on or after January 1, 2014, whichever is appli-
52 cable; provided, further, that the amendments to paragraph a of subdivi-
53 sion 2 of section 355 of the education law made by section eighteen of
54 this act shall not affect the expiration of such paragraph and shall be
55 deemed to expire therewith.

1

PART B

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

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

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

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

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

21 2. Mandate relief council. There is hereby created within the execu-
22 tive department the mandate relief council, which shall be comprised of
23 eleven members as follows: the secretary to the governor, who shall
24 chair the council, the counsel to the governor, the director of the
25 division of the budget, the secretary of state, and three additional
26 members to be appointed by the governor from among his or her executive
27 chamber staff, two members to be appointed by the temporary president of
28 the senate, and two members to be appointed by the speaker of the assem-
29 bly.

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

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

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

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

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

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

53 (iv) those which the council determines are necessary for the mainte-
54 nance of the public health or safety of the people of New York state.

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

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

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

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

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

46 5. Local government request. A local government may, by resolution of
47 its governing body, ask the council to review a specific statute, regu-
48 lation, rule or order of state government to determine whether such
49 statute, regulation, rule or order of state government is an unfunded
50 mandate or is otherwise unsound, unduly burdensome or costly so as to
51 require that it be eliminated or reformed. No local government may make
52 more than three such requests in each calendar year. Upon such review,
53 the council shall, by majority vote, determine whether such mandate has
54 been imposed upon such local government in an unsound, unduly burdensome
55 or costly manner, so as to necessitate that it be eliminated or
56 reformed. A determination of the council shall resolve any dispute

1 regarding whether such a statute, regulation, rule or order constitutes
2 such an unfunded mandate, but shall not be deemed a judicial determi-
3 nation under the law.

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

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

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

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

29

PART C

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

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

50 4. A business entity operating predominantly in one of the industries
51 referenced in paragraphs (a) through (h) of subdivision one of this
52 section but which does not meet the job requirements of subdivision
53 three of this section must have at least [fifty] TWENTY-FIVE full-time
54 job equivalents UNLESS SUCH BUSINESS IS A BUSINESS ENTITY OPERATING

1 subdivision four of section three hundred fifty-three of this article or
2 (ii) businesses accepted into the program under subdivision three of
3 section three hundred fifty-three of this article, the commissioner may
4 allocate any remaining tax credits to businesses referenced in para-
5 graphs (i) and (ii) of this section as needed; provided, however, that
6 under no circumstances may the statutory cap be exceeded.

7 S 4. Section 31 of the tax law, as amended by section 2 of part MM of
8 chapter 59 of the laws of 2010, is amended by adding a new subdivision
9 (f-1) to read as follows:

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

17 S 5. This act shall take effect on the sixtieth day after it shall
18 have become a law.

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

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