

PROGRAM BILL # 32

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

ECONDVLA
(Establishes the START-UP NY
program)

Ec Dev. START-UP NY program

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 educa-
tion law, in relation to establish-
ing the START-UP NY program (Part
A); to amend the executive law, in
relation to the mandate and regula-
tory 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)

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s20 Adams	s17 Felder	s63 Kennedy	s25 Montgomery	s23 Savino
s15 Addabbo	s02 Flanagan	s34 Klein	s54 Nozzolio	s29 Serrano
s11 Avella	s08 Fuschillo	s28 Krueger	s55 O'Brien	s51 Seward
s40 Bail	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s42 Bonacic	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s04 Boyle	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s44 Breslin	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s38 Carlucci	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart- Cousins
s50 DeFrancisco	s60 Grisanti	s45 Little	s48 Ritchie	s46 Tkaczyk
s32 Diaz	s06 Hannon	s05 Marcellino	s33 Rivera	s53 Valesky
s18 Dilan	s36 Hassell-	s43 Marchione	s56 Robach	s57 Young
s31 Espaillat	Thompson	s07 Martins	s19 Sampson	s03 Zeldin
s49 Farley	s27 Hoylman	s62 Maziarz	s10 Sanders	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a081 Dinowitz	a135 Johns	a133 Nojay	a140 Schimminger
a092 Abinanti	a147 DiPietro	a113 Jordan	a037 Nolan	a087 Sepulveda
a084 Arroyo	a115 Duprey	a094 Katz	a130 Oaks	a065 Silver
a035 Aubry	a004 Englebright	a074 Kavanagh	a069 O'Donnell	a027 Simanowitz
a120 Barclay	a054 Espinal	a142 Kearns	a051 Ortiz	a036 Simotas
a106 Barrett	a109 Fahy	a076 Kellner	a091 Otis	a104 Skartados
a060 Barron	a071 Farrell	a040 Kim	a132 Palmesano	a099 Skoufis
a082 Benedetto	a126 Finch	a131 Kolb	a088 Paulin	a022 Solages
a117 Blankenbush	a008 Fitzpatrick	a105 Lalor	a141 Peoples-	a114 Stec
a062 Borelli	a124 Friend	a013 Lavine	Stokes	a110 Steck
a055 Boyland	a143 Gabryszak	a050 Lentol	a058 Perry	a079 Stevenson
a026 Braunstein	a095 Galef	a125 Lifton	a089 Pretlow	a127 Stirpe
a044 Brennan	a137 Gantt	a102 Lopez, P.	a073 Quart	a011 Sweeney
a119 Brindisi	a007 Garbarino	a123 Lupardo	a019 Ra	a112 Tedisco
a138 Bronson	a077 Gibson	a010 Lupinacci	a098 Rabbitt	a101 Tenney
a046 Brook-Krasny	a148 Giglio	a121 Magee	a012 Raia	a001 Thiele
a093 Buchwald	a080 Gjonaj	a129 Magnarelli	a006 Ramos	a061 Titone
a118 Butler	a066 Glick	a059 Maisel	a134 Reilich	a031 Titus
a103 Cahill	a023 Goldfeder	a064 Malliotakis	a078 Rivera	a146 Walter
a043 Camara	a150 Goodell	a030 Markey	a128 Roberts	a041 Weinstein
a145 Ceretto	a075 Gottfried	a090 Mayer	a056 Robinson	a020 Weisenberg
a033 Clark	a005 Graf	a108 McDonald	a068 Rodriguez	a024 Weprin
a047 Colton	a100 Gunther	a014 McDonough	a072 Rosa	a070 Wright
a032 Cook	a139 Hawley	a017 McKeivitt	a067 Rosenthal	a096 Zebrowski
a144 Corwin	a083 Heastie	a107 McLaughlin	a025 Rozic	a002
a085 Crespo	a003 Hennessey	a038 Miller	a116 Russell	a053
a122 Crouch	a028 Hevesi	a052 Millman	a149 Ryan	a086
a021 Curran	a048 Hikind	a015 Montesano	a009 Saladino	
a063 Cusick	a018 Hooper	a136 Morelle	a111 Santabarbara	
a045 Cymbrowitz	a042 Jacobs	a057 Mosley	a029 Scarborough	
a034 DenDekker	a097 Jaffee	a039 Moya	a016 Schimmel	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

06/18/13

2

12063-01-3

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:

14

ARTICLE 21

15

START-UP NY PROGRAM

16 Section 430. Short title.

17

431. Definitions.

18

432. Eligibility criteria for universities and colleges.

19

433. Eligibility criteria for businesses.

20

434. Tax benefits.

21

435. Approval of tax-free NY areas.

22

436. Businesses locating in tax-free NY areas.

23

437. MWBE and prevailing wage requirements.

24

438. Disclosure authorization and reporting requirements.

25

439. Conflict of interest guidelines.

26

440. Prohibition of anti-competitive behavior.

1 § 430. Short title. This article shall be known and may be cited as
2 the "SUNY Tax-free Areas to Revitalize and Transform UPstate New York
3 program," or the "START-UP NY program".

4 § 431. Definitions. For purposes of this article:

5 1. "State university campus" shall mean any of the colleges and
6 universities described in subdivision three of section three hundred
7 fifty-two of the education law.

8 2. "Community college" means a college established and operated pursu-
9 ant to the provisions of article one hundred twenty-six of the education
10 law, and providing two-year or four-year post secondary programs in
11 general and technical educational subjects and receiving financial
12 assistance from the state, other than a community college of the city
13 university of New York.

14 3. "City university campus" means a campus of the city university of
15 New York, as defined in subdivision two of section sixty-two hundred two
16 of the education law.

17 4. "Private college or university" means a not-for-profit two or four
18 year university or college given the power to confer associate, bacca-
19 laureate or higher degrees in this state by the legislature or by the
20 regents under article five of the education law.

21 5. "Net new job" means a job created in a tax-free NY area that satis-
22 fies all of the following criteria:

23 (a) is new to the state;

24 (b) has not been transferred from employment with another business
25 located in this state, through an acquisition, merger, consolidation or
26 other reorganization of businesses or the acquisition of assets of
27 another business, or except as provided in paragraph (d) of subdivision

1 six of this section has not been transferred from employment with a
2 related person in this state;

3 (c) is not filled by an individual employed within the state within
4 the immediately preceding sixty months by a related person;

5 (d) is either a full-time wage-paying job or equivalent to a full-time
6 wage-paying job requiring at least thirty-five hours per week; and

7 (e) is filled for more than six months.

8 6. "New business" means a business that satisfies all of the following
9 tests:

10 (a) the business must not be operating or located within the state at
11 the time it submits its application to participate in the START-UP NY
12 program;

13 (b) the business must not be moving existing jobs into the tax-free NY
14 area from another area in the state;

15 (c) the business is not substantially similar in operation and in
16 ownership to a business entity (or entities) taxable, or previously
17 taxable within the last five taxable years, under section one hundred
18 eighty-three, one hundred eighty-four, one hundred eighty-five or one
19 hundred eighty-six of the tax law, article nine-A, thirty-two or thir-
20 ty-three of the tax law, article twenty-three of the tax law or which
21 would have been subject to tax under such article twenty-three (as such
22 article was in effect on January first, nineteen hundred eighty), or the
23 income (or losses) of which is (or was) includable under article twen-
24 ty-two of the tax law; and

25 (d) the business must not have caused individuals to transfer from
26 existing employment with a related person located in the state to simi-
27 lar employment with the business, unless such business has received

1 approval for such transfers from the commissioner after demonstrating
2 that the related person has not eliminated those existing positions.

3 7. "Tax-free NY area" means the land or vacant space of a university
4 or college that meets the eligibility criteria specified in section four
5 hundred thirty-two of this article and that has been approved as a tax-
6 free NY area pursuant to the provisions in section four hundred thirty-
7 five of this article. It also means a strategic state asset that has
8 been approved by the START-UP NY approval board pursuant to the
9 provisions of subdivision four of section four hundred thirty-five of
10 this article.

11 8. "Related person" means a "related person" pursuant to subparagraph
12 (c) of paragraph three of subsection (b) of section four hundred sixty-
13 five of the internal revenue code.

14 9. "Strategic state asset" means land or a building or group of build-
15 ings owned by the state of New York, that is: (a) closed; (b) vacant; or
16 (c) for which notice of closure has been given pursuant to any statutory
17 notice requirement or which is otherwise authorized to be closed pursu-
18 ant to any chapter of the laws of New York.

19 10. "START-UP NY approval board" or "board" means a board consisting
20 of three members, one each appointed by the governor, the speaker of the
21 assembly and the temporary president of the senate. Each member of the
22 START-UP NY approval board must have significant expertise and experi-
23 ence in academic based economic development and may not have a personal
24 interest in any project that comes before the board.

25 11. "Underutilized property" means vacant or abandoned land or space
26 in an existing industrial park, manufacturing facility, a brownfield
27 site as defined in article twenty-seven of the environmental conserva-
28 tion law, or a distressed or abandoned property, which shall be deter-

1 mined by factors including poverty, identified by the county or the
2 town, village or city that contains such distressed or abandoned proper-
3 ty, as of the effective date of this article. A college or university
4 shall work with local municipalities or local economic development enti-
5 ties to identify underutilized properties.

6 12. "Eligible land" means land eligible pursuant to section four
7 hundred thirty-two of this article for approval as a tax-free NY area.

8 13. "Sponsoring campus, university or college" means a university or
9 college that has received approval to sponsor a tax-free NY area pursu-
10 ant to section four hundred thirty-five of this article.

11 § 432. Eligibility criteria for universities and colleges. 1. State
12 university campuses, community colleges and city university campuses.

13 (a) Subject to the limitations in paragraph (c) of this subdivision, the
14 following will constitute the eligible land of a state university
15 campus, community college, or city university campus:

16 (i) any vacant space in any building located on a campus of a state
17 university campus, community college or city university campus;

18 (ii) any vacant land on a campus of a state university campus, commu-
19 nity college or city university campus;

20 (iii) for a state university campus or community college, a total of
21 two hundred thousand square feet of vacant land or vacant building space
22 that, except as provided under paragraph (b) of this subdivision, is
23 located within one mile of a campus of the state university campus or
24 community college; provided that this subparagraph shall not apply to a
25 state university campus or community college located in Nassau county,
26 Suffolk county or Westchester county; and

27 (iv) a New York state incubator as the term is used in subdivision
28 four of section four hundred thirty-three of this article with a bona

1 fide affiliation to the state university campus, community college or
2 city university campus, with approval of the commissioner. In order for
3 there to be a bona fide affiliation of a New York state incubator with a
4 state university campus, community college or city university campus,
5 the incubator and the state university campus, community college or city
6 university campus must have a partnership to provide assistance and
7 physical space to eligible businesses, as the term is used in section
8 sixteen-v of the urban development corporation act; the incubator and
9 the state university campus, community college or city university campus
10 must directly work towards the goals of jointly creating jobs and incu-
11 bating new startup businesses; and the mission and activities of the
12 incubator must align with or further the academic mission of the state
13 university campus, community college or city university campus.

14 (b) A state university campus or community college which qualifies
15 under subparagraph (iii) of paragraph (a) of this subdivision may apply
16 to the commissioner for a determination that identified vacant land or
17 identified vacant space in a building that is located more than one mile
18 from its campus, and is not located in Nassau county, Suffolk county,
19 Westchester county or New York city, is eligible land for purposes of
20 this program. The commissioner shall give consideration to factors
21 including rural, suburban and urban geographic considerations and may
22 qualify the identified land or space in a building as eligible land if
23 the commissioner, in consultation with the chancellor or his or her
24 designee, determines that the state university campus or community
25 college has shown that the use of the land or space will be consistent
26 with the requirements of this program and the plan submitted by the
27 state university campus or community college pursuant to section four
28 hundred thirty-five of this article. In addition, two hundred thousand

1 square feet of vacant land or vacant building space affiliated with or
2 in partnership with Maritime College shall be eligible under this para-
3 graph. The aggregate amount of qualified land or space under this para-
4 graph and subparagraph (iii) of paragraph (a) of this subdivision may
5 not exceed two hundred thousand square feet for a state university
6 campus or community college.

7 (c) The provisions of paragraphs (a) and (b) of this subdivision shall
8 apply only to:

9 (i) a state university campus other than the following: (A) any empire
10 state college campus except for the empire state college campus in Sara-
11 toga Springs, (B) any property of downstate medical center located in
12 Nassau county, Suffolk county, Westchester county or New York city
13 except for property affiliated with downstate medical center that
14 constitutes a New York state incubator as the term is used in subdivi-
15 sion four of section four hundred thirty-three of this article, and (C)
16 any property of the college of optometry or maritime college located in
17 Nassau county, Suffolk county, Westchester county or New York city.

18 (ii) a community college, except that for a community college whose
19 main campus is in New York city, paragraphs (a) and (b) of this subdivi-
20 sion shall not apply to property of such community college in Nassau
21 county, Suffolk county, Westchester county or New York city.

22 (iii) a total of five city university campuses, one each in the
23 boroughs of Manhattan, Brooklyn, Bronx, Queens and Staten Island, which
24 will be designated by the board of trustees of the city university of
25 New York. The campus designated in each borough must be located in an
26 economically distressed community. The commissioner shall establish a
27 list of economically distressed communities for the purpose of this
28 designation, based on criteria indicative of economic distress, includ-

1 ing poverty rates, numbers of persons receiving public assistance, unem-
2 ployment rates, and such other indicators as the commissioner deems
3 appropriate to be in need of economic assistance. In addition, para-
4 graphs (a) and (b) of this subdivision shall apply to property of the
5 city university located outside of Nassau county, Suffolk county, West-
6 chester county and New York city.

7 (d) The eligible land of a state university campus, community college,
8 or city university campus will also include eligible land designated
9 under paragraph (c) of subdivision two of this section.

10 2. Private colleges and universities and certain other campuses. (a)
11 Subject to the limitations in paragraph (c) of this subdivision, the
12 following will constitute the eligible land of a private college or
13 university:

14 (i) any vacant space in any building located on a campus of a private
15 university or college other than a campus which is located in Nassau
16 county, Suffolk county, Westchester county or New York city;

17 (ii) any vacant land on a campus of a private university or college
18 other than a campus which is located in Nassau county, Suffolk county,
19 Westchester county or New York city;

20 (iii) any vacant land or vacant space in a building which is not
21 located in Nassau county, Suffolk county, Westchester county or New York
22 city; and

23 (iv) a New York state incubator as the term is used in subdivision
24 four of section four hundred thirty-three of this article with a bona
25 fide affiliation to the private university or college, with approval of
26 the commissioner. In order for there to be a bona fide affiliation of a
27 New York state incubator with a private university or college, the incu-
28 bator and the private university or college must have a partnership to

1 provide assistance and physical space to eligible businesses as the term
2 is used in section sixteen-v of the urban development corporation act;
3 the incubator and the private university or college must directly work
4 towards the goals of jointly creating jobs and incubating new startup
5 businesses; and the mission and activities of the incubator must align
6 with or further the academic mission of the private university or
7 college.

8 (b) Subject to the limitations in paragraph (c) of this subdivision,
9 three million square feet is the maximum aggregate amount of tax-free NY
10 areas of private universities and colleges that may be utilized for this
11 program, which shall be designated in a manner that ensures regional
12 balance and balance among eligible rural, urban and suburban areas in
13 the state. The commissioner shall maintain an accounting of the vacant
14 land and space of private universities and colleges that have been
15 approved as tax-free NY areas and shall stop accepting applications for
16 approval of tax-free NY areas when that maximum amount has been reached.

17 (c) Of the maximum aggregate amount in paragraph (b) of this subdivi-
18 sion, an initial amount of seventy-five thousand square feet shall be
19 designated as tax-free NY areas in each of the following: Nassau county,
20 Suffolk county, Westchester county and the boroughs of Brooklyn, Bronx,
21 Manhattan, Queens and Staten Island. The board may approve the desig-
22 nation of up to an additional seventy-five thousand square feet for any
23 county or borough that reaches the initial seventy-five thousand square
24 foot limit, provided that such additional seventy-five thousand square
25 feet shall not count against the square footage limitations in paragraph
26 (b) of this subdivision. Vacant land and vacant space in a building on
27 the campus of the following shall be eligible for designation under this
28 paragraph:

1 (i) a private university or college which campus is located in Nassau
2 county, Suffolk county, Westchester county or New York city.

3 (ii) a state university campus that meets the criteria of clause (B)
4 or (C) of subparagraph (i) of paragraph (c) of subdivision one of this
5 section.

6 (iii) a community college whose main campus is in New York city.

7 (iv) a city university campus that is not designated under subpara-
8 graph (iii) of paragraph (c) of subdivision one of this section.

9 (d) In addition, the board may approve: (i) one application that
10 includes eligible land owned or leased by a city university campus that
11 is directly adjacent to such campus; (ii) one application that includes
12 eligible land owned or leased by a state university campus, community
13 college, or private university or college in Nassau county or Suffolk
14 county that is directly adjacent to such campus, university or college;
15 and (iii) one application that includes eligible land owned or leased by
16 a state university campus, community college, or private university or
17 college in Westchester county that is directly adjacent to such campus,
18 university or college. The board may approve an additional application,
19 for a state university campus, community college, or private university
20 or college in the county not previously approved under subparagraph (ii)
21 of this paragraph, in which case it shall also approve a second applica-
22 tion under subparagraph (i) of this paragraph.

23 3. Prohibition. A state university campus, community college or city
24 university campus is prohibited from relocating or eliminating any
25 academic programs, any administrative programs, offices, housing facili-
26 ties, dining facilities, athletic facilities, or any other facility,
27 space or program that actively serves students, faculty or staff in
28 order to create vacant land or space to be utilized for the program

1 authorized by this article. In addition, nothing in this article shall
2 be deemed to waive or impair any rights or benefits of employees of the
3 state university of New York, a community college or the city university
4 of New York that otherwise would be available to them pursuant to the
5 terms of agreements between the certified representatives of such
6 employees and their employers pursuant to article fourteen of the civil
7 service law. No services or work currently performed by public employees
8 of the state university of New York, a community college, or the city
9 university of New York or future work that is similar in scope and
10 nature to the work being currently performed by public employees shall
11 be contracted out or privatized by the state university of New York, a
12 community college or the city university of New York or by an affiliated
13 entity or associated entity of the state university of New York, a
14 community college or the city university of New York. For the purpose of
15 this section, an affiliated entity or associated entity shall not
16 include a business that is participating in the START-UP NY program.

17 § 433. Eligibility criteria for businesses. 1. In order to participate
18 in the START-UP NY program, a business must satisfy all of the following
19 criteria.

20 (a) The mission and activities of the business must align with or
21 further the academic mission of the campus, college or university spon-
22 soring the tax-free NY area in which it seeks to locate, and the busi-
23 ness's participation in the START-UP NY program must have positive
24 community and economic benefits.

25 (b) The business must demonstrate that it will, in its first year of
26 operation, create net new jobs. After its first year of operation, the
27 business must maintain net new jobs. In addition, the average number of
28 employees of the business and its related persons in the state during

1 the year must equal or exceed the sum of: (i) the average number of
2 employees of the business and its related persons in the state during
3 the year immediately preceding the year in which the business submits
4 its application to locate in a tax-free NY area; and (ii) net new jobs
5 of the business in the tax-free NY area during the year. The average
6 number of employees of the business and its related persons in the state
7 shall be determined by adding together the total number of employees of
8 the business and its related persons in the state on March thirty-first,
9 June thirtieth, September thirtieth and December thirty-first and divid-
10 ing the total by the number of such dates occurring within such year.

11 (c) Except as provided in paragraphs (g) and (h) of this subdivision,
12 at the time it submits its application for the START-UP NY program, the
13 business must be a new business to the state.

14 (d) The business may be organized as a corporation, a partnership,
15 limited liability company or a sole proprietorship.

16 (e) Upon completion of its first year in the START-UP NY program and
17 thereafter, the business must complete and timely file the annual report
18 required under section four hundred thirty-eight of this article.

19 (f) Except as provided in paragraphs (g) and (h) of this subdivision,
20 the business must not be engaged in a line of business that is currently
21 or was previously conducted by the business or a related person in the
22 last five years in New York state.

23 (g) If a business does not satisfy the eligibility standard set forth
24 in paragraph (c) or (f) of this subdivision, because at one point in
25 time it operated in New York state but moved its operations out of New
26 York state on or before June first, two thousand thirteen, the commis-
27 sioner shall grant that business permission to apply to participate in
28 the START-UP NY program if the commissioner determines that the business

1 has demonstrated that it will substantially restore the jobs in New York
2 state that it previously had moved out of state.

3 (h) If a business seeks to expand its current operations in New York
4 state into a tax-free NY area but the business does not qualify as a new
5 business because it does not satisfy the criteria in paragraph (c) of
6 subdivision six of section four hundred thirty-one of this article or
7 the business does not satisfy the eligibility standard set forth in
8 paragraph (f) of this subdivision, the commissioner shall grant the
9 business permission to apply to participate in the START-UP NY program
10 if the commissioner determines that the business has demonstrated that
11 it will create net new jobs in the tax-free NY area and that it or any
12 related person has not eliminated any jobs in the state in connection
13 with this expansion.

14 2. The following types of businesses are prohibited from participating
15 in the START-UP NY program.

16 (a) retail and wholesale businesses;

17 (b) restaurants;

18 (c) real estate brokers;

19 (d) law firms;

20 (e) medical or dental practices;

21 (f) real estate management companies;

22 (g) hospitality;

23 (h) finance and financial services;

24 (i) businesses providing personal services;

25 (j) businesses providing business administrative or support services,

26 unless such business has received permission from the commissioner to

27 apply to participate in the START-UP NY program upon demonstration that

1 the business would create no fewer than one hundred net new jobs in the
2 tax-free NY area;

3 (k) accounting firms;

4 (l) businesses providing utilities; and

5 (m) businesses engaged in the generation or distribution of electric-
6 ity, the distribution of natural gas, or the production of steam associ-
7 ated with the generation of electricity.

8 2-a. Additional eligibility requirements in Nassau county, Suffolk
9 county, Westchester county and New York city. In order to be eligible to
10 participate in the START-UP NY program in Nassau county, Suffolk county,
11 Westchester county or New York city, a business must be:

12 (a) in the formative stage of development; or

13 (b) engaged in the design, development, and introduction of new
14 biotechnology, information technology, remanufacturing, advanced materi-
15 als, processing, engineering or electronic technology products and/or
16 innovative manufacturing processes, and meet such other requirements for
17 a high-tech business as the commissioner shall develop.

18 3. A business must be in compliance with all worker protection and
19 environmental laws and regulations. In addition, a business may not owe
20 past due federal or state taxes or local property taxes.

21 4. Any business that has successfully completed residency in a New
22 York state incubator pursuant to section sixteen-v of section one of
23 chapter one hundred seventy-four of the laws of nineteen hundred sixty-
24 eight constituting the urban development corporation act, subject to
25 approval of the commissioner, may apply to participate in the START-UP
26 NY program provided that such business locates in a tax-free NY area,
27 notwithstanding the fact that the business may not constitute a new
28 business.

1 § 434. Tax benefits. 1. A business that is accepted into the START-UP
2 NY program and locates in a tax-free NY area or the owner of a business
3 that is accepted into the START-UP NY program and locates in a tax-free
4 NY area is eligible for the tax benefits specified in section thirty-
5 nine of the tax law. Subject to the limitations of subdivision two of
6 this section, employees of such business satisfying the eligibility
7 requirements specified in section thirty-nine of the tax law shall be
8 eligible for the personal income tax benefits described in such section
9 in a manner to be determined by the department of taxation and finance.

10 2. The aggregate number of net new jobs approved for personal income
11 tax benefits under this article shall not exceed ten thousand jobs per
12 year during the period in which applications are accepted pursuant to
13 section four hundred thirty-six of this article. The commissioner shall
14 allocate to each business accepted to locate in a tax-free NY area a
15 maximum number of net new jobs that shall be eligible for the personal
16 income tax benefits described in subdivision (e) of section thirty-nine
17 of the tax law based on the schedule of job creation included in the
18 application of such business. At such time as the total number of net
19 new jobs under such approved applications reaches the applicable allow-
20 able total of aggregate net new jobs for tax benefits for the year in
21 which the application is accepted, the commissioner shall stop granting
22 eligibility for personal income tax benefits for net new jobs until the
23 next year. Any business not granted such personal income tax benefits
24 for net new jobs for such reason shall be granted such benefits in the
25 next year prior to the consideration of new applicants. In addition, if
26 the total number of net new jobs approved for tax benefits in any given
27 year is less than the maximum allowed under this subdivision, the
28 difference shall be carried over to the next year. A business may amend

1 its schedule of job creation in the same manner that it applied for
2 participation in the START-UP NY program, and any increase in eligibil-
3 ity for personal income tax benefits on behalf of additional net new
4 jobs shall be subject to the limitations of this subdivision. If the
5 business accepted to locate in a tax-free NY area creates more net new
6 jobs than for which it is allocated personal income tax benefits, the
7 personal income tax benefits it is allocated shall be provided to those
8 individuals employed in those net new jobs based on the employees' dates
9 of hiring.

10 § 435. Approval of tax-free NY areas. 1. The president or chief execu-
11 tive officer of any state university campus, community college or city
12 university campus seeking to sponsor a tax-free NY area and have some of
13 its eligible land specified under subdivision one of section four
14 hundred thirty-two of this article be designated as a tax-free NY area
15 must submit a plan to the commissioner that specifies the land or space
16 the campus or college wants to include, describes the type of business
17 or businesses that may locate on that land or in that space, explains
18 how those types of businesses align with or further the academic mission
19 of the campus or college and how participation by those types of busi-
20 nesses in the START-UP NY program would have positive community and
21 economic benefits, and describes the process the campus or college will
22 follow to select participating businesses. At least thirty days prior to
23 submitting such plan, the campus or college must provide the municipi-
24 pality or municipalities in which the proposed tax-free NY area is
25 located, local economic development entities, the applicable campus or
26 college faculty senate, union representatives and the campus student
27 government with a copy of the plan. In addition, if the plan of the
28 campus or college includes land or space located outside of the campus

1 boundaries, the campus or college must consult with the municipality or
2 municipalities in which such land or space is located prior to including
3 such space or land in its proposed tax-free NY area and shall give pref-
4 erence to underutilized properties. Before approving or rejecting the
5 plan submitted by a state university campus, community college or city
6 university campus, the commissioner shall consult with the chancellor of
7 the applicable university system or his or her designee.

8 2. The president or chief executive officer of any private college or
9 university or of any state university campus, community college or city
10 university campus seeking to sponsor a tax-free NY area and have some of
11 its eligible land specified under subdivision two of section four
12 hundred thirty-two of this article be designated as a tax-free NY area
13 must submit a plan to the commissioner that specifies the land or space
14 the college or university wants to include, describes the type of busi-
15 ness or businesses that may locate on that land or in that space,
16 explains how those types of businesses align with or further the academ-
17 ic mission of the college or university and how participation by those
18 types of businesses in the START-UP NY program would have positive
19 community and economic benefits, and describes the process the campus or
20 college will follow to select participating businesses. In addition, if
21 the plan of the campus or college includes land or space located outside
22 of the campus boundaries, the campus or college must consult with the
23 municipality or municipalities in which such land or space is located
24 prior to including such space or land in its proposed tax-free NY area
25 and shall notify local economic development entities. The commissioner
26 shall forward the plan submitted under this subdivision to the START-UP
27 NY approval board. In evaluating such plans, the board shall examine the
28 merits of each proposal, including but not limited to, compliance with

1 the provisions of this article, reasonableness of the economic and
2 fiscal assumptions contained in the application and in any supporting
3 documentation and potential of the proposed project to create new jobs,
4 and, except for proposals for designation of eligible land under para-
5 graph (c) of subdivision two of section four hundred thirty-two of this
6 article, shall prioritize for acceptance and inclusion into the START-UP
7 NY program plans for tax-free NY areas in counties that contain a city
8 with a population of one hundred thousand or more without a university
9 center as defined in subdivision seven of section three hundred fifty of
10 the education law on the effective date of this article. No preference
11 shall be given based on the time of submission of the plan, provided
12 that any submission deadlines established by the board are met. In
13 addition, the board shall give preference to private colleges or univer-
14 sities that include underutilized properties within their proposed tax-
15 free NY areas. The board by a majority vote shall approve or reject each
16 plan forwarded to it by the commissioner.

17 3. A campus, university or college may amend its approved plan,
18 provided that the campus, university or college may not violate the
19 terms of any lease with a business located in the approved tax-free NY
20 area. In addition, if a business located in a tax-free NY area does not
21 have a lease with a campus, university or college, and such business is
22 terminated from the START-UP NY program pursuant to paragraph (b) of
23 subdivision four of section four hundred thirty-six of this article, and
24 subsequently does not relocate outside of the tax-free NY area, a
25 campus, university or college may amend its approved plan to allocate a
26 amount of vacant land or space equal to the amount of space occupied by
27 the business that is terminated. The amendment must be approved pursu-

1 ant to the procedures and requirements set forth in subdivision one or
2 two of this section, whichever is applicable.

3 4. The START-UP NY approval board, by majority vote, shall designate
4 up to twenty strategic state assets as tax-free NY areas. Each shall be
5 affiliated with a state university campus, city university campus,
6 community college, or private college or university and such designation
7 shall require the support of the affiliated campus, college or universi-
8 ty. Each strategic state asset may not exceed a maximum of two hundred
9 thousand square feet of vacant land or vacant building space designated
10 as a tax-free NY area. Designation of strategic state assets as tax-
11 free NY areas shall not count against any square footage limitations in
12 section four hundred thirty-two of this article.

13 5. The commissioner shall promulgate regulations to effectuate the
14 purposes of this section, including, but not limited to, establishing
15 the process for the plan submissions and approvals of tax-free NY areas
16 and the eligibility criteria that will be applied in evaluating those
17 plans.

18 § 436. Businesses locating in tax-free NY areas. 1. A campus, univer-
19 sity or college that has sponsored a tax-free NY area (including any
20 strategic state asset affiliated with the campus, university or college)
21 shall solicit and accept applications from businesses to locate in such
22 area that are consistent with the plan of such campus, university or
23 college or strategic state asset that has been approved pursuant to
24 section four hundred thirty-five of this article. Any business that
25 wants to locate in a tax-free NY area must submit an application to the
26 campus, university or college which is sponsoring the tax-free NY area
27 by December thirty-first, two thousand twenty. Prior to such date, the
28 commissioner shall prepare an evaluation on the effectiveness of the

1 START-UP NY program and deliver it to the governor and the legislature
2 to determine continued eligibility for application submissions.

3 2. (a) The sponsoring campus, university or college shall provide the
4 application and all supporting documentation of any business it decides
5 to accept into its tax-free NY area to the commissioner for review. Such
6 application shall be in a form prescribed by the commissioner and shall
7 contain all information the commissioner determines is necessary to
8 properly evaluate the business's application, including, but not limited
9 to, the name, address, and employer identification number of the busi-
10 ness; a description of the land or space the business will use, the
11 terms of the lease agreement, if applicable, between the sponsoring
12 campus, university or college and the business, and whether or not the
13 land or space being used by the business is being transferred or sublet
14 to the business from some other business. The application must include a
15 certification by the business that it meets the eligibility criteria
16 specified in section four hundred thirty-three of this article and will
17 align with or further the academic mission of the sponsoring campus,
18 college or university, and that the business's participation in the
19 START-UP NY program will have positive community and economic benefits.
20 The application must also describe whether or not the business competes
21 with other businesses in the same community but outside the tax-free NY
22 area. In addition, the application must include a description of how the
23 business plans to recruit employees from the local workforce.

24 (b) The commissioner shall review such application and documentation
25 within sixty days and may reject such application upon a determination
26 that the business does not meet the eligibility criteria in section four
27 hundred thirty-three of this article, has submitted an incomplete appli-
28 cation, has failed to comply with subdivision three of this section, or

1 has failed to demonstrate that the business's participation in the
2 START-UP NY program will have positive community and economic benefits,
3 which shall be evaluated based on factors including but not limited to
4 whether or not the business competes with other businesses in the same
5 community but outside the tax-free NY area as prohibited by section four
6 hundred forty of this article. If the commissioner rejects such appli-
7 cation, it shall provide notice of such rejection to the sponsoring
8 campus, university or college and business. If the commissioner does not
9 reject such application within sixty days, such business is accepted to
10 locate in such tax-free NY area, and the application of such business
11 shall constitute a contract between such business and the sponsoring
12 campus, university or college. The sponsoring campus, university or
13 college must provide accepted businesses with documentation of their
14 acceptances in such form as prescribed by the commissioner of taxation
15 and finance which will be used to demonstrate such business's eligibil-
16 ity for the tax benefits specified in section thirty-nine of the tax
17 law.

18 (c) If a state university campus proposes to enter into a lease with a
19 business for eligible land in a tax-free NY area with a term greater
20 than forty years, including any options to renew, or for eligible land
21 in a tax-free NY area of one million or more square feet, the state
22 university campus, at the same time as the application is provided to
23 the commissioner, also must submit the lease for review to the START-UP
24 NY approval board. If the board does not disapprove of the lease terms
25 within thirty days, the lease is deemed approved. If the board disap-
26 proves the lease terms, the state university campus must submit modified
27 lease terms to the commissioner for review. The commissioner's sixty day
28 review period is suspended while the board is reviewing the lease and

1 during the time it takes for the state university campus to modify the
2 lease terms.

3 (d) Except as otherwise provided in this article, proprietary informa-
4 tion or supporting documentation submitted by a business to a sponsoring
5 campus, university or college shall only be utilized for the purpose of
6 evaluating such business's application or compliance with the provisions
7 of this article and shall not be otherwise disclosed. Any person who
8 willfully discloses such information to a third party for any other
9 purpose whatsoever shall be guilty of a misdemeanor.

10 3. The business submitting the application, as part of the applica-
11 tion, must:

12 (a) agree to allow the department of taxation and finance to share its
13 tax information with the department and the sponsoring campus, universi-
14 ty or college;

15 (b) agree to allow the department of labor to share its tax and
16 employer information with the department and the sponsoring campus,
17 university or college;

18 (c) allow the department and its agents and the sponsoring campus,
19 university or college access to any and all books and records the
20 department or sponsoring campus, university or college may require to
21 monitor compliance;

22 (d) include performance benchmarks, including the number of net new
23 jobs that must be created, the schedule for creating those jobs, and
24 details on job titles and expected salaries. The application must spec-
25 ify the consequences for failure to meet such benchmarks, as determined
26 by the business and the sponsoring campus, university or college: (i)
27 suspension of such business's participation in the START-UP NY program
28 for one or more tax years as specified in such application; (ii) termi-

1 nation of such business's participation in the START-UP NY program;
2 and/or (iii) proportional recovery of tax benefits awarded under the
3 START-UP NY program as specified in section thirty-nine of the tax law;

4 (e) provide the following information to the department and sponsoring
5 campus, university or college upon request:

6 (i) the prior three years of federal and state income or franchise tax
7 returns, unemployment insurance quarterly returns, real property tax
8 bills and audited financial statements;

9 (ii) the employer identification or social security numbers for all
10 related persons to the business, including those of any members of a
11 limited liability company or partners in a partnership;

12 (f) provide a clear and detailed presentation of all related persons
13 to the business to assure the department that jobs are not being shifted
14 within the state; and

15 (g) certify, under penalty of perjury, that it is in substantial
16 compliance with all environmental, worker protection, and local, state,
17 and federal tax laws, and that it satisfies all the eligibility require-
18 ments to participate in the START-UP NY program.

19 4. (a) At the conclusion of the lease term of a lease by the sponsor-
20 ing campus, university or college to a business of land or space in a
21 tax-free NY area owned by the sponsoring campus, university or college,
22 the leased land or space and any improvements thereon shall revert to
23 the sponsoring campus, university or college, unless the lease is
24 renewed.

25 (b) If, at any time, the sponsoring campus, university or college or
26 the commissioner determines that a business no longer satisfies any of
27 the eligibility criteria specified in section four hundred thirty-three
28 of this article, the sponsoring campus, university or college shall

1 recommend to the commissioner that the commissioner terminate or the
2 commissioner on his or her own initiative shall immediately terminate
3 such business's participation in the START-UP NY program. Such business
4 shall be notified of such termination by a method which allows for
5 verification of receipt of such termination notice. A copy of such
6 termination notice shall be sent to the commissioner of taxation and
7 finance. Upon such termination, such business shall not be eligible for
8 the tax benefits specified in section thirty-nine of the tax law for
9 that or any future taxable year, calendar quarter or sales tax quarter,
10 although employees of such business may continue to claim the tax bene-
11 fit for their wages during the remainder of that taxable year. Further,
12 such lease or contract between the sponsoring campus, university or
13 college and such business shall be rescinded, effective on the thirtieth
14 day after the commissioner mailed such termination notice to such busi-
15 ness and the land or space and any improvements thereon shall revert to
16 the sponsoring campus, university or college.

17 5. The commissioner shall promulgate regulations to effectuate the
18 purposes of this section, including, but not limited to, establishing
19 the process for the evaluation and possible rejection of applications,
20 the eligibility criteria that will be applied in evaluating those appli-
21 cations, and the process for terminations from the START-UP NY program
22 and administrative appeals of such terminations.

23 § 437. MWBE and prevailing wage requirements. 1. For prevailing wage
24 and minority and women-owned business enterprises requirements applica-
25 ble to tax-free NY areas on state university campuses, city university
26 campuses and community colleges, see section three hundred sixty-one of
27 the education law.

1 2. Any contract to which a business on a strategic state asset in a
2 tax-free NY area is a party, and any contract entered into by a third
3 party acting in place of, on behalf of and for the benefit of the busi-
4 ness pursuant to any lease, permit or other agreement between such third
5 party and the business, for the construction, reconstruction, demoli-
6 tion, excavation, rehabilitation, repair, renovation, alteration, or
7 improvement, of a project, shall be subject to all of the provisions of
8 article eight of the labor law, including the enforcement of prevailing
9 wage requirements by the fiscal officer as defined in paragraph e of
10 subdivision five of section two hundred twenty of the labor law to the
11 same extent as a contract of the state, and shall be deemed a public
12 work for purposes of such article.

13 3. Any individual, public corporation or authority, private corpo-
14 ration, limited liability company or partnership or other entity enter-
15 ing into a contract, subcontract, lease, grant, bond, covenant or other
16 agreement for a project undertaken on a strategic state asset in a tax-
17 free NY area shall be deemed a state agency as that term is defined in
18 article fifteen-A of the executive law and such contracts shall be
19 deemed state contracts within the meaning of that term as set forth in
20 such article.

21 4. A business on a strategic state asset in a tax-free NY area may
22 require a contractor awarded a contract, subcontract, lease, grant,
23 bond, covenant or other agreement for a project to enter into a project
24 labor agreement pursuant to section two hundred twenty-two of the labor
25 law during and for the work involved with such project when such
26 requirement is part of the business's request for proposals for the
27 project and when the business determines that the record supporting the
28 decision to enter into such an agreement establishes that the interests

1 underlying the competitive bidding laws are best met by requiring a
2 project labor agreement including: obtaining the best work at the lowest
3 possible price; preventing favoritism, fraud and corruption; the impact
4 of delay; the possibility of cost savings; and any local history of
5 labor unrest.

6 5. For the purposes of this section "project" shall mean capital
7 improvement work on a strategic state asset to be subject to any lease,
8 transfer or conveyance, other than conveyance of title. Such capital
9 improvement work shall include the design, construction, reconstruction,
10 demolition, excavation, rehabilitation, repair, renovation, alteration
11 or improvement of a strategic state asset.

12 § 438. Disclosure authorization and reporting requirements. 1. The
13 commissioner and the department shall disclose publicly the names and
14 addresses of the businesses located within a tax-free NY area. In addi-
15 tion, the commissioner and the department shall disclose publicly and
16 include in the annual report required under subdivision two of this
17 section such other information contained in such businesses' applica-
18 tions and annual reports, including the projected number of net new jobs
19 to be created, as they determine is relevant and necessary to evaluate
20 the success of this program.

21 2. (a) The commissioner shall prepare an annual report to the governor
22 and the legislature. Such report shall include the number of business
23 applicants, number of businesses approved, the names and addresses of
24 the businesses located within a tax-free NY area, total amount of bene-
25 fits distributed, benefits received per business, number of net new jobs
26 created, net new jobs created per business, new investment per business,
27 the types of industries represented and such other information as the

1 commissioner determines is necessary to evaluate the progress of the
2 START-UP NY program.

3 (b) Any business located in a tax-free NY area must submit an annual
4 report to the commissioner in a form and at such time and with such
5 information as prescribed by the commissioner in consultation with the
6 commissioner of taxation and finance. Such information shall be suffi-
7 cient for the commissioner and the commissioner of taxation and finance
8 to: (i) monitor the continued eligibility of the business and its
9 employees to participate in the START-UP NY program and receive the tax
10 benefits described in section thirty-nine of the tax law; (ii) evaluate
11 the progress of the START-UP NY program; and (iii) prepare the annual
12 report required by paragraph (a) of this subdivision. Such annual report
13 shall also include information regarding the wages paid during the year
14 to its employees employed in the net new jobs created and maintained in
15 the tax-free NY area.

16 § 439. Conflict of interest guidelines. 1. Each campus, university or
17 college participating in the START-UP NY program shall adopt a conflict
18 of interest policy. Such conflict of interest policy shall provide, as
19 it relates to the START-UP NY program: (a) as a general principle, that
20 service as an official of the campus, university or college shall not be
21 used as a means for private benefit or inurement for the official, a
22 relative thereof, or any entity in which the official, or relative ther-
23 eof, has a business interest; (b) no official who is a vendor or employ-
24 ee of a vendor of goods or services to the campus, university or
25 college, or who has a business interest in such vendor, or whose rela-
26 tive has a business interest in such vendor, shall vote on, or partic-
27 ipate in the administration by the campus, university or college, as the
28 case may be, of any transaction with such vendor; and (c) upon becoming

1 aware of an actual or potential conflict of interest, an official shall
2 advise the president or chief executive officer of the campus, universi-
3 ty or college, as the case may be, of his or her or a relative's busi-
4 ness interest in any such existing or proposed vendor with the campus,
5 university or college. Each campus, university or college shall maintain
6 a written record of all disclosures of actual or potential conflicts of
7 interest made pursuant to paragraph (c) of this subdivision, and shall
8 report such disclosures, on a calendar year basis, by January thirty-
9 first of each year, to the auditor for such campus, university or
10 college. The auditor shall forward such reports to the commissioner, who
11 shall make public such reports.

12 2. For purposes of such conflict of interest policies: (a) an official
13 of a campus, university or college has a "business interest" in an enti-
14 ty if the individual: (i) owns or controls ten percent or more of the
15 stock of the entity (or one percent in the case of an entity the stock
16 of which is regularly traded on an established securities exchange); or
17 (ii) serves as an officer, director or partner of the entity; (b) a
18 "relative" of an official of a campus, university or college shall mean
19 any person living in the same household as the individual and any person
20 who is a direct descendant of that individual's grandparents or the
21 spouse of such descendant; and (c) an "official" of a campus, university
22 or college shall mean an employee at the level of dean and above as well
23 as any other employee with decision-making authority over the START-UP
24 NY program.

25 § 440. Prohibition of anti-competitive behavior. A sponsoring campus,
26 university or college shall not accept any application to locate in a
27 tax-free NY area under subdivision one of section four hundred thirty-
28 six of this article from a business that would compete with other busi-

1 nesses in the same community but outside the tax-free NY area, and the
2 commissioner shall reject any application under subdivision two of
3 section four hundred thirty-six of this article upon determining that
4 the business would compete with other businesses in the same community
5 but outside the tax-free NY area. The commissioner shall issue and
6 promulgate such rules and regulations as are necessary to implement this
7 section.

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

10 § 39. Tax benefits for businesses located in tax-free NY areas and
11 employees of such businesses. (a) (1) Any business or owner of a busi-
12 ness in the case of a business taxed as a sole proprietorship, partner-
13 ship or New York S corporation, that is located in a tax-free NY area
14 approved pursuant to article twenty-one of the economic development law
15 is eligible for the tax benefits described in this section. Unless
16 otherwise specified, such business or owner of such business shall be
17 eligible for these tax benefits for a period of ten consecutive taxable
18 years, commencing with the taxable year during which it locates in the
19 tax-free NY area.

20 (2) In order to be eligible for these tax benefits during any taxable
21 year, calendar quarter or sales tax quarter, such business must be
22 approved to participate in the START-UP NY program, must operate at the
23 approved location in the tax-free NY area, and must satisfy the eligi-
24 bility criteria specified in paragraph (b) of subdivision one of section
25 four hundred thirty-three of the economic development law.

26 (b) Tax-free NY area elimination credit. Such business or the owner of
27 such business shall be eligible for the tax-free NY area tax elimination
28 credit described in section forty of this article.

1 (c) Organization tax and license and maintenance fees. Such business,
2 if located exclusively in a tax-free NY area, shall be exempt from the
3 organization tax imposed under section one hundred eighty of this chap-
4 ter or the license and maintenance fees imposed under section one
5 hundred eighty-one of this chapter, whichever is applicable.

6 (d) Metropolitan commuter transportation district mobility tax. If the
7 tax-free NY area at which such business is located is within the metro-
8 politan commuter transportation district (MCTD), and such business is an
9 employer engaged in business within the MCTD, the payroll expense of
10 such business at such location within the tax-free NY area shall be
11 exempt from the metropolitan commuter transportation district mobility
12 tax imposed under article twenty-three of this chapter for forty consec-
13 utive calendar quarters, commencing with the calendar quarter during
14 which the employer locates in the tax-free NY area within the MCTD. If
15 the tax-free NY area at which such business is located is within the
16 MCTD and the owner of such business is an individual who has net earn-
17 ings from self-employment at such location, such net earnings shall be
18 exempt from the metropolitan commuter transportation district mobility
19 tax imposed under article twenty-three of this chapter for ten consec-
20 utive taxable years commencing with the taxable year during which the
21 business locates in the tax-free NY area.

22 (e) To the extent specified, the wages of an individual who is an
23 employee of such business located within a tax-free NY area received
24 from such business for employment in such tax-free NY area shall be
25 eligible for the benefits as provided in article twenty-two of this
26 chapter, the New York city personal income tax as provided in article
27 thirty of this chapter, the Yonkers city income tax as provided in arti-
28 cle thirty-A of this chapter, and the Yonkers earnings tax on non-resi-

1 dents during the ten taxable year period for such business specified in
2 subdivision (a) of this section, provided the requirements of this
3 subdivision are satisfied.

4 (i) The individual when employed by such business must be engaged in
5 work performed exclusively at the location within the tax-free NY area
6 during the taxable year.

7 (ii) The individual when employed by such business must be engaged in
8 work at the location of such business within the tax-free NY area for at
9 least one-half of the taxable year.

10 (iii) Such business must be in compliance with the requirements set
11 forth in subdivision (a) of this section.

12 (iv) The individual must be employed by such business in a net new job
13 created by such business in the tax-free NY area.

14 (f) Sales and use tax. Such business shall be eligible for a credit or
15 refund for sales and use taxes imposed on the retail sale of tangible
16 personal property or services under subdivisions (a), (b), and (c) of
17 section eleven hundred five and section eleven hundred ten of this chap-
18 ter and similar taxes imposed pursuant to the authority of article twen-
19 ty-nine of this chapter. The credit or refund shall be allowed for one
20 hundred twenty consecutive months beginning with the month during which
21 such business locates in the tax-free NY area.

22 (g) Real estate transfer taxes. Any lease of property to such business
23 shall be exempt from any state or local real estate transfer tax or real
24 property transfer tax.

25 (h) (A) Notwithstanding any provision of this chapter to the contrary,
26 the commissioner, to the extent practicable, may disclose publicly the
27 names and addresses of the businesses receiving any of the tax benefits
28 specified in this section. In addition, the commissioner may disclose

1 publicly the amounts of such benefits allowed to each such business, and
2 whether or not a business created or maintained net new jobs during the
3 taxable year. With regard to the income tax exemption specified in
4 subdivision (e) of this section, the commissioner may publicly disclose
5 the aggregate amounts of such tax exemption allowed to employees. In
6 addition, the commissioner may publicly disclose the number of net new
7 jobs such business reports on its tax return or report or any other
8 information necessary for the commissioner of economic development or
9 the campus, college or university sponsoring the tax-free NY area
10 approved pursuant to article twenty-one of the economic development law
11 to monitor and enforce compliance with the law, rules and regulations
12 governing the START-UP NY program.

13 (B) Notwithstanding any provision of this chapter to the contrary, the
14 commissioner, in determining whether a business or any of its owners is
15 entitled to the tax benefits described in this section, may utilize and
16 if necessary, disclose to the commissioner of economic development,
17 information derived from the tax returns of such business or related
18 persons of such business and wage reporting information relating to any
19 employees of such business or its related persons.

20 (i) Such business shall not be allowed to claim any other tax credit
21 allowed under this chapter with respect to its activities or employees
22 in such tax-free NY area.

23 (j) If the application of a business for participation in the START-UP
24 NY program specifies that failure to meet the performance benchmarks
25 specified in such application shall result in proportional recovery of
26 tax benefits awarded under the START-UP NY program, the business shall
27 be required to reduce the total amount of tax benefits described in this
28 section that the business or its owners claimed or received during the

1 taxable year by the percentage reduction in net new jobs promised by the
2 performance benchmarks, and if the tax benefits are reduced to an amount
3 less than zero, those negative amounts shall be added back as tax. The
4 amount required to be added back shall be reported on such business's
5 corporate franchise tax report if such business is taxed as a corpo-
6 ration or on the corporate franchise tax reports or personal income tax
7 returns of the owners of such business if such business is taxed as a
8 sole proprietorship, partnership or New York S corporation.

9 (k) Cross-references. For application of the tax benefits provided for
10 in this section, see the following provisions of this chapter:

11 (1) Section 40.

12 (2) Article 9: section 180, subdivision 3.

13 (3) Article 9: section 181, subdivision 3.

14 (4) Article 9-A: section 210, subdivision 47.

15 (5) Article 22: section 606, subsection (i), paragraph (1), subpara-
16 graph (B), clause (xxxvi).

17 (6) Article 22: section 606, subsection (ww).

18 (7) Article 22: section 612, subsection (c), paragraph (40).

19 (8) Article 23: section 803.

20 (9) Article 28: section 1119, subdivision (d).

21 (10) Article 31: section 1405, subdivision (b), paragraph 11.

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

24 § 39-a. Penalties for fraud in the START-UP NY program. If the commis-
25 sioner of economic development on his or her own initiative or on the
26 recommendation of a sponsoring campus, university or college finally
27 determines that any such business participating in the START-UP NY
28 program authorized under article twenty-one of the economic development

1 law has acted fraudulently in connection with its participation in such
2 program, such business:

3 (a) shall be immediately terminated from such program:

4 (b) shall be subject to applicable criminal penalties, including but
5 not limited to the felony crime of offering a false instrument for
6 filing in the first degree pursuant to section 175.35 of the penal law;
7 and

8 (c) shall be required in that year to add back to tax the total value
9 of the tax benefits described in section thirty-nine of this article
10 that such business has received and that the employees of such business
11 have received up to the date of such finding. The amount required to be
12 added back shall be reported on such business's corporate franchise
13 report if such business is taxed as a corporation or on the corporate
14 franchise tax reports or personal income tax returns of the owners of
15 such business if such business is taxed as a sole proprietorship, part-
16 nership or New York S corporation.

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

19 § 40. The tax-free NY area tax elimination credit. (a) Allowance of
20 credit. A taxpayer that is a business or owner of a business in the case
21 of a business taxed as a sole proprietorship, partnership or New York S
22 corporation, that is located in a tax-free NY area approved pursuant to
23 article twenty-one of the economic development law and is subject to tax
24 under article nine-A, or twenty-two of this chapter, shall be allowed a
25 credit against such tax, pursuant to the provisions referenced in subdi-
26 vision (e) of this section, to be computed as hereinafter provided.

27 (b) Amount of credit. The amount of the credit shall be the product
28 of: (1) the tax-free area allocation factor; and (2) the tax factor.

1 (c) Tax-free area allocation factor. The tax-free area allocation
2 factor shall be the percentage representing the business's economic
3 presence in the tax-free NY area in which the business was approved to
4 locate pursuant to article twenty-one of the economic development law.
5 This percentage shall be computed by:

6 (1) ascertaining the percentage that the average value of the busi-
7 ness's real and tangible personal property, whether owned or rented to
8 it, in the tax-free NY area in which the business was located during the
9 period covered by the taxpayer's report or return bears to the average
10 value of the business's real and tangible personal property, whether
11 owned or rented to it, within the state during such period; provided
12 that the term "value of the business's real and tangible personal prop-
13 erty" shall have the same meaning as such term has in subparagraph one
14 of paragraph (a) of subdivision three of section two hundred ten of this
15 chapter; and

16 (2) ascertaining the percentage that the total wages, salaries and
17 other personal service compensation, similarly computed, during such
18 period of employees, except general executive officers, employed at the
19 business's location in the tax-free NY area, bears to the total wages,
20 salaries and other personal service compensation, similarly computed,
21 during such period, of all the business's employees within the state,
22 except general executive officers; and

23 (3) adding together the percentages so determined and dividing the
24 result by two.

25 For purposes of article twenty-two of this chapter, references in this
26 subdivision to property, wages, salaries and other personal service
27 compensation shall be deemed to be references to such items connected
28 with the conduct of a business.

1 (d) Tax factor. (1) General. The tax factor shall be, in the case of
2 article nine-A of this chapter, the largest of the amounts of tax deter-
3 mined for the taxable year under paragraphs (a) through (d) of subdivi-
4 sion one of section two hundred ten of such article after the deduction
5 of any other credits allowable under such article. The tax factor shall
6 be, in the case of article twenty-two of this chapter, the tax deter-
7 mined for the taxable year under subsections (a) through (d) of section
8 six hundred one of such article after the deduction of any other credits
9 allowable under such article.

10 (2) Sole proprietors, partners and S corporation shareholders. (A)
11 Where the taxpayer is a sole proprietor of a business located in a tax-
12 free NY area, the taxpayer's tax factor shall be that portion of the
13 amount determined in paragraph one of this subdivision that is attribut-
14 able to the income of the business at its location in the tax-free NY
15 area. Such attribution shall be made in accordance with the ratio of the
16 taxpayer's income from such business allocated within the state, enter-
17 ing into New York adjusted gross income, to the taxpayer's New York
18 adjusted gross income, or in accordance with such other methods as the
19 commissioner may prescribe as providing an apportionment that reasonably
20 reflects the portion of the taxpayer's tax attributable to the income of
21 such business. In no event may the ratio so determined exceed 1.0. The
22 income from such business allocated within the state shall be determined
23 as if the sole proprietor was a non-resident.

24 (B)(i) Where the taxpayer is a member of a partnership that is a busi-
25 ness located in a tax-free NY area, the taxpayer's tax factor shall be
26 that portion of the amount determined in paragraph one of this subdivi-
27 sion that is attributable to the income of the partnership. Such attri-
28 bution shall be made in accordance with the ratio of the partner's

1 income from the partnership allocated within the state to the partner's
2 entire income, or in accordance with such other methods as the commis-
3 sioner may prescribe as providing an apportionment that reasonably
4 reflects the portion of the partner's tax attributable to the income of
5 the partnership. In no event may the ratio so determined exceed 1.0. The
6 income from the partnership allocated within the state shall be deter-
7 mined as if any of the partners was a non-resident.

8 (ii) For purposes of article nine-A of this chapter, the term "part-
9 ner's income from the partnership" means partnership items of income,
10 gain, loss and deduction, and New York modifications thereto, entering
11 into entire net income or minimum taxable income and the term "partner's
12 entire income" means entire net income or minimum taxable income, allo-
13 cated within the state. For purposes of article twenty-two of this chap-
14 ter, the term "partner's income from the partnership" means partnership
15 items of income, gain, loss and deduction, and New York modifications
16 thereto, entering into New York adjusted gross income, and the term
17 "partner's entire income" means New York adjusted gross income.

18 (C) Where the taxpayer is a shareholder of a New York S corporation
19 that is a business located in a tax-free NY area, the shareholder's tax
20 factor shall be that portion of the amount determined in paragraph one
21 of this subdivision that is attributable to the income of the S corpo-
22 ration. Such attribution shall be made in accordance with the ratio of
23 the shareholder's income from the S corporation allocated within the
24 state, entering into New York adjusted gross income, to the sharehold-
25 er's New York adjusted gross income, or in accordance with such other
26 methods as the commissioner may prescribe as providing an apportionment
27 that reasonably reflects the portion of the shareholder's tax attribut-
28 able to the income of such business. The income of the S corporation

1 allocated within the state shall be determined by multiplying the income
2 of the S corporation by the business allocation factor computed under
3 paragraph (a) of subdivision three of section two hundred ten of this
4 article without regard to subparagraph ten of such paragraph (a). In no
5 event may the ratio so determined exceed 1.0.

6 (3) Combined returns or reports. (A) Where the taxpayer is a business
7 located in a tax-free NY area and is required or permitted to make a
8 return or report on a combined basis under article nine-A of this chap-
9 ter, the taxpayer's tax factor shall be the amount determined in para-
10 graph one of this subdivision that is attributable to the income of such
11 business. Such attribution shall be made in accordance with the ratio of
12 the business's income allocated within the state to the combined group's
13 income, or in accordance with such other methods as the commissioner may
14 prescribe as providing an apportionment that reasonably reflects the
15 portion of the combined group's tax attributable to the income of such
16 business. In no event may the ratio so determined exceed 1.0.

17 (B) The term "income of the business located in a tax-free NY area"
18 means entire net income or minimum taxable income calculated as if the
19 taxpayer was filing separately and the term "combined group's income"
20 means entire net income or minimum taxable income as shown on the
21 combined report, allocated within the state.

22 (4) If a business is generating or receiving income from a line of
23 business or intangible property that was previously conducted, created
24 or developed by the business or a related person, as that term is
25 defined in section four hundred thirty-one of the economic development
26 law, the tax factor specified in this subdivision shall be adjusted to
27 disregard such income.

1 (e) Cross-references. For application of the credit provided for in
2 this section, see the following provisions of this chapter:

3 (1) Article 9-A: section 210, subdivision 47.

4 (2) Article 22: section 606, subsection (i), paragraph (1), subpara-
5 graph (B), clause (xxxvi).

6 (3) Article 22: section 606, subsection (ww).

7 § 5. Section 180 of the tax law is amended by adding a new subdivision
8 3 to read as follows:

9 3. A corporation that is located exclusively within the state in a
10 tax-free NY area approved pursuant to article twenty-one of the economic
11 development law shall be exempt from the tax imposed by this section.

12 § 6. Section 181 of the tax law is amended by adding a new subdivision
13 3 to read as follows:

14 3. A corporation that is accepted to locate in a tax-free NY area and
15 is located exclusively within the state in a tax-free NY area approved
16 pursuant to article twenty-one of the economic development law shall be
17 exempt from: (a) the license fee imposed by subdivision one of this
18 section; and (b) provided that the corporation satisfies the require-
19 ments in subdivision (a) of section thirty-nine of this chapter, the
20 annual maintenance fee imposed by subdivision two of this section.

21 § 7. Section 210 of the tax law is amended by adding a new subdivision
22 47 to read as follows:

23 47. The tax-free NY area tax elimination credit. A taxpayer shall be
24 allowed a credit to be computed as provided in section forty of this
25 chapter, against the tax imposed by this article. Unless the taxpayer
26 has a tax-free NY area allocation factor of one hundred percent, the
27 credit allowed under this subdivision for any taxable year shall not
28 reduce the tax due for such year to less than the amount prescribed in

1 paragraph (d) of subdivision one of this section. However, any amount of
 2 credit not deductible in such taxable year shall be treated as an over-
 3 payment of tax to be credited or refunded in accordance with the
 4 provisions of section one thousand eighty-six of this chapter. Provided,
 5 however, the provisions of subsection (c) of section one thousand eight-
 6 y-eight of this chapter notwithstanding, no interest shall be paid ther-
 7 eon.

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

11 <u>(xxxvi) Tax-free NY area tax</u>	<u>Amount of credit under</u>
12 <u>elimination credit</u>	<u>subdivision forty-seven of</u>
13	<u>section two hundred ten</u>

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

16 (ww) Tax-free NY area tax elimination credit. (1) Allowance of credit.
 17 A taxpayer shall be allowed a credit, to be computed as provided under
 18 section forty of this chapter, against the tax imposed by this article.
 19 (2) Application of credit. If the amount of the credit allowed under
 20 this subsection for any taxable year exceeds the taxpayer's tax for such
 21 year, the excess will be treated as an overpayment to be credited or
 22 refunded in accordance with the provisions of section six hundred eight-
 23 y-six of this article, provided, however, that no interest will be paid
 24 thereon.

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

27 (40) Any wages received by an individual as an employee of a business
 28 located within a tax-free NY area during the first five years of such

1 business's ten year taxable period specified in subdivision (a) of
2 section thirty-nine of this chapter, to the extent included in federal
3 adjusted gross income and allowed under section thirty-nine of this
4 chapter. During the second five years of such business's ten year taxa-
5 ble period, the first two hundred thousand dollars of such wages in the
6 case of a taxpayer filing as a single individual, the first two hundred
7 fifty thousand dollars of such wages in the case of a taxpayer filing as
8 a head of household, and three hundred thousand dollars of such wages in
9 the case of a taxpayer filing a joint return, to the extent included in
10 federal adjusted gross income and allowed under section thirty-nine of
11 this chapter.

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

14 § 803. Exemption override. [Any] (a) Except as provided in subdivision
15 (b) of this section, any exemption from tax specified in any other New
16 York state law will not apply to the tax imposed by this article.

17 (b) If a tax-free NY area approved pursuant to the provisions of arti-
18 cle twenty-one of the economic development law is located within the
19 MCTD, the payroll expense in such tax-free NY area of any employer that
20 is located in such area and accepted into the START-UP NY program shall
21 be exempt from the tax imposed under this article. In addition, the net
22 earnings from self-employment of an individual from a business in such
23 tax-free NY area that is accepted into the START-UP NY program shall be
24 exempt from the tax imposed under this article.

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

1 (1) 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 tangible personal property described in subdivision (a)
4 of section eleven hundred five of this article, and on every sale of
5 services described in subdivisions (b) and (c) of such section, and
6 consideration given or contracted to be given for, or for the use of,
7 such tangible personal property or services, where such tangible
8 personal property or services are sold to a qualified empire zone enter-
9 prise or to a qualified entity that is also a tenant in or part of a New
10 York state innovation hot spot as provided in section thirty-eight of
11 this chapter or to a business located in a tax-free NY area approved
12 pursuant to article twenty-one of the economic development law, provided
13 that (A) such tangible personal property or tangible personal property
14 upon which such a service has been performed or such service (other than
15 a service described in subdivision (b) of section eleven hundred five of
16 this article) is directly and predominantly, or such a service described
17 in clause (A) or (D) of paragraph one of such subdivision (b) of section
18 eleven hundred five of this article is directly and exclusively, used or
19 consumed by (i) such qualified empire zone enterprise in an area desig-
20 nated as an empire zone pursuant to article eighteen-B of the general
21 municipal law with respect to which such enterprise is certified pursu-
22 ant to such article eighteen-B, or (ii) such qualified entity at its
23 location in or as part of a New York state innovation hot spot, or (iii)
24 such business at its location in such tax-free NY area, or (B) such a
25 service described in clause (B) or (C) of paragraph one of subdivision
26 (b) of section eleven hundred five of this article is delivered and
27 billed to (i) such enterprise at an address in such empire zone or (ii)
28 such qualified entity at its location in or as part of the New York

1 state innovation hot spot, or (iii) such business at its location in
2 such tax-free NY area, or (C) the enterprise's place of primary use of
3 the service described in paragraph two of such subdivision (b) of
4 section eleven hundred five is at an address in such empire zone or at
5 its location in or as part of a New York state innovation hot spot, or
6 at its location in such tax-free NY area; provided, further, that, in
7 order for a motor vehicle, as defined in subdivision (c) of section
8 eleven hundred seventeen of this article, or tangible personal property
9 related to such a motor vehicle to be found to be used predominantly in
10 such a zone, at least fifty percent of such motor vehicle's use shall be
11 exclusively within such zone or at least fifty percent of such motor
12 vehicle's use shall be in activities originating or terminating in such
13 zone, or both; and either or both such usages shall be computed either
14 on the basis of mileage or hours of use, at the discretion of such
15 enterprise. For purposes of this subdivision, tangible personal property
16 related to such a motor vehicle shall include a battery, diesel motor
17 fuel, an engine, engine components, motor fuel, a muffler, tires and
18 similar tangible personal property used in or on such a motor vehicle.

19 (2) Subject to the conditions and limitations provided for in this
20 section, a refund or credit will be allowed for taxes imposed on the
21 retail sale of, and consideration given or contracted to be given for,
22 or for the use of, tangible personal property sold to a contractor,
23 subcontractor or repairman for use in (A) erecting a structure or build-
24 ing of a qualified empire zone enterprise or a business located in a
25 tax-free NY area approved pursuant to article twenty-one of the economic
26 development law, (B) adding to, altering or improving real property,
27 property or land of such an enterprise or such business, or (C) main-
28 taining, servicing or repairing real property, property or land of such

1 an enterprise or of such business, as the terms real property, property
2 or land are defined in the real property tax law; provided, however, no
3 credit or refund will be allowed under this paragraph unless such tangi-
4 ble personal property is to become an integral component part of such
5 structure, building, real property, property or land located in an area
6 designated as an empire zone pursuant to article eighteen-B of the
7 general municipal law in, and with respect to which such enterprise is
8 certified pursuant to such article eighteen-B, or in an area approved as
9 a tax-free NY area pursuant to article twenty-one of the economic devel-
10 opment law where such business is located.

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

13 11. Conveyances of real property located in tax-free NY areas approved
14 pursuant to article twenty-one of the economic development law to busi-
15 nesses located in such areas that are participating in the START-UP NY
16 program pursuant to such article twenty-one.

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

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

25 (36) Any wages received by an individual as an employee of a business
26 located within a tax-free NY area during the first five years of such
27 business's ten year taxable period specified in subdivision (a) of
28 section thirty-nine of the tax law to the extent included in federal

1 adjusted gross income and allowed under section thirty-nine of the tax
2 law. During the second five years of such business's ten year taxable
3 period, the first two hundred thousand dollars of such wages in the case
4 of a taxpayer filing as a single individual, the first two hundred fifty
5 thousand dollars of such wages in the case of a taxpayer filing as a
6 head of household, and three hundred thousand dollars of such wages in
7 the case of a taxpayer filing a joint return, to the extent included in
8 federal adjusted gross income and allowed under section thirty-nine of
9 the tax law.

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

12 (d) Any wages received by an individual as an employee of a business
13 located in a tax-free NY area within the city during the first five
14 years of such business's ten year taxable period specified in subdivi-
15 sion (a) of section thirty-nine of this chapter and earned at such
16 location shall be exempt from the tax authorized to be imposed by this
17 article to the extent included in federal adjusted gross income and
18 allowed under section thirty-nine of this chapter. During the second
19 five years of such business's ten year taxable period, the first two
20 hundred thousand dollars of such wages in the case of a taxpayer filing
21 as a single individual, the first two hundred fifty thousand dollars of
22 such wages in the case of a taxpayer filing as a head of household, and
23 three hundred thousand dollars of such wages in the case of a taxpayer
24 filing a joint return, to the extent included in federal adjusted gross
25 income and allowed under section thirty-nine of this chapter.

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

1 2. If any portion of such real property is not so used exclusively to
2 carry out thereupon one or more of such purposes but is leased or other-
3 wise used for other purposes, such portion shall be subject to taxation
4 and the remaining portion only shall be exempt; provided, however, that
5 such real property shall be fully exempt from taxation although it or a
6 portion thereof is used (a) for purposes which are exempt pursuant to
7 this section or sections four hundred twenty-b, four hundred twenty-two,
8 four hundred twenty-four, four hundred twenty-six, four hundred twenty-
9 eight, four hundred thirty or four hundred fifty of this chapter by
10 another corporation which owns real property exempt from taxation pursu-
11 ant to such sections or whose real property if it owned any would be
12 exempt from taxation pursuant to such sections, (b) for purposes which
13 are exempt pursuant to section four hundred six or section four hundred
14 eight of this chapter by a corporation which owns real property exempt
15 from taxation pursuant to such section or if it owned any would be
16 exempt from taxation pursuant to such section, (c) for purposes which
17 are exempt pursuant to section four hundred sixteen of this chapter by
18 an organization which owns real property exempt from taxation pursuant
19 to such section or whose real property if it owned any would be exempt
20 from taxation pursuant to such section [or], (d) for purposes relating
21 to civil defense pursuant to the New York state defense emergency act,
22 including but not limited to activities in preparation for anticipated
23 attack, during attack, or following attack or false warning thereof, or
24 in connection with drill or test ordered or directed by civil defense
25 authorities, or (e) for purposes of a tax-free NY area that has been
26 approved pursuant to article twenty-one of the economic development law,
27 subject to the conditions that the real property must have been owned by
28 the corporation or association organized exclusively for educational

1 purposes and exempt pursuant to this section on June first, two thousand
2 thirteen, and that the exemption shall apply only to the portion of such
3 real property that is used for purposes of the START-UP NY program; and
4 provided further that such real property shall be exempt from taxation
5 only so long as it or a portion thereof, as the case may be, is devoted
6 to such exempt purposes and so long as any moneys paid for such use do
7 not exceed the amount of the carrying, maintenance and depreciation
8 charges of the property or portion thereof, as the case may be.

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

12 a. To take, hold and administer on behalf of the state university or
13 any institution therein, real and personal property or any interest
14 therein and the income thereof either absolutely or in trust for any
15 educational or other purpose within the jurisdiction and corporate
16 purposes of the state university. The trustees may acquire property for
17 such purposes by purchase, appropriation or lease and by the acceptance
18 of gifts, grants, bequests and devises, and, within appropriations made
19 therefor, may equip and furnish buildings and otherwise improve property
20 owned, used or occupied by the state university or any institution ther-
21 ein. The trustees may acquire property by the acceptance of conditional
22 gifts, grants, devises or bequests, the provisions of section eleven of
23 the state finance law notwithstanding. Where real property is to be
24 acquired by purchase or appropriation, such acquisition shall be in
25 accordance with the provisions of section three hundred seven of this
26 chapter except that the powers and duties in said section mentioned to
27 be performed by the commissioner shall be performed by the state univer-
28 sity trustees. The provisions of section three of the public lands law

1 notwithstanding, the trustees may provide for the lease of state-owned
2 real property under the jurisdiction of the state university that is
3 part of a tax-free NY area approved pursuant to article twenty-one of
4 the economic development law, in such manner and upon such terms as the
5 trustees shall determine, provided such lease is consistent with the
6 approved plan for such tax-free NY area.

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

10 s. To lease or make available to the state university construction
11 fund, the dormitory authority or other public benefit corporation, the
12 New York state teachers' retirement system [or] the New York state
13 employees' retirement system, or a business that intends to locate in a
14 tax-free NY area approved pursuant to article twenty-one of the economic
15 development law, a portion of the grounds or real property occupied by a
16 state-operated institution or statutory or contract college for the
17 construction, acquisition, reconstruction, rehabilitation or improvement
18 of academic buildings, dormitories or other facilities thereon pursuant
19 to article eight-A of this chapter and for the purpose of facilitating
20 such construction, acquisition, reconstruction, rehabilitation or
21 improvement, to enter into leases and agreements for the use of any such
22 academic building, dormitory or other facility in accordance with the
23 provisions of section three hundred seventy-eight of this chapter;
24 provided, however, that nothing herein contained shall affect the
25 provisions of any lease or agreement heretofore executed by the state
26 university with the dormitory authority. The state university trustees
27 may also enter into agreements with the state university construction
28 fund, the dormitory authority or other public benefit corporation, the

1 New York state teachers' retirement system [or] the New York state
2 employees' retirement system or any business that intends to locate in a
3 tax-free NY area approved pursuant to article twenty-one of the economic
4 development law, to furnish heat from a central heating plant to any
5 academic building, dormitory or other facility erected by them or with
6 moneys supplied by them. Any such academic building, dormitory or other
7 facility shall not be subject to taxation for any purpose.

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

10 z. In connection with business/university partnerships in support of
11 the corporate purposes of the state university, to participate in joint
12 and cooperative arrangements with businesses that have located in a
13 tax-free NY area approved pursuant to article twenty-one of the economic
14 development law provided such arrangements are consistent with the
15 approved plan for such tax-free NY area.

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

18 § 361. START-UP NY program leases. 1. Any lease or contract between a
19 state university campus, city university campus or community college as
20 defined in section four hundred thirty-one of the economic development
21 law and a business for the use of vacant land or vacant space owned or
22 leased by such state university campus, community college or city
23 university campus in a tax-free NY area approved pursuant to article
24 twenty-one of the economic development law shall provide:

25 (a) The term of the lease or contract.

26 (b) A requirement that any contract to which a campus or college is a
27 party, and any contract entered into by a third party acting in place
28 of, on behalf of and for the benefit of the campus or college therein

1 pursuant to any lease, permit or other agreement between such third
2 party and the campus or college for the use of vacant land or vacant
3 space owned or leased by the state university campus, community college
4 or city university campus for the construction, reconstruction, demoli-
5 tion, excavation, rehabilitation, repair, renovation, alteration or
6 improvement of a project shall be subject to all of the provisions of
7 article eight of the labor law, including the enforcement of prevailing
8 wage requirements by the fiscal officer as defined in paragraph e of
9 subdivision five of section two hundred twenty of the labor law to the
10 same extent as a contract of the state, and shall be deemed a public
11 work for purposes of such article.

12 (c) Whenever a party to any lease or contract for projects authorized
13 pursuant to this section on lands leased or owned by the city university
14 of New York, enters into a contract under which employees are employed
15 to perform building service work, as that term is defined in section two
16 hundred thirty of the labor law, such work shall be subject to article
17 nine of the labor law to the same extent as building service work
18 performed pursuant to a contract with a public agency.

19 (d) A requirement that for the purposes of article fifteen-A of the
20 executive law, any individual, public corporation or authority, private
21 corporation, limited liability company or partnership or other entity
22 entering into a contract, subcontract, lease, grant, bond, covenant or
23 other agreement for a project undertaken by a business authorized pursu-
24 ant to article twenty-one of the economic development law shall be
25 deemed a state agency as that term is defined in such article and such
26 contracts shall be deemed state contracts within the meaning of that
27 term as set forth in such article, except that this paragraph shall not

1 apply to any lease or contract entered into by a community college of
2 the state university of New York or city university of New York.

3 (e) The metes and bounds or other applicable description that can be
4 easily identified, shared and verified by an independent third party of
5 the vacant land or vacant space subject to the contract or lease.

6 (f) A requirement that any lease, contract or other agreement shall
7 include an indemnity provision whereby the lessee or sublessee promises
8 to indemnify, hold harmless, and defend the lessor against all claims,
9 suits, actions, and liability to all persons on the leased premises,
10 including tenant, tenant's agents, contractors, subcontractors, employ-
11 ees, customers, guests, licensees, invitees, and members of the public,
12 for damage to any such person's property, whether real or personal, or
13 for personal injuries arising out of tenant's use or occupation of the
14 demised premises.

15 (g) A requirement that upon the expiration of the lease or agreement
16 covering property owned by the campus or college the demised premises
17 and any improvements thereon shall revert to the campus or college,
18 unless the lease is renewed.

19 (h) A requirement that in the event the demised premises shall cease
20 to be used for the purposes described in the lease or contract covering
21 property owned by the campus or college, the lease or contract shall
22 terminate on the thirtieth day after notice of such termination is
23 mailed to the business, the demised premises and any improvements there-
24 on shall revert to the campus or college.

25 (i) A requirement that any and all proceeds relating to the lease or
26 contract shall be allocated by the board of trustees to the campus or
27 college for which such contract or lease applies, deposited in the
28 general fund of such campus or college, and used for purposes including

1 but not limited to student financial aid for students who are eligible
2 to receive a tuition assistance award or supplemental tuition assistance
3 pursuant to section six hundred sixty-seven or six hundred sixty-seven-a
4 of the education law and to support additional full-time faculty posi-
5 tions.

6 2. For the purposes of this section and for the purposes of any lease
7 or contract authorized pursuant to this section: "project" shall mean
8 capital improvement work on real property under the jurisdiction of the
9 campus or college to be subject to any lease, transfer or conveyance,
10 other than conveyance of title. Such capital improvement work shall
11 include the design, construction, reconstruction, demolition, exca-
12 vation, rehabilitation, repair, renovation, alteration or improvement of
13 real property under the jurisdiction of the campus or college.

14 3. A party to any lease or contract authorized pursuant to this
15 section may require a contractor awarded a contract, subcontract, lease,
16 grant, bond, covenant or other agreement for a project to enter into a
17 project labor agreement pursuant to section two hundred twenty-two of
18 the labor law during and for the work involved with such project when
19 such requirement is part of such party's request for proposals for the
20 project and when the party determines that the record supporting the
21 decision to enter into such an agreement establishes that the interests
22 underlying the competitive bidding laws are best met by requiring a
23 project labor agreement including: obtaining the best work at the lowest
24 possible price; preventing favoritism, fraud and corruption; the impact
25 of delay; the possibility of cost savings; and any local history of
26 labor unrest.

27 § 22. Severability clause. If any clause, sentence, paragraph, subdi-
28 vision, section or part of this act shall be adjudged by any court of

1 competent jurisdiction to be invalid, such judgment shall not affect,
2 impair, or invalidate the remainder thereof, but shall be confined in
3 its operation to the clause, sentence, paragraph, subdivision, section
4 or part thereof directly involved in the controversy in which such judg-
5 ment shall have been rendered. It is hereby declared to be the intent of
6 the legislature that this act would have been enacted even if such
7 invalid provisions had not been included herein.

8 § 23. This act shall take effect immediately; provided however that
9 the tax benefits specified in section 39 of the tax law, as added by
10 section two of this act shall apply to taxable years beginning on or
11 after January 1, 2014, calendar quarters beginning on or after January
12 1, 2014, sales tax quarters beginning on or after March 1, 2014, or
13 transactions occurring on or after January 1, 2014, whichever is appli-
14 cable; provided, further, that the amendments to paragraph a of subdivi-
15 sion 2 of section 355 of the education law made by section eighteen of
16 this act shall not affect the expiration of such paragraph and shall be
17 deemed to expire therewith.

18

PART B

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

22 § 666. Mandate and regulatory relief council. 1. Definitions. a.
23 "Mandate" means (i) any requirement that a local government perform or
24 administer any program, project or activity, required or imposed by a
25 state law or state agency that requires a higher level of service for an
26 existing local government program, project or activity; or (ii) any

1 requirement a business must perform in order to do business in New York
2 state.

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

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

8 d. "Business" means any entity doing business in or authorized to
9 operate in the state of New York, including, but not limited to, for-
10 profit and not-for-profit corporations, sole proprietorships, partner-
11 ships, and limited liability companies.

12 2. Mandate relief council. There is hereby created within the execu-
13 tive department the mandate relief council, which shall be comprised of
14 eleven members as follows: the secretary to the governor, who shall
15 chair the council, the counsel to the governor, the director of the
16 division of the budget, the secretary of state, and three additional
17 members to be appointed by the governor from among his or her executive
18 chamber staff, two members to be appointed by the temporary president of
19 the senate, and two members to be appointed by the speaker of the assem-
20 bly.

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

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

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

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

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

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

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

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

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

27 a. refer a request by a local government for a review of such regula-
28 tory mandate, for petition by such local government for a waiver,

1 modification or repeal of such regulatory mandate pursuant to section
2 two hundred four-a of the state administrative procedure act. In the
3 event the council votes to make such referral on behalf of a local
4 government, the state agency that is charged with reviewing the petition
5 shall provide the technical assistance and support for such local
6 government to properly prepare and submit such petition. In the event
7 that such state agency reviewing the petition of the local government
8 pursuant to section two hundred four-a of the state administrative
9 procedure act does not provide the remedy sought by such local govern-
10 ment, the council may hear and consider an appeal of such decision and
11 grant such relief as it deems appropriate, including the making of a
12 referral to the governor for the waiving, modifying or repealing of such
13 regulatory mandate. The council shall adopt procedures by which it shall
14 consider, decide and effectuate the remedies of such appeals consistent
15 with this section.

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

27 4. Council actions on statutory mandates. The council may, upon a vote
28 of seven members, refer a statute to the governor for repeal or modifi-

1 cation, where the council has previously determined that such statute
2 imposes upon any local government or business a mandate in an unsound,
3 unduly burdensome or costly manner, so as to necessitate that it be
4 eliminated or reformed. Upon receipt of the referral by the council, the
5 governor, within sixty days, shall have prepared a governor's program
6 bill, for introduction in both houses of the legislature, to effectuate
7 such repeal or modification of the statute.

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

22 6. Appeals. Upon an appeal of a petition previously decided by a state
23 agency pursuant to section two hundred four-a of the state administra-
24 tive procedure act, the council, upon request of the local government,
25 shall review the state agency's determination and may affirm, modify or
26 reject such determination. Such appeal shall not preclude or limit a
27 local government or any other party with standing from pursuing any
28 right it may have pursuant to a proceeding instituted in accordance with

1 the provisions of article seventy-eight of the civil practice law and
2 rules or any other statute.

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

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

15 § 2. This act shall take effect immediately, provided that the amend-
16 ments to section 666 of the executive law made by section one of this
17 act shall not affect the repeal of such section and shall be deemed
18 repealed therewith.

19

PART C

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

23 3. For the purposes of this article, in order to participate in the
24 excelsior jobs program, a business entity operating predominantly in
25 manufacturing must create at least [twenty-five] ten net new jobs; a
26 business entity operating predominately in agriculture must create at

1 least [ten] five net new jobs; a business entity operating predominantly
2 as a financial service data center or financial services customer back
3 office operation must create at least [one hundred] fifty net new jobs;
4 a business entity operating predominantly in scientific research and
5 development must create at least [ten] five net new jobs; a business
6 entity operating predominantly in software development must create at
7 least [ten] five net new jobs; a business entity creating or expanding
8 back office operations must create at least fifty net new jobs; or a
9 business entity operating predominantly as a distribution center in the
10 state must create at least [one hundred fifty] seventy-five net new
11 jobs, notwithstanding subdivision five of this section; or a business
12 entity must be a regionally significant project as defined in this arti-
13 cle; or

14 4. A business entity operating predominantly in one of the industries
15 referenced in paragraphs (a) through (h) of subdivision one of this
16 section but which does not meet the job requirements of subdivision
17 three of this section must have at least [fifty] twenty-five full-time
18 job equivalents unless such business is a business entity operating
19 predominantly in manufacturing then it must have at least ten full-time
20 job equivalents and must demonstrate that its benefit-cost ratio is at
21 least ten to one.

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

25 2. Excelsior investment tax credit component. A participant in the
26 excelsior jobs program shall be eligible to claim a credit on qualified
27 investments. The credit shall be equal to [two] five percent of the cost
28 or other basis for federal income tax purposes of the qualified invest-

1 ment. A participant may not claim both the excelsior investment tax
2 credit component and the investment tax credit set forth in subdivision
3 twelve of section two hundred ten, subsection (a) of section six hundred
4 six, subsection (i) of section fourteen hundred fifty-six, or subdivi-
5 sion (q) of section fifteen hundred eleven of the tax law for the same
6 property in any taxable year, except that a participant may claim both
7 the excelsior investment tax credit component and the investment tax
8 credit for research and development property. In addition, a taxpayer
9 who or which is qualified to claim the excelsior investment tax credit
10 component and is also qualified to claim the brownfield tangible proper-
11 ty credit component under section twenty-one of the tax law may claim
12 either the excelsior investment tax credit component or such tangible
13 property credit component, but not both with regard to a particular
14 piece of property. A credit may not be claimed until a business enter-
15 prise has received a certificate of tax credit, provided that qualified
16 investments made on or after the issuance of the certificate of eligi-
17 bility but before the issuance of the certificate of tax credit to the
18 business enterprise, may be claimed in the first taxable year for which
19 the business enterprise is allowed to claim the credit. Expenses
20 incurred prior to the date the certificate of eligibility is issued are
21 not eligible to be included in the calculation of the credit.

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

25 5. A participant may claim tax benefits commencing in the first taxa-
26 ble year that the business enterprise receives a certificate of tax
27 credit or the first taxable year listed on its preliminary schedule of
28 benefits, whichever is later. A participant may claim such benefits for

1 the next nine consecutive taxable years, provided that the participant
 2 demonstrates to the department that it continues to satisfy the eligi-
 3 bility criteria specified in section three hundred fifty-three of this
 4 article and subdivision two of this section in each of those taxable
 5 years. If, in any given year, a participant who has satisfied the eligi-
 6 bility criteria specified in section three hundred fifty-three of this
 7 article realizes job creation less than the estimated amount, the credit
 8 shall be reduced by the proportion of actual job creation to the esti-
 9 mated amount, provided the proportion is at least seventy-five percent
 10 of the jobs estimated.

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

14 § 359. Cap on tax credit. The total amount of tax credits listed on
 15 certificates of tax credit issued by the commissioner for any taxable
 16 year may not exceed the limitations set forth in this section. [Any]
 17 One-half of any amount of tax credits not awarded for a particular taxa-
 18 ble year may [not] be used by the commissioner to award tax credits in
 19 another taxable year.

20 Credit components in the aggregate With respect to taxable
 21 shall not exceed: years beginning in:

22	\$ 50 million	2011
23	\$ 100 million	2012
24	\$ 150 million	2013
25	\$ 200 million	2014
26	\$ 250 million	2015

1	\$ 200 million	2016
2	\$ 200 million	2017
3	\$ 200 million	2018
4	\$ 200 million	2019
5	\$ 200 million	2020
6	\$ 200 million	2021
7	\$ 150 million	2022
8	\$ 100 million	2023
9	\$ 50 million	2024

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

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

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

1 (f-1) Credit recapture for unrealized job creation. If, in any given
2 year, a taxpayer who has satisfied the eligibility criteria specified in
3 section three hundred fifty-three of the economic development law real-
4 izes job creation less than the estimated amount, the credit described
5 in this section allowed in that year shall be reduced by the proportion
6 of actual job creation to the estimated amount, provided the proportion
7 is at least seventy-five percent of the jobs estimated.

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

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

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