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

3046

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. KOLB, OAKS, CALHOUN, O'MARA, SAYWARD, REILICH, FINCH, P. LOPEZ -- Multi-Sponsored by -- M. of A. BACALLES, BUTLER, CONTE, DUPREY, ERRIGO, MOLINARO, QUINN, WALKER -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the economic development law and the tax law, in relation to establishing the manufacturing preservation and enhancement act (Part A); to amend the economic development law and the tax law, in relation to establishing the office of the New York state homeshoring initiative (Part B); to amend the general municipal law, in relation to the decertification of business enterprises due to the outsourcing of jobs (Part C); and to amend the tax law, in relation to tax exemptions for manufacturers (Part D)

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

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

PART A

Section 1. The economic development law is amended by adding a new article 15 to read as follows:

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

LBD05088-01-9

ARTICLE 15

MANUFACTURING PRESERVATION AND ENHANCEMENT ACT

SECTION 270. DEFINITIONS.
271. MANUFACTURING PRESERVATION AND ENHANCEMENT PROGRAM.
272. SPECIAL PROVISIONS RELATING TO CERTIFIED MANUFACTURERS.
273. REPORTING.

S 270. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTENT SHALL INDICATE ANOTHER OR DIFFERENT MEANING OR INTENT:

1. "PROGRAM" SHALL MEAN THE MANUFACTURING PRESERVATION AND ENHANCEMENT PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE.

2. "MANUFACTURING FIRM" SHALL MEAN AN ENTERPRISE, INCLUDING CORPORATE ENTITIES, PARTNERSHIPS AND SOLE PROPRIETORS, ENGAGED IN THE BUSINESS OF PRODUCTION OF GOODS AND PRODUCTS FROM RAW MATERIALS.

3. "BENCHMARK" SHALL MEAN A SPECIFIC NUMBER OF ELIGIBLE NEW JOBS CREATED IN THE STATE PURSUANT TO THE PROGRAM.

4. "MEI" SHALL MEAN THE MANUFACTURING ENHANCEMENT INCENTIVE PROGRAM.

S 271. MANUFACTURING PRESERVATION AND ENHANCEMENT PROGRAM. 1. THERE IS HEREBY CREATED A MANUFACTURING PRESERVATION AND ENHANCEMENT PROGRAM WITHIN THE DEPARTMENT TO PROVIDE TECHNICAL AND FINANCIAL ASSISTANCE IN THE FORM OF TAX INCENTIVES TO MANUFACTURING FIRMS THAT MEET SPECIFIED BENCHMARKS IN JOB CREATION AS ESTABLISHED BY THE COMMISSIONER.

2. THE COMMISSIONER SHALL DETERMINE ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN THE PROGRAM, PROVIDED, HOWEVER, THAT SUCH REQUIREMENTS SHALL INCLUDE THE FOLLOWING:

(A) AN APPLICANT TO THE PROGRAM MAY NOT PARTICIPATE IN THE PROGRAM IF DESIGNATED AS A CERTIFIED BUSINESS LOCATED IN AN EMPIRE ZONE CREATED PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW; AND

(B) AN APPLICANT THAT HAS PREVIOUSLY PARTICIPATED IN THE PROGRAM MAY NOT REAPPLY FOR PARTICIPATION IN THE PROGRAM UNLESS IT CAN DOCUMENT THAT AT THE TIME OF ITS REAPPLICATION FOR PARTICIPATION, IT HAS MAINTAINED A LEVEL OF EMPLOYMENT AT LEAST AS GREAT AS THE HIGHEST LEVEL REQUIRED DURING ITS PREVIOUS PARTICIPATION IN THE PROGRAM.

3. APPLICATIONS FOR PARTICIPATION IN THE MEI SHALL BE SUBMITTED BY EACH MANUFACTURING FIRM SEEKING TO PARTICIPATE IN THE PROGRAM, AND SHALL BE IN THE FORM AND CONTAIN SUCH INFORMATION, EXHIBITS AND SUPPORTING DATA AS THE COMMISSIONER MAY PRESCRIBE. NO APPLICATIONS FOR PARTICIPATION SHALL BE ACCEPTED AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN.

4. MANUFACTURING FIRMS INTERESTED IN PARTICIPATING IN THE MEI SHALL SUBMIT AN APPLICATION TO THE PROGRAM. THE COMMISSIONER SHALL REVIEW ALL APPLICATIONS FOR PARTICIPATION IN THE PROGRAM FOR ELIGIBILITY AND SHALL REGISTER ELIGIBLE APPLICANTS. THE COMMISSIONER SHALL PROVIDE EACH REGISTERED APPLICANT WITH BENCHMARKS IN JOB CREATION THAT MUST BE ACHIEVED BY THE REGISTERED APPLICANT OVER THE FOLLOWING FIVE YEARS. SUCH BENCHMARKS SHALL BE CONSISTENT WITH REGULATIONS TO BE PRESCRIBED BY THE COMMISSIONER. ANNUALLY, EACH REGISTERED APPLICANT SHALL SUBMIT TO THE COMMISSIONER A REGISTRATION STATEMENT, TOGETHER WITH SUCH INFORMATION, EXHIBITS AND SUPPORTING DATA AS THE COMMISSIONER MAY REQUIRE. UPON SUBMISSION OF THE FIFTH ANNUAL REGISTRATION STATEMENT, THE COMMISSIONER SHALL REVIEW THE REGISTERED APPLICANT'S FILE FOR ELIGIBILITY FOR THE TAX INCENTIVES. IF THE REGISTERED APPLICANT HAS MET THE REQUIRED BENCHMARKS IN JOB CREATION, THE COMMISSIONER SHALL PROVIDE A CERTIFICATE, VALID FOR THE SUCCEEDING TWO TAX YEARS, CERTIFYING THAT THE REGISTERED APPLICANT IS ELIGIBLE FOR TAX CREDITS PURSUANT TO THIS ARTICLE. THE MEI CERTIFICATE SHALL INCLUDE A DESCRIPTION OF THE PROPERTY ELIGIBLE FOR THE PROPERTY

TAX BENEFIT AND SHALL SPECIFY THE EMPLOYMENT LEVEL AND TOTAL AMOUNT OF EMPLOYEE GROSS SALARY ELIGIBLE FOR THE WAGE CREDIT.

S 272. SPECIAL PROVISIONS RELATING TO CERTIFIED MANUFACTURERS. DURING THE TWO-YEAR CERTIFICATION PERIOD, CERTIFIED MANUFACTURING FIRMS SHALL BE ELIGIBLE TO RECEIVE THE FOLLOWING TAX CREDITS:

1. AN MEI PROPERTY TAX CREDIT, WHICH SHALL BE COMPUTED PURSUANT TO SECTION SEVEN HUNDRED OF THE TAX LAW;

2. AN MEI WAGE TAX CREDIT, WHICH SHALL BE COMPUTED PURSUANT TO SECTION SEVEN HUNDRED ONE OF THE TAX LAW; AND

3. AN MEI ENERGY TAX CREDIT, WHICH SHALL BE COMPUTED PURSUANT TO SECTION SEVEN HUNDRED TWO OF THE TAX LAW.

S 273. REPORTING. THE COMMISSIONER SHALL, ON OR BEFORE SEPTEMBER FIRST, TWO THOUSAND ELEVEN, AND ANNUALLY THEREAFTER, SUBMIT A REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY ON THE OPERATION AND ACCOMPLISHMENTS OF THE PROGRAM PROVIDED FOR PURSUANT TO THIS ARTICLE.

S 2. The tax law is amended by adding a new article 23 to read as follows:

ARTICLE 23

MANUFACTURING PRESERVATION AND ENHANCEMENT ACT

SECTION 700. MEI PROPERTY TAX CREDIT.
701. MEI WAGE TAX CREDIT.
702. MEI ENERGY TAX CREDIT.

S 700. MEI PROPERTY TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER RECEIVING AN MEI CERTIFICATE ISSUED PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, AND THAT OR WHO IS SUBJECT TO PROPERTY TAXES UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST THE PROPERTY TAXES ASSESSED UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THIS CHAPTER DURING THE TAX YEARS THAT THE CERTIFICATE IS VALID, PROVIDED, AND TO THE EXTENT THAT, THE TAXES ASSESSED CONSTITUTE ELIGIBLE REAL PROPERTY TAXES AS DEFINED IN SUBSECTION (B) OF THIS SECTION. THE CREDIT SHALL BE COMPUTED PURSUANT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION.

(B) DEFINITION. THE TERM "ELIGIBLE REAL PROPERTY TAXES" SHALL MEAN TAX IMPOSED ON REAL PROPERTY WHICH HAS BEEN CERTIFIED AS MEI ELIGIBLE PROPERTY PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW. IN ADDITION, THE TERM "ELIGIBLE REAL PROPERTY TAXES" INCLUDES PAYMENTS IN LIEU OF TAXES MADE BY THE TAXPAYER TO THE STATE, A MUNICIPAL CORPORATION OR A PUBLIC BENEFIT CORPORATION PURSUANT TO A WRITTEN AGREEMENT ENTERED INTO BY THE TAXPAYER AND THE STATE, MUNICIPAL CORPORATION OR PUBLIC BENEFIT CORPORATION.

(C) COMPUTATION OF PROPERTY TAX CREDIT. THE PROPERTY TAX CREDIT DESCRIBED IN THIS SECTION SHALL BE A FLAT TEN PERCENT OF THE PROPERTY TAX ASSESSED.

S 701. MEI WAGE TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER RECEIVING AN MEI CERTIFICATE THAT HAS BEEN ISSUED PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, AND THAT OR WHO IS SUBJECT TO TAXES UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST THE TAXES ASSESSED UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THIS CHAPTER DURING THE TAX YEARS THAT THE CERTIFICATE IS VALID. THE CREDIT SHALL BE COMPUTED PURSUANT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION.

(B) DEFINITIONS. THE TERM "ELIGIBLE WAGES" SHALL MEAN THE TOTAL AMOUNT OF EMPLOYEE GROSS SALARY ELIGIBLE FOR THE WAGE TAX CREDIT, AS SUCH

AMOUNT IS SPECIFIED IN THE MEI CERTIFICATE ISSUED PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW.

(C) COMPUTATION OF WAGE TAX CREDIT. (1) DURING THE FIRST TAX YEAR OF THE TWO-YEAR PERIOD FOR WHICH A VALID MEI CERTIFICATE HAS BEEN ISSUED PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, PROVIDED THE TAXPAYER HAS MAINTAINED THE EMPLOYMENT AND ELIGIBLE WAGE REQUIREMENTS SPECIFIED BY THE MEI AS DEFINED IN ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, THE TAXPAYER SHALL BE ALLOWED A CREDIT OF ONE AND ONE-HALF PERCENT OF THE TOTAL AMOUNT OF THE ELIGIBLE WAGES ACTUALLY PAID BY THE TAXPAYER. IF THE TAXPAYER INCREASES EMPLOYMENT DURING THIS TAX YEAR, AND EXCEEDS THE LEVEL OF EMPLOYMENT REQUIRED BY THE MEI AS DEFINED IN ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, HIRING AND MAINTAINING ADDITIONAL EMPLOYEES AND PAYING ADDITIONAL WAGES OVER AND ABOVE THE ELIGIBLE WAGES AMOUNT, THE TAXPAYER SHALL BE ALLOWED AN ADDITIONAL CREDIT OF TWO AND ONE-HALF PERCENT OF THE TOTAL AMOUNT BY WHICH THE WAGES ACTUALLY PAID AS A RESULT OF THE INCREASED LEVEL OF EMPLOYMENT EXCEED THE ELIGIBLE WAGES.

(2) DURING THE SECOND TAX YEAR OF THE TWO-YEAR PERIOD FOR WHICH A VALID MEI CERTIFICATE HAS BEEN ISSUED PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, PROVIDED THE TAXPAYER HAS MAINTAINED THE EMPLOYMENT AND ELIGIBLE WAGE REQUIREMENTS SPECIFIED BY THE MEI AS DEFINED IN ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, THE TAXPAYER SHALL BE ALLOWED A CREDIT OF ONE AND ONE-HALF PERCENT OF THE TOTAL AMOUNT OF THE ELIGIBLE WAGES ACTUALLY PAID BY THE TAXPAYER; HOWEVER, IF THE TAXPAYER INCREASED EMPLOYMENT IN THE PRECEDING TAX YEAR AND CLAIMED THE TWO AND ONE-HALF PERCENT CREDIT FOR EMPLOYMENT AND PAYMENT OF WAGES IN EXCESS OF THE MEI REQUIREMENTS PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, THE TAXPAYER SHALL BE ALLOWED A CREDIT OF ONE AND ONE-HALF PERCENT OF THE TOTAL AMOUNT OF THE ELIGIBLE WAGES ACTUALLY PAID BY THE TAXPAYER DURING THE PRECEDING TAX YEAR, PROVIDED THE TAXPAYER HAS MAINTAINED THE INCREASED EMPLOYMENT AND SALARY LEVELS. IF THE TAXPAYER AGAIN INCREASES EMPLOYMENT, HIRING AND MAINTAINING ADDITIONAL EMPLOYEES AND PAYING ADDITIONAL WAGES OVER AND ABOVE THE PREVIOUS TAX YEAR'S AMOUNT, THE TAXPAYER SHALL BE ALLOWED AN ADDITIONAL CREDIT OF TWO AND ONE-HALF PERCENT OF THE TOTAL AMOUNT BY WHICH THE WAGES ACTUALLY PAID AS A RESULT OF THE INCREASED LEVEL OF EMPLOYMENT EXCEED THE WAGES SUBJECT TO THE ONE AND ONE-HALF PERCENT CREDIT.

S 702. MEI ENERGY TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER RECEIVING AN MEI CERTIFICATE HAS BEEN ISSUED PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, AND THAT OR WHO IS SUBJECT TO TAXES UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST THE TAXES ASSESSED UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THIS CHAPTER DURING THE TAX YEARS THAT THE CERTIFICATE IS VALID. THE CREDIT SHALL BE COMPUTED PURSUANT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION.

(B) DEFINITION. THE TERM "ELIGIBLE ENERGY COSTS" SHALL MEAN THE AMOUNTS PAID BY THE TAXPAYER FOR ELECTRICITY, NATURAL GAS, OR ANY OTHER ENERGY PRODUCT OR SERVICE WHICH THE TAXPAYER HAS USED IN THE OPERATION OF A MEI CERTIFIED MANUFACTURING FIRM FACILITY PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW.

(C) COMPUTATION OF ENERGY CREDIT. (1) IF THE TAXPAYER HAS PAID ELIGIBLE ENERGY COSTS DURING THE FIRST TAX YEAR OF THE TWO-YEAR PERIOD FOR WHICH A VALID MEI CERTIFICATE HAS BEEN ISSUED PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, PROVIDED THE TAXPAYER HAS MAINTAINED THE EMPLOYMENT AND ELIGIBLE WAGES REQUIREMENTS SPECIFIED BY THE MEI AS DEFINED IN ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, THE

TAXPAYER SHALL BE ALLOWED AN ENERGY CREDIT OF TWENTY-FIVE DOLLARS PER EMPLOYEE REQUIRED BY THE MEI AS DEFINED IN ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW. IF THE TAXPAYER INCREASES EMPLOYMENT DURING THIS TAX YEAR, AND EXCEEDS THE LEVEL OF EMPLOYMENT REQUIRED BY THE MEI AS DEFINED IN ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, HIRING AND MAINTAINING ADDITIONAL EMPLOYEES AND PAYING ADDITIONAL WAGES OVER AND ABOVE THE ELIGIBLE WAGES AMOUNT, THE TAXPAYER SHALL BE ALLOWED AN ADDITIONAL ENERGY CREDIT OF FIFTY DOLLARS PER EACH ADDITIONAL EMPLOYEE. THE ENERGY TAX CREDIT SHALL NOT EXCEED THE AMOUNT OF ELIGIBLE ENERGY COSTS ACTUALLY PAID BY THE TAXPAYER.

(2) IF THE TAXPAYER HAS PAID ELIGIBLE ENERGY COSTS DURING THE SECOND TAX YEAR OF THE TWO-YEAR PERIOD FOR WHICH A VALID MEI CERTIFICATE HAS BEEN ISSUED PURSUANT TO ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, PROVIDED THE TAXPAYER HAS MAINTAINED THE EMPLOYMENT AND ELIGIBLE WAGE REQUIREMENTS SPECIFIED BY THE MEI AS DEFINED IN ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW, THE TAXPAYER SHALL BE ALLOWED AN ENERGY CREDIT OF TWENTY-FIVE DOLLARS PER EMPLOYEE REQUIRED BY THE MEI AS DEFINED IN ARTICLE FIFTEEN OF THE ECONOMIC DEVELOPMENT LAW; HOWEVER, IF THE TAXPAYER INCREASED EMPLOYMENT DURING THE PRECEDING TAX YEAR AND CLAIMED THE ADDITIONAL ENERGY TAX CREDIT OF FIFTY DOLLARS PER ADDITIONAL EMPLOYEE, THE TAXPAYER SHALL BE ALLOWED A CREDIT OF TWENTY-FIVE DOLLARS PER EMPLOYEE UP TO THE NUMBER OF EMPLOYEES CLAIMED IN THE PREVIOUS TAX YEAR, PROVIDED THE TAXPAYER HAS MAINTAINED THE INCREASED EMPLOYMENT AND WAGE LEVELS. IF THE TAXPAYER AGAIN INCREASES EMPLOYMENT, HIRING ADDITIONAL EMPLOYEES AND PAYING ADDITIONAL WAGES OVER AND ABOVE THE PREVIOUS TAX YEAR'S AMOUNTS, THE TAXPAYER SHALL BE ALLOWED AN ADDITIONAL CREDIT OF FIFTY DOLLARS FOR EACH ADDITIONAL EMPLOYEE HIRED DURING THE SECOND YEAR. THE ENERGY TAX CREDIT SHALL NOT EXCEED THE AMOUNT OF ELIGIBLE ENERGY COSTS ACTUALLY PAID BY THE TAXPAYER.

S 3. Section 210 of the tax law is amended by adding three new subdivisions 41, 42 and 43 to read as follows:

41. MEI PROPERTY TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION SEVEN HUNDRED OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) CARRYOVERS. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION; PROVIDED, HOWEVER, IF THE AMOUNT OF THIS CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES TAX TO SUCH AMOUNT, ANY AMOUNT OF THE CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

42. MEI WAGE TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE, TO BE COMPUTED AS PROVIDED IN SECTION SEVEN HUNDRED ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) CARRYOVERS. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION; PROVIDED, HOWEVER, IF THE AMOUNT OF THIS CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES TAX TO SUCH AMOUNT, ANY AMOUNT OF THE CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

43. MEI ENERGY TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE, TO BE

COMPUTED AS PROVIDED IN SECTION SEVEN HUNDRED TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) CARRYOVERS. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION; PROVIDED, HOWEVER, IF THE AMOUNT OF THIS CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES TAX TO SUCH AMOUNT, ANY AMOUNT OF THE CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law, as amended by section 2 of part ZZ-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(B) shall be treated as the owner of a new business with respect to such share if the corporation qualifies as a new business pursuant to paragraph (j) of subdivision twelve of section two hundred ten of this chapter.

With respect to the following credit under this section:	The corporation's credit base under section two hundred ten or section fourteen hundred fifty-six of this chapter is:
(I) Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision twelve of section two hundred ten
(II) Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision twelve-B of section two hundred ten
(III) Empire zone wage tax credit under subsection (k)	Eligible wages under subdivision nineteen of section two hundred ten or subsection (e) of section fourteen hundred fifty-six
(IV) Empire zone capital tax credit under subsection (l)	Qualified investments and contributions under subdivision twenty of section two hundred ten or subsection (d) of section fourteen hundred fifty-six
(V) Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision twenty-two of section two hundred ten

(VI) Credit for employment of persons with disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages under subdivision twenty-three of section two hundred ten or subsection (f) of section fourteen hundred fifty-six
(VII) Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision twelve-D of section two hundred ten
(VIII) Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision twelve-C of section two hundred ten
(IX) Alternative fuels credit under subsection (p)	Cost under subdivision twenty-four of section two hundred ten
(X) Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision twelve-E of section two hundred ten
(XI) Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision twelve-F of section two hundred ten
(XII) Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under subdivision twenty-five of section two hundred ten or subsection (j) of section fourteen hundred fifty-six
(XIII) Low-income housing credit under subsection (x)	Credit amount under subdivision thirty of section two hundred ten or subsection (l) of section fourteen hundred fifty-six
(XIV) Credit for transportation improvement contributions under subsection (z)	Amount of credit under subdivision thirty-two of section two hundred ten or subsection (n) of section fourteen hundred fifty-six
(XV) QEZE credit for real property taxes under subsection (bb)	Amount of credit under subdivision twenty-seven of section two hundred ten or subsection (o) of section

	fourteen hundred fifty-six
(XVI) QEZE tax reduction credit under subsection (cc)	Amount of benefit period factor, employment increase factor and zone allocation factor (without regard to pro ration) under subdivision twenty-eight of section two hundred ten or subsection (p) of section fourteen hundred fifty-six and amount of tax factor as determined under subdivision (f) of section sixteen
(XVII) Green building credit under subsection (y)	Amount of green building credit under subdivision thirty-one of section two hundred ten or subsection (m) of section fourteen hundred fifty-six
(XVIII) Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under subdivision twenty-five-a of section two hundred ten or subsection (k) of section fourteen hundred fifty-six
(XIX) Brownfield redevelopment credit under subsection (dd)	Amount of credit under subdivision thirty-three of section two hundred ten or subsection (q) of section fourteen hundred fifty-six
(XX) Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under subdivision thirty-four of section two hundred ten or subsection (r) of section fourteen hundred fifty-six
(XXI) Environmental remediation insurance credit under subsection (ff)	Amount of credit under subdivision thirty-five of section two hundred ten or subsection (s) of section fourteen hundred fifty-six
(XXII) Empire state film production credit under subsection (gg)	Amount of credit for qualified production costs in production of a qualified film under subdivision thirty-six of section two hundred ten

(XXIII) Qualified emerging technology company facilities, operations and training credit under subsection (nn)	Qualifying expenditures and development activities under subdivision twelve-G of section two hundred ten
(XXIV) Security training tax credit under subsection (ii)	Amount of credit under subdivision thirty-seven of section two hundred ten or under subsection (t) of section fourteen hundred fifty-six
(XXV) Credit for qualified fuel cell electric generating equipment expenditures under subsection (g-2)	Amount of credit under subdivision thirty-seven of section two hundred ten or subsection (t) of section fourteen hundred fifty-six
(XXVI) Empire state commercial production credit under subsection (jj)	Amount of credit for qualified production costs in production of a qualified commercial under subdivision thirty-eight of section two hundred ten
(XXVII) Biofuel production tax credit under subsection (jj)	Amount of credit under subdivision thirty-eight of section two hundred ten
(XXVIII) Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision thirty-nine of section two hundred ten
(XXIX) Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision forty of [subsection] SECTION two hundred ten
(XXX) Credit for companies who provide transportation to individuals with disabilities under subsection (oo)	Amount of credit under subdivision forty of section two hundred ten
(XXXI) MEI PROPERTY TAX CREDIT UNDER SUBSECTION (QQ)	AMOUNT OF MEI PROPERTY TAX CREDIT UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN
(XXXII) MEI WAGE TAX CREDIT UNDER SUBSECTION (RR)	AMOUNT OF MEI WAGE TAX CREDIT UNDER SUBDIVISION FORTY-TWO OF SECTION TWO HUNDRED TEN
(XXXIII) MEI ENERGY TAX CREDIT UNDER SUBSECTION (SS)	AMOUNT OF MEI ENERGY TAX CREDIT UNDER SUBDIVISION FORTY-THREE OF SECTION TWO HUNDRED TEN

S 5. Section 606 of the tax law is amended by adding three new subsections (qq), (rr) and (ss) to read as follows:

(QQ) MEI PROPERTY TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION SEVEN HUNDRED OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

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

(RR) MEI WAGE TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION SEVEN HUNDRED ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

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

(SS) MEI ENERGY TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION SEVEN HUNDRED TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

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

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to taxable years beginning on or after January 1, 2011 and before January 1, 2018; provided, however, that the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made on or before such date; and provided, however that the empire state film production credit under subsection (gg), the empire state commercial production credit under subsection (jj) and the credit for companies who provide transportation to individuals with disabilities under subsection (oo) of section 606 of the tax law contained in section four of this act shall expire on the same date as provided in section 9 of part P of chapter 60 of the laws of 2004, as amended, section 10 of part V of chapter 62 of the laws of 2006, as amended and section 5 of chapter 522 of the laws of 2006, as amended, respectively.

PART B

Section 1. The economic development law is amended by adding a new article 17 to read as follows:

ARTICLE 17

OFFICE OF THE NEW YORK STATE HOMESHORING INITIATIVE

SECTION 350. LEGISLATIVE FINDINGS.
351. OFFICE OF THE NEW YORK STATE HOMESHORING INITIATIVE.
352. OBJECTIVES.
353. POWERS AND DUTIES.

S 350. LEGISLATIVE FINDINGS. THE LEGISLATURE FINDS THAT RECENT ADVANCES IN TELECOMMUNICATIONS AND THE ADVENT OF THE INTERNET ARE REGULARLY CREATING NEW AND PREVIOUSLY UNIMAGINED OPPORTUNITIES FOR THE CREATION OF JOBS AND PROSPERITY. THE LEGISLATURE FURTHER FINDS THAT THESE ADVANCES IN COMMUNICATIONS HAVE ALSO PRESENTED THE STATE AND ITS CITIZENS WITH SIGNIFICANT CHALLENGES IN TERMS OF GLOBAL COMPETITION, WHICH CHALLENGES MUST BE ADDRESSED DIRECTLY FOR OUR STATE TO MAINTAIN ITS COMPETITIVE EDGE IN THE EVOLVING WORLD ECONOMY. THE LEGISLATURE FURTHER FINDS THAT THE PROPER PROMOTION OF INTERNET JOB OPPORTUNITIES COULD HELP IMPROVE THE OVERALL ECONOMIC CLIMATE WITHIN THE STATE BY PROVIDING POTENTIAL EMPLOYMENT ANYWHERE WITHIN THE STATE, INCLUDING BLIGHTED, ISOLATED, AND ECONOMICALLY DEPRESSED REGIONS. THE LEGISLATURE FURTHER FINDS THAT SUCH POTENTIAL JOBS ARE PARTICULARLY SUITED TO BEING FILLED BY BOTH NEW YORKERS WITH DISABILITIES AND BY THOSE NEW YORKERS WHOSE FAMILY RESPONSIBILITIES PRECLUDE OR MAKE IMPRACTICAL WORKING OUTSIDE OF THE HOME. THE LEGISLATURE FURTHER FINDS THAT NEW YORK IS HOME TO A HIGHLY PRODUCTIVE AND WELL EDUCATED WORKFORCE, AND THAT THIS WORKFORCE COULD AND SHOULD BE MADE AVAILABLE FOR EMPLOYMENT AT HOME BY COMPANIES LOCATED ACROSS THE WORLD IN ORDER TO PROMOTE THE PROSPERITY OF THE STATE AND ITS CITIZENS.

S 351. OFFICE OF THE NEW YORK STATE HOMESHORING INITIATIVE. THERE IS HEREBY ESTABLISHED, UNDER THE DIRECTION OF THE COMMISSIONER, THE OFFICE OF THE NEW YORK STATE HOMESHORING INITIATIVE. THE DIRECTOR OF SUCH OFFICE SHALL BE APPOINTED BY THE GOVERNOR, SHALL REPORT DIRECTLY TO THE COMMISSIONER ON THE ACTIVITIES OF THE OFFICE, AND SHALL HOLD OFFICE AT THE PLEASURE OF THE COMMISSIONER. THE DIRECTOR OF THE OFFICE OF THE NEW YORK STATE HOMESHORING INITIATIVE SHALL ALSO REGULARLY ADVISE AND REPORT UPON ITS ACTIVITIES TO THE DEPARTMENT OF LABOR. IT SHALL BE THE DUTY OF THE DIRECTOR OF THE OFFICE OF THE NEW YORK STATE HOMESHORING INITIATIVE TO ASSIST THE GOVERNOR IN THE FORMULATION AND IMPLEMENTATION OF LAWS AND POLICIES RELATING TO THE PROMOTION, CREATION, AND INTEGRATION OF TELECOMMUTING JOB OPPORTUNITIES INTO THE ECONOMIC FABRIC OF THE STATE. THE DIRECTOR SHALL RECEIVE AN ANNUAL SALARY TO BE FIXED BY THE GOVERNOR WITHIN THE AMOUNT APPROPRIATED THEREFOR. THE DIRECTOR MAY APPOINT SUCH OFFICERS, EMPLOYEES, AGENTS, CONSULTANTS AND SPECIAL COMMITTEES AS HE OR SHE MAY DEEM NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ARTICLE AND PRESCRIBE THEIR DUTIES SUBJECT TO THE PROVISIONS OF THE CIVIL SERVICE LAW AND THE RULES AND REGULATIONS OF THE CIVIL SERVICE COMMISSION.

S 352. OBJECTIVES. THE OFFICE OF THE NEW YORK STATE HOMESHORING INITIATIVE IS DIRECTED TO PROMOTE "HOMESHORING", AN INITIATIVE THAT WILL PROMOTE THE CREATION OF TELECOMMUTING JOB OPPORTUNITIES ON BEHALF OF NEW YORK WORKERS. THIS ASSISTANCE SHOULD CONSIST OF PROMOTION, OUTREACH, COORDINATION, INFORMATION, TECHNICAL ASSISTANCE, AND REFERRAL SERVICES DESIGNATED TO ATTRACT EMPLOYERS WHO MIGHT OTHERWISE NOT CONSIDER AN ACTUAL MOVE TO NEW YORK STATE TO HIRE NEW YORK CITIZENS FOR EMPLOYMENT OPPORTUNITIES WITHIN THE STATE NOW MADE POSSIBLE THROUGH TELECOMMUTING, AS WELL AS ENCOURAGING NEW YORK STATE EMPLOYERS TO PROVIDE JOB OPPORTUNITIES FOR TELECOMMUTING.

S 353. POWERS AND DUTIES. THE OFFICE OF THE NEW YORK STATE HOMESHORING INITIATIVE SHALL:

1. COORDINATE ITS EFFORTS WITH ALL OTHER STATE AGENCIES, INCLUDING BUT NOT LIMITED TO THE DEPARTMENT, THE DEPARTMENT OF LABOR, THE OFFICE OF GENERAL SERVICES, THE STATE OFFICE FOR TECHNOLOGY, THE DEPARTMENT OF EDUCATION, AND ALL OTHER AGENCIES AS MAY BE APPROPRIATE IN FORWARDING THIS OBJECTIVE. THE OFFICE MAY ALSO WORK IN COOPERATION WITH ANY

NOT-FOR-PROFIT ORGANIZATIONS THAT THE OFFICE BELIEVES WILL HELP FURTHER ITS GOALS AND OBJECTIVES;

2. CONDUCT MARKETING AND PROMOTIONAL ACTIVITIES WITH THE INTENTION OF ENCOURAGING EMPLOYERS BOTH WITHIN AND OUTSIDE OF NEW YORK STATE TO EMPLOY NEW YORK CITIZENS IN TELECOMMUTING JOBS;

3. SOLICIT RECOMMENDATIONS FROM LOCAL GOVERNMENTS, BUSINESSES, AND NOT-FOR-PROFIT AGENCIES FOR PROMOTING THE OBJECTIVES OF THIS ARTICLE, AND REFER SUCH RECOMMENDATIONS TO THE GOVERNOR, THE LEGISLATURE AND APPROPRIATE STATE AGENCIES OR AUTHORITIES;

4. CONDUCT INVESTIGATIONS, RESEARCH, STUDIES AND ANALYSES OF MATTERS CONSISTENT WITH THE GOALS AND OBJECTIVES OF THIS ARTICLE;

5. COORDINATE WITH THE OFFICE OF GENERAL SERVICES TO DEVELOP A PROGRAM WHERE SUCH SURPLUS STATE EQUIPMENT AS MAY BE APPROPRIATE AND USEFUL WILL BE MADE AVAILABLE FOR SALE TO QUALIFIED BUSINESSES THAT HAVE BEEN IDENTIFIED AS CREATING TELECOMMUTING JOBS IN NEW YORK STATE, AND SHALL DEVELOP SUCH RULES AND REGULATIONS AS ARE NEEDED TO IMPLEMENT SUCH A PROGRAM INCLUDING THE CRITERIA FOR PARTICIPATION IN SUCH PROGRAM; AND

6. COORDINATE WITH THE OFFICE OF GENERAL SERVICES TO DEVELOP A PROGRAM WHERE QUALIFYING BUSINESSES THAT HAVE BEEN IDENTIFIED AS CREATING TELECOMMUTING JOBS MAY BE MADE ELIGIBLE TO MAKE PURCHASES OF MATERIALS, EQUIPMENT, OR SUPPLIES FROM CENTRALIZED CONTRACTS FOR COMMODITIES IN ACCORDANCE WITH CONDITIONS SET BY THE OFFICE AND THE OFFICE OF GENERAL SERVICES; PROVIDED THAT THE QUALIFIED BUSINESS SHALL ACCEPT SOLE RESPONSIBILITY FOR ANY PAYMENT DUE THE VENDOR. THE OFFICE SHALL DEVELOP SUCH RULES AND REGULATIONS AS ARE NEEDED TO IMPLEMENT SUCH A PROGRAM AND TO DETERMINE THE ELIGIBILITY FOR PARTICIPATION IN SUCH PROGRAM.

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

44. TELECOMMUTING JOB CREATION WAGE TAX CREDIT. (A) A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF SUCH CREDIT SHALL BE AS PRESCRIBED BY PARAGRAPH (D) OF THIS SUBDIVISION.

(B) FOR THE PURPOSES OF THIS SUBDIVISION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(I) "TELECOMMUTING JOB CREATION WAGES" MEANS WAGES PAID BY THE TAXPAYER FOR EMPLOYMENT, DURING THE TAXABLE YEAR WHERE SUCH EMPLOYMENT IS IN A TELECOMMUTING JOB AND PERFORMED BY TELECOMMUTING EMPLOYEES.

(II) "TELECOMMUTING JOB" MEANS A POSITION THAT DID NOT EXIST IN THE TAXPAYER'S BUSINESS IN NEW YORK STATE DURING THE THREE TAXABLE YEARS PRIOR TO HIRING THE TELECOMMUTING EMPLOYEES FOR WHOM THE CREDIT IS CLAIMED AND WHICH PROVIDES NOT LESS THAN TWENTY HOURS PER WEEK OF EMPLOYMENT.

(III) "TELECOMMUTING EMPLOYEE" MEANS A NEW YORK RESIDENT WHO RECEIVED TELECOMMUTING JOB CREATION WAGES AND WHO WAS NOT EMPLOYED BY THE TAXPAYER IN THE THREE PRIOR TAXABLE YEARS, AND WHO PERFORMS HIS OR HER JOB DUTY FROM HIS OR HER RESIDENCE.

(IV) "TAXPAYER" MEANS A NEW YORK TAXPAYER AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF THIS SECTION.

(C) THE CREDIT MAY BE CLAIMED BY THE TAXPAYER IN THE FIRST YEAR THE TELECOMMUTING EMPLOYEE IS EMPLOYED BY THE TAXPAYER, PROVIDED, HOWEVER, WHERE A TELECOMMUTING EMPLOYEE IS HIRED IN THE LAST QUARTER OF A TAXABLE YEAR AND IS EMPLOYED BY THE TAXPAYER FOR THE ENTIRE FOLLOWING TAXABLE YEAR, THE TAXPAYER MAY ELECT TO FOREGO THE CREDIT FOR THE TAXABLE YEAR OF THE HIRING AND CLAIM A CREDIT FOR THE FOLLOWING TAXABLE YEAR WHICH REFLECTS WAGES PAID IN SUCH YEAR.

(D) THE AMOUNT OF THE CREDIT SHALL EQUAL FIFTY PERCENT OF THE PERSONAL INCOME TAX GENERATED BY THE TELECOMMUTING EMPLOYEE BY THE TAXPAYER, PROVIDED, HOWEVER, THAT THE CREDIT PROVIDED FOR UNDER THIS SUBDIVISION WITH RESPECT TO THE TAXABLE YEAR, AND CARRYOVERS OF SUCH CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE, MAY NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER SECTION TWO HUNDRED NINE OF THIS ARTICLE COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED FOR BY THIS ARTICLE.

(E) THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT, IN THE AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION, HOWEVER, IF THE AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, OR IF ANY PART OF THE CREDIT OR CARRYOVERS OF SUCH CREDIT MAY NOT BE DEDUCTED FROM THE TAX OTHERWISE DUE BY REASON OF THE FINAL SENTENCE OF PARAGRAPH (D) OF THIS SUBDIVISION, ANY AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS.

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

(U) TELECOMMUTING JOB CREATION WAGE TAX CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF SUCH CREDIT SHALL BE AS PRESCRIBED BY PARAGRAPH THREE OF THIS SUBSECTION.

(2) FOR THE PURPOSES OF THIS SUBSECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(I) "TELECOMMUTING JOB" MEANS A POSITION THAT DID NOT EXIST IN THE TAXPAYER'S BUSINESS IN THE THREE TAXABLE YEARS PRIOR TO HIRING THE TELECOMMUTING EMPLOYEES FOR WHOM THE CREDIT IS CLAIMED AND WHICH PROVIDES NOT LESS THAN TWENTY HOURS PER WEEK OF EMPLOYMENT.

(II) "TELECOMMUTING JOB CREATION WAGES" MEANS WAGES PAID BY THE TAXPAYER FOR EMPLOYMENT, DURING THE TAXABLE YEAR WHERE SUCH EMPLOYMENT IS IN A TELECOMMUTING JOB CREATED FOR AND PERFORMED BY TELECOMMUTING EMPLOYEES.

(III) "TELECOMMUTING EMPLOYEE" MEANS A NEW YORK RESIDENT WHO RECEIVES TELECOMMUTING JOB CREATION WAGES, WHO WAS NOT EMPLOYED BY THE TAXPAYER IN THE THREE PRIOR TAXABLE YEARS, AND WHO PERFORMS THEIR JOB DUTIES FROM HIS OR HER RESIDENCE.

(IV) "TAXPAYER" MEANS A NEW YORK TAXPAYER, AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER.

(V) THE CREDIT MAY BE CLAIMED BY THE TAXPAYER IN THE FIRST YEAR THE TELECOMMUTING EMPLOYEE IS EMPLOYED BY THE TAXPAYER, PROVIDED, HOWEVER, WHERE A TELECOMMUTING EMPLOYEE IS HIRED IN THE LAST QUARTER OF A TAXABLE YEAR AND IS EMPLOYED BY THE TAXPAYER FOR THE ENTIRE FOLLOWING TAXABLE YEAR, THE TAXPAYER MAY ELECT TO FOREGO THE CREDIT FOR THE TAXABLE YEAR OF THE HIRING AND CLAIM A CREDIT FOR THE FOLLOWING TAXABLE YEAR WHICH REFLECTS WAGES PAID IN SUCH YEAR.

(3) THE AMOUNT OF THE CREDIT SHALL EQUAL FIFTY PERCENT OF THE PERSONAL INCOME TAX GENERATED BY THE TELECOMMUTING EMPLOYEES EMPLOYED BY THE TAXPAYER, PROVIDED, HOWEVER, THAT THE CREDIT PROVIDED FOR UNDER THIS SUBSECTION WITH RESPECT TO THE TAXABLE YEAR, AND CARRYOVERS OF SUCH CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE, MAY NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER

SECTION TWO HUNDRED NINE OF THIS CHAPTER COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED FOR BY THIS ARTICLE.

(4) IF THE AMOUNT OF THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS, AS WELL AS ANY PART OF THE CREDIT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, WHICH MAY NOT BE DEDUCTED FROM THE TAX OTHERWISE DUE BY REASON OF THE FINAL SENTENCE IN PARAGRAPH THREE OF THIS SUBSECTION, MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.

PART C

Section 1. The general municipal law is amended by adding a new section 959-c to read as follows:

S 959-C. DECERTIFICATION DUE TO THE OUTSOURCING OF JOBS. A CERTIFIED BUSINESS ENTERPRISE IN AN EMPIRE ZONE SHALL BE DECERTIFIED BY THE COMMISSIONER, THE LOCAL EMPIRE ZONE CERTIFICATION OFFICER AND THE COMMISSIONER OF LABOR IF IT IS DETERMINED THAT SUCH CERTIFIED BUSINESS ENTERPRISE HAS FAILED TO MEET JOB CREATION PROJECTIONS AS SET FORTH IN THE CERTIFICATION PROCESS, AND IT IS FOUND THAT SUCH CERTIFIED BUSINESS HAS OUTSOURCED JOBS. PRIOR TO THE COMMISSIONER, THE LOCAL EMPIRE ZONE CERTIFICATION OFFICER AND THE COMMISSIONER OF LABOR DECERTIFYING SUCH CERTIFIED BUSINESS ENTERPRISE, THEY SHALL PROVIDE NOTICE TO THE CERTIFIED BUSINESS ENTERPRISE OF THEIR INTENT TO DECERTIFY SUCH CERTIFIED BUSINESS ENTERPRISE AND OF ITS RIGHT TO REQUEST A HEARING. A CERTIFIED BUSINESS ENTERPRISE SHALL HAVE THIRTY DAYS WITHIN WHICH TO REQUEST A HEARING FROM ITS RECEIPT OF THE NOTICE OF INTENT TO REVOKE CERTIFICATION AND OPPORTUNITY FOR A HEARING. FAILURE TO REQUEST A HEARING WITHIN THIRTY DAYS SHALL BE DEEMED A WAIVER OF THE CERTIFIED BUSINESS ENTERPRISE'S RIGHT TO A HEARING. FOR THE PURPOSES OF THIS SECTION, "OUTSOURCE" MEANS TO RELOCATE OR MOVE JOBS OUTSIDE OF THE STATE OF NEW YORK TO ANOTHER STATE OR COUNTRY.

S 2. This act shall take effect immediately.

PART D

Section 1. Section 208 of the tax law is amended by adding two new subdivisions 20 and 21 to read as follows:

20. "MANUFACTURER" SHALL MEAN A TAXPAYER WHICH DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, ASSEMBLING, REFINING, MINING, EXTRACTING, FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING. MOREOVER, FOR PURPOSES OF COMPUTING THE CAPITAL BASE IN A COMBINED REPORT, THE GROUP SHALL BE CONSIDERED A "MANUFACTURER" FOR PURPOSES OF THIS ARTICLE ONLY IF THE COMBINED GROUP DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS SUBDIVISION, OR ANY COMBINATION THEREOF.

21. "PRINCIPALLY ENGAGED" SHALL INCLUDE A TAXPAYER OR A COMBINED GROUP IF, DURING THE TAXABLE YEAR, MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR COMBINED GROUP, RESPECTIVELY, ARE DERIVED FROM RECEIPTS FROM THE SALE OF GOODS PRODUCED BY MANUFACTURING. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTERCORPORATE RECEIPTS SHALL BE ELIMINATED.

S 2. Section 209 of the tax law is amended by adding a new subdivision 11 to read as follows:

11. FOR ANY TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE, A TAXPAYER WHO IS A MANUFACTURER SHALL BE FULLY EXEMPT FROM ALL TAXES IMPOSED BY THIS ARTICLE.

S 3. Subsection (f) of section 601 of the tax law, as amended by chapter 248 of the laws of 1997, is amended to read as follows:

(f) Partners and partnerships. A partnership as such shall not be subject to tax under this article. Persons carrying on business as partners shall be liable for tax under this article only in their separate or individual capacities. NOTWITHSTANDING THIS OR ANY OTHER SECTION OF THIS ARTICLE, A PERSON'S LIABILITY FOR TAX UNDER THIS SUBSECTION, IF SUCH PERSON'S PRIMARY ACTIVITY IS IN HIS OR HER ROLE AS A MANUFACTURER, SHALL BE ZERO FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE. FOR PURPOSES OF THIS SECTION A PERSON SHALL BE CLASSIFIED AS A MANUFACTURER IF, HE OR SHE IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, ASSEMBLING, REFINING, MINING, EXTRACTING, FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING. IN ADDITION, FOR PURPOSES OF COMPUTING THE CAPITAL BASE IN A COMBINED REPORT, THE GROUP SHALL BE CONSIDERED A MANUFACTURER FOR PURPOSES OF THIS ARTICLE, ONLY IF THE COMBINED GROUP DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS SUBSECTION, OR ANY COMBINATION THEREOF. FOR PURPOSES OF THIS SUBSECTION, A TAXPAYER IS "PRINCIPALLY ENGAGED" IN THE DESCRIBED ACTIVITY IF, DURING THE TAXABLE YEAR, MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER ARE DERIVED FROM RECEIPTS FROM ACTIVITIES COVERED BY THIS SUBSECTION. As used in this article, the term "partnership" shall include, unless a different meaning is clearly required, a subchapter K limited liability company. The term "subchapter K limited liability company" shall mean a limited liability company classified as a partnership for federal income tax purposes. The term "limited liability company" means a domestic limited liability company or a foreign limited liability company, as defined in section one hundred two of the limited liability company law, a limited liability investment company formed pursuant to section five hundred seven of the banking law, or a limited liability trust company formed pursuant to section one hundred two-a of the banking law.

S 4. Subsection (b) of section 602 of the tax law, as amended by chapter 333 of the laws of 1987, is amended to read as follows:

(b) The tax imposed by this section on New York minimum taxable income, as defined in section six hundred twenty-two or section six hundred thirty-six, as the case may be, shall be at the rate of six percent, EXCEPT FOR, IN THE CASE OF INCOME DERIVED FROM ACTIVITY OF A PERSON CLASSIFIED AS A MANUFACTURER UNDER SUBSECTION (F) OF SECTION SIX HUNDRED ONE OF THIS PART, THE TAX IMPOSED BY THIS SECTION ON NEW YORK MINIMUM TAXABLE INCOME FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE, SHALL BE ZERO.

S 5. This act shall take effect immediately and shall apply to taxable years commencing on or after January 1, 2009; provided, however, that the commissioner of taxation and finance is authorized to promulgate any and all rules and regulations and take any other measures necessary for the timely implementation of this act on its effective date on or before such date.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect,

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

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