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

5407

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. BUTLER -- read once and referred to the Committee on Ways and Means

AN ACT to amend the general municipal law, in relation to the creation of research and development centers; to amend the tax law, in relation to providing tax credits and benefits for research and development enterprises, qualified research production facilities; and to provide a research and development wage, expense and grant tax credit and a certified research and development enterprise credit for real property taxes

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

Section 1. Short title. This act shall be known and may be cited as the "research and development centers program".

S 2. Section 957 of the general municipal law is amended by adding a new subdivision (v) to read as follows:

(V) "RESEARCH AND DEVELOPMENT CENTER" SHALL MEAN AN AREA WITHIN THE STATE THAT HAS BEEN DESIGNATED AS A RESEARCH AND DEVELOPMENT CENTER PURSUANT TO THIS ARTICLE.

S 3. Section 960 of the general municipal law is amended by adding a new subdivision (f) to read as follows:

(F) THE EMPIRE ZONE BOARD SHALL DETERMINE THE ACTUAL GEOGRAPHIC BOUNDARIES OF RESEARCH AND DEVELOPMENT CENTERS AFTER A REVIEW OF PROPOSED BOUNDARIES MADE BY RESOLUTION OF THE LEGISLATIVE BODY OF THE COUNTY IN WHICH A DESIGNATED RESEARCH AND DEVELOPMENT CENTER IS LOCATED, OR BY THE CITY COUNCIL IN THE CASE OF THE CITY OF NEW YORK.

S 4. Article 18-B of the general municipal law is amended by adding a new section 970 to read as follows:

S 970. RESEARCH AND DEVELOPMENT CENTERS. (A) CREATION OF RESEARCH AND DEVELOPMENT CENTERS. THE RESEARCH AND DEVELOPMENT CENTER PROGRAM IS HEREBY CREATED TO FOSTER PHYSICAL, ENGINEERING AND BIOLOGICAL RESEARCH.

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

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(B) PURPOSE. FOR THE PURPOSE OF THIS PROGRAM, A RESEARCH AND DEVELOPMENT ESTABLISHMENT SHALL MEAN AN ESTABLISHMENT LOCATED IN NEW YORK STATE PRIMARILY ENGAGED IN CONDUCTING RESEARCH AND EXPERIMENTAL DEVELOPMENT IN THE PHYSICAL, ENGINEERING, AND LIFE SCIENCES, SUCH AS AGRICULTURE, ELECTRONICS, ENVIRONMENTAL, BIOLOGY, BOTANY, BIOTECHNOLOGY, COMPUTERS, CHEMISTRY, FOOD, FISHERIES, FORESTS, GEOLOGY, HEALTH, MATHEMATICS, MEDICINE, OCEANOGRAPHY, PHARMACY, PHYSICS, VETERINARY, AND OTHER ALLIED SUBJECTS.

(C) RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL:

(1) AFTER CONSULTATION WITH THE DIRECTOR OF THE BUDGET, THE COMMISSIONER OF LABOR, AND THE COMMISSIONER OF TAXATION AND FINANCE, PROMULGATE REGULATIONS GOVERNING (I) THE JOINT CERTIFICATION BY THE COMMISSIONER AND THE COMMISSIONER OF LABOR, AS TO THE ELIGIBILITY OF A BUSINESS ENTERPRISE FOR BENEFITS SET FORTH IN SUBDIVISION (E) OF THIS SECTION, PROVIDED, HOWEVER, THAT A BUSINESS ENTERPRISE THAT HAS SHIFTED ITS OPERATIONS, OR SOME PORTION THEREOF, FROM AN AREA WITHIN NEW YORK STATE NOT DESIGNATED AS A RESEARCH AND DEVELOPMENT CENTER TO AN AREA SO DESIGNATED SHALL NOT BE CERTIFIED TO RECEIVE SUCH BENEFITS, EXCEPT WHERE SUCH SHIFT IN OPERATIONS IS FROM A BUSINESS INCUBATOR FACILITY OPERATED BY A MUNICIPALITY OR BY A PUBLIC OR PRIVATE NOT-FOR-PROFIT ENTITY WHICH PROVIDES SPACE AND BUSINESS SUPPORT SERVICES TO NEWLY ESTABLISHED FIRMS; AND (II) THE JOINT REVOCATION BY THE COMMISSIONER AND THE COMMISSIONER OF LABOR OF A CERTIFICATE TO RECEIVE BENEFITS SET FORTH IN SUBDIVISION (E) OF THIS SECTION UPON A FINDING THAT (I) SUCH BUSINESS ENTERPRISE MADE MATERIAL MISREPRESENTATION OF THE FACT ON ITS APPLICATION FOR CERTIFICATION, OR SUCH BUSINESS ENTERPRISE FAILED TO DISCLOSE FACTS IN ITS APPLICATION FOR CERTIFICATION CONSTITUTING GROUNDS FOR REFUSING TO ISSUE CERTIFICATION; (II) THE BUSINESS ENTERPRISE HAS FAILED TO CONSTRUCT, EXPAND, REHABILITATE OR OPERATE ITS FACILITY SUBSTANTIALLY IN ACCORDANCE WITH THE REPRESENTATIONS CONTAINED IN ITS APPLICATION FOR CERTIFICATION; (III) THE BUSINESS ENTERPRISE HAS FAILED TO CREATE NEW EMPLOYMENT OR PREVENT A LOSS OF EMPLOYMENT IN THE APPROPRIATE RESEARCH AND DEVELOPMENT CENTER PROVIDED, HOWEVER, THAT SUCH FAILURE WAS NOT DUE TO ECONOMIC CIRCUMSTANCES OR CONDITIONS WHICH SUCH BUSINESS COULD NOT ANTICIPATE OR WHICH WERE BEYOND ITS CONTROL; WHERE APPLICABLE, THE BUSINESS HAS FAILED TO SUBMIT AN ANNUAL REPORT AFTER IT HAS APPLIED FOR CENTER INCENTIVES OR PROGRAM ASSISTANCE BASED ON NEW HIRES OR INVESTMENT. REVOCATION OF SUCH CERTIFICATE SHALL BECOME EFFECTIVE ON THE DATE DETERMINED TO BE THE EARLIEST EVENT CONSTITUTING GROUNDS FOR REVOKING SUCH CERTIFICATE. THE COMMISSIONER SHALL NOTIFY THE COMMISSIONER OF TAXATION AND FINANCE THAT SUCH DECERTIFICATION HAS OCCURRED, AND SUCH NOTIFICATION SHALL INCLUDE THE EFFECTIVE DATE OF SUCH DECERTIFICATION AND THE CENTER TO WHICH DECERTIFICATION APPLIES;

(2) ESTABLISH A PRIORITY FOR THE ALLOCATION OF AUTHORITY TO ISSUE PRIVATE ACTIVITY BONDS FOR THE BENEFIT OF MUNICIPALITIES AND BUSINESS ENTERPRISES LOCATED OR TO BE LOCATED WITHIN A RESEARCH AND DEVELOPMENT CENTER;

(3) COORDINATE THE RESEARCH AND DEVELOPMENT CENTER PROGRAM WITH STATE AGENCIES AND AUTHORITIES, THE PROVISION OF BUSINESS DEVELOPMENT PROGRAMS AND SERVICES FOR EACH RESEARCH AND DEVELOPMENT CENTER IN ORDER TO STIMULATE THE CREATION AND DEVELOPMENT OF NEW BUSINESSES AND MAY REQUEST AND SHALL RECEIVE FROM ANY DEPARTMENT, DIVISION, BOARD, BUREAU, COMMISSION, AGENCY OR PUBLIC AUTHORITY OF THE STATE SUCH ASSISTANCE AS MAY BE NECESSARY; AND

(4) RECOMMEND FOR LOAN AND GRANT PROGRAMS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE URBAN DEVELOPMENT CORPORATION, SPECIAL TERMS AND CONDITIONS FOR VIABLE CENTER PROJECTS AND PROGRAMS.

(D) DESIGNATION OF RESEARCH AND DEVELOPMENT CENTERS. (1) THE FOLLOWING SEVEN RESEARCH AND DEVELOPMENT CENTERS ARE HEREBY DESIGNATED. EACH CENTER SHALL NOT EXCEED A TOTAL OF FOUR SQUARE MILES IN AREA. EACH CENTER MUST BE LOCATED WITHIN THE GEOGRAPHIC BOUNDARIES OF THE FOLLOWING:

(I) ERIE COUNTY,

(II) MONROE COUNTY,

(III) ONONDAGA COUNTY,

(IV) ALBANY COUNTY, PROVIDED HOWEVER, UP TO TWO SQUARE MILES MAY BE LOCATED IN RENSSELAER COUNTY,

(V) BROOME COUNTY, PROVIDED HOWEVER, UP TO ONE SQUARE MILE MAY BE LOCATED IN TIOGA COUNTY,

(VI) THE CITY OF NEW YORK,

(VII) NASSAU COUNTY AND SUFFOLK COUNTY, PROVIDED THAT NO MORE THAN TWO SQUARE MILES ARE LOCATED IN EITHER COUNTY.

(2) EACH CENTER MAY CONTAIN NON-CONTIGUOUS AREAS, PROVIDED THAT AT LEAST ONE CONTIGUOUS AREA IS AT LEAST ONE SQUARE MILE AND TWO CONTIGUOUS AREAS ARE AT LEAST ONE HALF OF ONE SQUARE MILE EACH.

(E) SPECIAL PROVISIONS RELATING TO RESEARCH AND DEVELOPMENT CENTERS. IN ADDITION TO THE BENEFITS PROVIDED IN THIS SECTION, ADDITIONAL BENEFITS APPLICABLE TO RESEARCH AND DEVELOPMENT CENTERS SHALL BE PROVIDED AS FOLLOWS:

(1) A REFUND OR CREDIT FOR INCREASES IN EMPLOYMENT AGAINST THE TAXES IMPOSED UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THE TAX LAW PURSUANT TO SECTION TWENTY-FIVE-A OF THE TAX LAW;

(2) A CREDIT FOR RESEARCH AND DEVELOPMENT EXPENSES AGAINST THE TAXES IMPOSED UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THE TAX LAW PURSUANT TO SECTION TWENTY-FIVE-B OF THE TAX LAW;

(3) A REFUND OR CREDIT FOR RESEARCH AND DEVELOPMENT GRANTS AGAINST THE TAXES IMPOSED UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THE TAX LAW PURSUANT TO SECTION TWENTY-FIVE-C OF THE TAX LAW;

(4) A REFUND OR CREDIT FOR REAL PROPERTY TAXES AGAINST THE TAXES IMPOSED UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THE TAX LAW PURSUANT TO SECTION TWENTY-FIVE-D OF THE TAX LAW;

(5) TAX BENEFITS PROVIDED UNDER THE EMPIRE ZONE PROGRAM;

(6) AN INCREASE IN THE RATE OF THE INVESTMENT TAX CREDIT;

(7) AN EXCLUSION OF INCOME FOR QUALIFIED RESEARCH SERVICES FOR THE PURPOSE OF THE CALCULATION OF TAXES IMPOSED UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THE TAX LAW;

(8) AN EXCLUSION OF INCOME FOR QUALIFIED ROYALTY PAYMENTS FOR THE PURPOSE OF THE CALCULATION OF TAXES IMPOSED UNDER ARTICLE NINE-A OR ARTICLE TWENTY-TWO OF THE TAX LAW.

(F) TERMINATION OR REVISION OF A RESEARCH AND DEVELOPMENT CENTER. (1) EXCEPT AS PROVIDED IN THIS SECTION, ANY DESIGNATION OF AN AREA AS A RESEARCH AND DEVELOPMENT ZONE SHALL REMAIN IN EFFECT DURING THE PERIOD BEGINNING ON THE DATE OF DESIGNATION AND ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND TWENTY-NINE.

(2) THE LEGISLATIVE BODY OF THE COUNTY IN WHICH A DESIGNATED RESEARCH AND DEVELOPMENT CENTER IS LOCATED, OR BY THE CITY COUNCIL IN THE CASE OF THE CITY OF NEW YORK MAY, BY RESOLUTION, SUBMIT TO THE COMMISSIONER A REQUEST TO REVISE THE BOUNDARIES OF AN EXISTING RESEARCH AND DEVELOPMENT CENTER. THE COMMISSIONER MAY, AFTER CONSULTING WITH THE COMMISSIONER OF LABOR, APPROVE SUCH REVISION SUBJECT TO THE FOLLOWING PROVISIONS:

(I) THE COMMISSIONER MAY GRANT APPROVAL OF REVISION OF THE BORDERS OF A RESEARCH AND DEVELOPMENT CENTER WITHOUT PRIOR PUBLIC NOTICE AND WITHOUT PRIOR PUBLIC HEARING IF SUCH REVISION ADDS TERRITORY TO AN EXISTING

RESEARCH AND DEVELOPMENT CENTER, BUT DOES NOT REMOVE TERRITORY FROM SUCH CENTER.

(II) THE COMMISSIONER MAY GRANT APPROVAL OF A REVISION OF THE BORDERS OF A RESEARCH AND DEVELOPMENT CENTER AFTER PUBLIC NOTICE OF SUCH REVISION AND A PUBLIC HEARING AT LEAST THIRTY DAYS PRIOR TO THE EFFECTIVE DATE OF SUCH REVISION, IF SUCH REVISION REMOVES TERRITORY FROM AN EXISTING RESEARCH AND DEVELOPMENT CENTER.

(III) THE REVISION OF THE BORDERS OF A RESEARCH AND DEVELOPMENT CENTER SHALL HAVE NO EFFECT ON THE DURATION OF THE DESIGNATION OF THE RESEARCH AND DEVELOPMENT CENTER AS PROVIDED IN PARAGRAPH ONE OF THIS SUBDIVISION.

S 5. The tax law is amended by adding five new sections 25-a, 25-b, 25-c, 25-d and 25-e to read as follows:

S 25-A. RESEARCH AND DEVELOPMENT WAGE CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS A CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE (CRDE), AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (D) OF THIS SECTION, TO BE COMPUTED AS HEREINAFTER PROVIDED.

(B) DEFINITIONS. (1) THE TERM "CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE" OR "CRDE" SHALL MEAN A BUSINESS FACILITY WHICH DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN CONDUCTING RESEARCH AND DEVELOPMENT IN THE PHYSICAL, ENGINEERING, AND LIFE SCIENCES AND WHICH HAS BEEN DESIGNATED UNDER SECTION NINE HUNDRED SEVENTY OF THE GENERAL MUNICIPAL LAW.

(2) THE TERM "CERTIFIED RESEARCH PRODUCTION FACILITY" OR "CRPF" SHALL MEAN A BUSINESS FACILITY BUILT IN NEW YORK STATE IN CONJUNCTION WITH A CRDE TO PRODUCE OR MANUFACTURE PRODUCTS WHICH HAVE BEEN OR ARE BEING DEVELOPED AT THE CRDE, PROVIDED THAT THE CRPF IS ESTABLISHED AFTER THE DESIGNATION OF THE CRDE, AND WHICH HAS BEEN DESIGNATED UNDER SECTION NINE HUNDRED SEVENTY OF THE GENERAL MUNICIPAL LAW.

(3) THE TERM "RESEARCH AND DEVELOPMENT JOB" SHALL MEAN AN INDIVIDUAL EMPLOYED FULL TIME FOR AT LEAST ONE-HALF OF A TAXABLE YEAR AT A CRDE IN WHICH THE PRIMARY JOB FUNCTION OF THE INDIVIDUAL IS CLASSIFIED AS RESEARCH AND DEVELOPMENT IN THE PHYSICAL, ENGINEERING, AND LIFE SCIENCES UNDER THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM.

(4) THE TERM "RESEARCH PRODUCTION JOB" SHALL MEAN AN INDIVIDUAL EMPLOYED FULL TIME FOR AT LEAST ONE-HALF OF A TAXABLE YEAR AT A CRPF IN WHICH THE PRIMARY JOB FUNCTION OF THE INDIVIDUAL IS CLASSIFIED AS MANUFACTURING UNDER THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM.

(5) THE TERM "EMPLOYMENT INCREASE YEAR" SHALL MEAN THE TAXABLE YEAR IN WHICH THE INCREASE IN EMPLOYMENT FOR WHICH THIS CREDIT IS CLAIMED OCCURS.

(6) THE TERM "BASE YEAR" SHALL MEAN THE TAXABLE YEAR IMMEDIATELY PRECEDING THE EMPLOYMENT INCREASE YEAR.

(7) THE TERM "EMPLOYMENT INCREASE LEVEL" SHALL MEAN THE DIFFERENCE BETWEEN THE EMPLOYMENT NUMBER IN THE EMPLOYMENT INCREASE YEAR AND THE EMPLOYMENT NUMBER IN THE BASE YEAR. IF EMPLOYMENT INCREASE LEVEL IS LESS THAN ZERO IN ANY TAXABLE YEAR, IT SHALL BE ASSUMED TO BE ZERO.

(8) THE TERM "EMPLOYMENT NUMBER" SHALL MEAN THE AVERAGE NUMBER OF RESEARCH AND DEVELOPMENT JOBS AT A CRDE AND RESEARCH PRODUCTION JOBS AT A CRPF. SUCH NUMBER SHALL BE COMPUTED BY DETERMINING THE NUMBER OF SUCH QUALIFIED INDIVIDUALS EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER DURING THE APPLICABLE TAXABLE YEAR, ADDING TOGETHER THE NUMBER OF SUCH INDIVIDUALS DETERMINED TO BE SO EMPLOYED ON EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY THE

NUMBER OF SUCH DATES OCCURRING WITHIN SUCH APPLICABLE TAXABLE YEAR. SUCH NUMBER SHALL NOT INCLUDE INDIVIDUALS EMPLOYED WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS BY A RELATED PERSON TO THE TAXPAYER, AS SUCH TERM "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE.

(9) THE TERM "TOTAL WAGES" SHALL MEAN THE TOTAL SALARIES AND WAGES PAID TO EMPLOYEES INCLUDED IN THE CALCULATION OF THE EMPLOYMENT NUMBER IN THE EMPLOYMENT INCREASE YEAR.

(10) THE TERM "AVERAGE WAGES" SHALL MEAN TOTAL WAGES DIVIDED BY THE EMPLOYMENT NUMBER IN THE EMPLOYMENT INCREASE YEAR.

(C) APPLICATION OF THE CREDIT. (1) THE AMOUNT OF CREDIT SHALL EQUAL THE PRODUCT (OR PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF FIVE PERCENT OF THE AVERAGE WAGES AND THE EMPLOYMENT INCREASE LEVEL.

(2) THE CREDIT MAY BE ALLOWED IN THE EMPLOYMENT INCREASE YEAR AND THE FOUR TAXABLE YEARS IMMEDIATELY FOLLOWING THE EMPLOYMENT INCREASE YEAR, PROVIDED THAT IF THE EMPLOYMENT NUMBER IN ANY TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED IS LESS THAN THE EMPLOYMENT NUMBER IN THE EMPLOYMENT INCREASE YEAR, THE AMOUNT OF CREDIT MUST BE RECALCULATED BY SUBSTITUTING THE LOWER EMPLOYMENT NUMBER IN THE CURRENT TAXABLE YEAR FOR THE EMPLOYMENT NUMBER IN THE EMPLOYMENT INCREASE YEAR FOR THE PURPOSE OF CALCULATING THE EMPLOYMENT INCREASE LEVEL AND THIS LOWER EMPLOYMENT NUMBER SHALL BE DEEMED TO BE THE EMPLOYMENT NUMBER FOR THE EMPLOYMENT INCREASE YEAR FOR ANY FUTURE APPLICATION OF THIS CREDIT.

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

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

(2) ARTICLE 22: SECTION 606: SUBSECTION (QQ).

S 25-B. RESEARCH AND DEVELOPMENT EXPENSE CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS A CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE (CRDE), AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (D) OF THIS SECTION, TO BE COMPUTED AS HEREINAFTER PROVIDED.

(B) DEFINITIONS. (1) THE TERM "CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE" OR "CRDE" SHALL HAVE THE SAME MEANING AS DEFINED BY SECTION TWENTY-FIVE-A OF THIS ARTICLE.

(2) THE TERM "QUALIFIED RESEARCH AND DEVELOPMENT EXPENSE" SHALL MEAN ANY EXPENSE INCURRED AT A CRDE TO CONDUCT RESEARCH AND DEVELOPMENT IN THE PHYSICAL, ENGINEERING, AND LIFE SCIENCES, SUCH AS AGRICULTURE, ELECTRONICS, ENVIRONMENTAL, BIOLOGY, BOTANY, BIOTECHNOLOGY, COMPUTERS, CHEMISTRY, FOOD, FISHERIES, FORESTS, GEOLOGY, HEALTH, MATHEMATICS, MEDICINE, OCEANOGRAPHY, PHARMACY, PHYSICS, VETERINARY, AND OTHER ALLIED SUBJECTS. QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES SHALL NOT INCLUDE THE COST OF LABOR OR ANY EQUIPMENT FOR WHICH ANY INVESTMENT TAX CREDITS ARE CLAIMED FOR.

(C) APPLICATION OF THE CREDIT. THE AMOUNT OF CREDIT SHALL EQUAL THE PRODUCT (OR PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF FIVE PERCENT OF QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES.

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

(1) ARTICLE 9-A: SECTION 210: SUBDIVISION 42,

(2) ARTICLE 22: SECTION 606: SUBSECTION (RR).

S 25-C. RESEARCH AND DEVELOPMENT GRANT CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS A CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE (CRDE), AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (D) OF THIS SECTION, TO BE COMPUTED AS HEREINAFTER PROVIDED.

(B) DEFINITIONS. (1) THE TERM "CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE" OR "CRDE" SHALL HAVE THE SAME MEANING AS DEFINED BY SECTION TWENTY-FIVE-A OF THIS ARTICLE.

(2) THE TERM "UNIVERSITY RESEARCH CENTER" SHALL MEAN ANY DEPARTMENT, FOUNDATION, OR BUSINESS VENTURE OPERATED SOLELY BY ANY INSTITUTION OF HIGHER EDUCATION LOCATED IN NEW YORK STATE, RECOGNIZED AND APPROVED BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK WHICH PROVIDES A COURSE OF STUDY LEADING TO THE GRANTING OF A POST-SECONDARY DEGREE, CERTIFICATE OR DIPLOMA.

(3) THE TERM "QUALIFIED RESEARCH AND DEVELOPMENT GRANT" SHALL MEAN DONATION OF MONEY OR EQUIPMENT BY A CRDE TO A UNIVERSITY RESEARCH CENTER WHICH WILL FACILITATE OR ASSIST THE UNIVERSITY RESEARCH CENTER TO CONDUCT RESEARCH AND DEVELOPMENT WHICH IS SUBSTANTIALLY RELATED TO THE RESEARCH AND DEVELOPMENT ACTIVITIES OF THE CRDE.

(C) APPLICATION OF THE CREDIT. THE AMOUNT OF CREDIT SHALL EQUAL THE PRODUCT (OR PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF TEN PERCENT OF QUALIFIED RESEARCH AND DEVELOPMENT GRANTS.

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

(1) ARTICLE 9-A: SECTION 210: SUBDIVISION 43,

(2) ARTICLE 22: SECTION 606: SUBSECTION (SS).

S 25-D. CREDIT FOR REAL PROPERTY TAXES. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS A CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE (CRDE), AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (L) OF THIS SECTION, FOR ELIGIBLE REAL PROPERTY TAXES.

(B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT (OR PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF (I) THE BENEFIT PERIOD FACTOR, (II) THE EMPLOYMENT INCREASE FACTOR AND (III) THE ELIGIBLE REAL PROPERTY TAXES PAID OR INCURRED BY THE CRDE DURING THE TAXABLE YEAR. HOWEVER, THE AMOUNT OF THE CREDIT MAY NOT EXCEED THE CREDIT LIMITATION SET FORTH IN SUBDIVISION (J) OF THIS SECTION.

(C) BENEFIT PERIOD FACTOR. THE BENEFIT PERIOD FACTORS ARE SET FORTH IN THE FOLLOWING TABLE:

TAXABLE YEAR OF THE BENEFIT PERIOD:	BENEFIT PERIOD FACTOR:
1--10	1.0
11	.8
12	.6
13	.4
14	.2
15	0

(D) RESEARCH AND DEVELOPMENT JOB. THE TERM "RESEARCH AND DEVELOPMENT JOB" SHALL HAVE THE SAME MEANING AS DEFINED BY SECTION TWENTY-FIVE-A OF THIS ARTICLE.

(E) CENTER EMPLOYMENT INCREASE NUMBER. THE CENTER EMPLOYMENT INCREASE NUMBER IS THE AVERAGE NUMBER OF RESEARCH AND DEVELOPMENT JOBS AT A CRDE.

SUCH NUMBER SHALL BE COMPUTED BY DETERMINING THE NUMBER OF SUCH QUALIFIED INDIVIDUALS EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER DURING THE APPLICABLE TAXABLE YEAR, ADDING TOGETHER THE NUMBER OF SUCH INDIVIDUALS DETERMINED TO BE SO EMPLOYED ON EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITHIN SUCH APPLICABLE TAXABLE YEAR. SUCH NUMBER SHALL NOT INCLUDE INDIVIDUALS EMPLOYED WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS BY A RELATED PERSON TO THE TAXPAYER, AS SUCH TERM "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE.

(F) BASE YEAR. THE BASE YEAR IS THE TAXABLE YEAR IN WHICH A CRDE IS FIRST CERTIFIED PURSUANT TO SECTION NINE HUNDRED SEVENTY OF THE GENERAL MUNICIPAL LAW.

(G) CENTER EMPLOYMENT INCREASE NUMBER. THE CENTER EMPLOYMENT INCREASE NUMBER SHALL EQUAL THE CENTER EMPLOYMENT NUMBER IN THE TAXABLE YEAR MINUS THE CENTER EMPLOYMENT NUMBER IN THE BASE YEAR. THE CENTER EMPLOYMENT INCREASE NUMBER SHALL BE DEEMED TO BE ZERO IF THE CALCULATION OF THE CENTER EMPLOYMENT INCREASE NUMBER RESULTS IN A NEGATIVE NUMBER.

(H) EMPLOYMENT INCREASE FACTOR. THE EMPLOYMENT INCREASE FACTORS ARE SET FORTH IN THE FOLLOWING TABLE:

CENTER EMPLOYMENT INCREASE NUMBER:	EMPLOYMENT INCREASE FACTOR:
AT LEAST 150	1.0
AT LEAST 100 BUT LESS THAN 150:	.8
AT LEAST 75 BUT LESS THAN 100:	.6
AT LEAST 50 BUT LESS THAN 75:	.4
AT LEAST 25 BUT LESS THAN 50:	.2
AT LEAST 10 BUT LESS THAN 25:	.1
ZERO	0

(I) ELIGIBLE REAL PROPERTY TAXES. THE TERM "ELIGIBLE REAL PROPERTY TAXES" MEANS TAXES IMPOSED ON REAL PROPERTY WHICH IS OWNED BY THE CRDE AND LOCATED IN A RESEARCH AND DEVELOPMENT CENTER WITH RESPECT TO WHICH THE CRDE IS CERTIFIED PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, PROVIDED SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY DURING A TAXABLE YEAR IN WHICH THE OWNER OF THE REAL PROPERTY IS BOTH CERTIFIED PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND A QUALIFIED EMPIRE ZONE ENTERPRISE. IN ADDITION, THE TERM "ELIGIBLE REAL PROPERTY TAXES" INCLUDES PAYMENTS IN LIEU OF TAXES MADE BY THE CRDE TO THE STATE, A MUNICIPAL CORPORATION OR A PUBLIC BENEFIT CORPORATION PURSUANT TO A WRITTEN AGREEMENT ENTERED INTO BETWEEN THE CRDE AND THE STATE, MUNICIPAL CORPORATION, OR PUBLIC BENEFIT CORPORATION. PROVIDED, HOWEVER, A PAYMENT IN LIEU OF TAXES MADE BY THE CRDE PURSUANT TO A WRITTEN AGREEMENT EXECUTED OR AMENDED ON OR AFTER JANUARY FIRST, TWO THOUSAND SIX, SHALL NOT CONSTITUTE ELIGIBLE REAL PROPERTY TAXES UNLESS SUCH WRITTEN AGREEMENT IS APPROVED BY BOTH THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE OFFICE OF REAL PROPERTY SERVICES AS SATISFYING GENERALLY ACCEPTED AND RECOGNIZED NORMS AND STANDARDS OF REAL PROPERTY TAX APPRAISALS.

(J) THE CREDIT LIMITATION SHALL BE THE GREATER OF THE EMPLOYMENT INCREASE LIMITATION. THE EMPLOYMENT INCREASE LIMITATION SHALL BE THE PRODUCT OF (I) FIVE THOUSAND DOLLARS AND (II) THE EMPLOYMENT INCREASE NUMBER.

(K) CREDIT RECAPTURE. WHERE A CRDE'S ELIGIBLE REAL PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER THIS SECTION ARE SUBSEQUENTLY REDUCED AS A RESULT OF A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE REAL PROPERTY TAX LAW OR OTHER

PROVISION OF LAW, THE TAXPAYER SHALL ADD BACK, IN THE TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE EXCESS OF (I) THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR OVER (II) THE AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED ELIGIBLE REAL PROPERTY TAXES. IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR MORE THAN ONE YEAR, THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH REDUCTION IS ATTRIBUTABLE TO EACH YEAR COVERED BY SUCH FINAL ORDER AND CALCULATE THE AMOUNT OF CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO BE RECAPTURED FOR EACH YEAR BASED ON SUCH REDUCTION.

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

(1) ARTICLE 9-A: SECTION 210: SUBDIVISION 44,

(2) ARTICLE 22: SECTION 606: SUBSECTION (TT).

S 25-E. RESEARCH PRODUCTION FACILITY PROGRAM. (A) QUALIFIED RESEARCH PRODUCTION FACILITY (QRPF). A BUSINESS ENTERPRISE WHICH HAS BEEN DESIGNATED AS A CERTIFIED RESEARCH PRODUCTION FACILITY PURSUANT TO SECTION NINE HUNDRED SEVENTY OF THE GENERAL MUNICIPAL LAW, AS DEFINED BY SECTION TWENTY-FIVE-A OF THIS ARTICLE, SHALL BE A QUALIFIED RESEARCH PRODUCTION FACILITY FOR THE TAXABLE YEARS AND THE FOURTEEN TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR IN WHICH SUCH DESIGNATION WAS MADE. THE SITE OF THE QUALIFIED RESEARCH PRODUCTION FACILITY SHALL BE A QUALIFIED RESEARCH PRODUCTION SITE.

(B) TAX BENEFITS. A QUALIFIED RESEARCH PRODUCTION FACILITY SHALL BE ELIGIBLE FOR ALL TAX BENEFITS AVAILABLE UNDER THIS CHAPTER IN REGARD TO AN EMPIRE ZONE, INCLUDING, BUT NOT LIMITED TO, ALL TAX BENEFITS FOR WHICH A QUALIFIED EMPIRE ZONE ENTERPRISE IS ELIGIBLE, EXCEPT EMPIRE ZONE CAPITAL TAX CREDITS PROVIDED PURSUANT TO SUBDIVISION TWENTY OF SECTION TWO HUNDRED TEN, SUBSECTION (D) OF SECTION FOURTEEN HUNDRED FIFTY-SIX, OR SUBSECTION (1) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER.

(C) APPLICATION. FOR PURPOSES OF APPLYING THIS SECTION, WHEREVER THE TERMS "EMPIRE ZONE" AND "QUALIFIED EMPIRE ZONE ENTERPRISE" APPEAR IN THIS CHAPTER, SUCH TERMS SHALL BE READ AS "QUALIFIED PRODUCTION FACILITY" AND AS "QUALIFIED RESEARCH PRODUCTION FACILITY" RESPECTIVELY AND SUCH OTHER MODIFICATIONS MAY BE MADE BY THE COMMISSIONER AS ARE NECESSARY TO ADAPT PROVISIONS RELATING TO EMPIRE ZONES AND QUALIFIED EMPIRE ZONE ENTERPRISES TO QUALIFIED RESEARCH PRODUCTION FACILITIES. FURTHER, THE EMPLOYMENT TEST SET FORTH IN SUBDIVISION (B) OF SECTION FOURTEEN OF THIS ARTICLE SHALL BE DISREGARDED AND THE EMPLOYMENT INCREASE FACTORS SET FORTH IN SUBDIVISION (D) OF SECTION SIXTEEN OF THIS ARTICLE SHALL BE REPLACED BY THE EMPLOYMENT FACTOR SET FORTH IN SUBDIVISION (D) OF THIS SECTION.

(D) QRPF EMPLOYMENT FACTOR. THE EMPLOYMENT INCREASE FACTORS ARE SET FORTH IN THE FOLLOWING TABLE:

NUMBER OF FULL-TIME EMPLOYEES AT THE QUALIFIED RESEARCH PRODUCTION FACILITY:	EMPLOYMENT INCREASE FACTOR:
AT LEAST 150	1.0
AT LEAST 100 BUT LESS THAN 150:	.8
AT LEAST 75 BUT LESS THAN 100:	.6
AT LEAST 50 BUT LESS THAN 75:	.4
AT LEAST 25 BUT LESS THAN 50:	.2
LESS THAN 25:	0

(E) QEZE OPTION. IF THE QUALIFIED PRODUCTION FACILITY IS LOCATED IN WHOLE OR IN PART IN AN AREA DESIGNATED AS AN EMPIRE ZONE PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND THE TAXPAYER MEETS THE QUALIFICATION TO BE BOTH A QUALIFIED EMPIRE ZONE ENTERPRISE AND A QUALIFIED RESEARCH PRODUCTION FACILITY, THE TAXPAYER SHALL BE REQUIRED

IN THE FIRST TAXABLE YEAR IN WHICH BENEFITS UNDER EITHER STATUS ARE AVAILABLE TO MAKE AN IRREVOCABLE ELECTION TO BE EITHER A QUALIFIED EMPIRE ZONE ENTERPRISE OR TO BE A QUALIFIED RESEARCH PRODUCTION FACILITY. SUCH ELECTION SHALL BE MADE WITH THE FILING OF THE RETURN OR REPORT REQUIRED OF THE TAXPAYER UNDER THIS CHAPTER.

S 6. Section 210 of the tax law is amended by adding four new subdivisions 41, 42, 43 and 44 to read as follows:

41. RESEARCH AND DEVELOPMENT WAGE CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-FIVE-A OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. 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. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TEN HUNDRED EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION TEN HUNDRED EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

42. RESEARCH AND DEVELOPMENT EXPENSE CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-FIVE-B OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. 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. 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, ANY AMOUNT OF THE CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTED IN SUCH TAXABLE YEARS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM TAX FOR SUCH YEAR OR YEARS.

43. RESEARCH AND DEVELOPMENT GRANT CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-FIVE-C OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. 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. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TEN HUNDRED EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION TEN HUNDRED EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

44. CRDE CREDIT FOR REAL PROPERTY TAXES. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-FIVE-D OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. 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. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TEN HUNDRED EIGHT-Y-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION TEN HUNDRED EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 7. 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) RESEARCH AND DEVELOPMENT WAGE CREDIT UNDER SUBSECTION (QQ)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN
(XXXII) RESEARCH AND DEVELOPMENT EXPENSE CREDIT UNDER SUBSECTION (RR)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-TWO OF SECTION TWO HUNDRED TEN
(XXXIII) RESEARCH AND DEVELOPMENT GRANT CREDIT UNDER SUBSECTION (SS)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-THREE OF SECTION TWO HUNDRED TEN
(XXXIV) CRDE CREDIT FOR REAL PROPERTY TAXES UNDER SUBSECTION (TT)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-FOUR OF SECTION TWO HUNDRED TEN

S 8. Section 606 of the tax law is amended by adding four new subsections (qq), (rr), (ss) and (tt) to read as follows:

(QQ) RESEARCH AND DEVELOPMENT WAGE CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-FIVE-A 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) RESEARCH AND DEVELOPMENT EXPENSE CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-FIVE-B OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. 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, MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(SS) RESEARCH AND DEVELOPMENT GRANT CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-FIVE-C 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.

(TT) CRDE CREDIT FOR REAL PROPERTY TAXES. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-FIVE-D 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 9. Paragraph (a) of subdivision 12 of section 210 of the tax law, as amended by chapter 817 of the laws of 1987, is amended to read as follows:

(a) A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article. The amount of the credit shall be the per cent provided for hereinbelow of the investment credit base. The investment credit base is the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, described in paragraph (b) of this subdivision, less the amount of the nonqualified nonrecourse financing with respect to such property to the extent such financing would be excludible from the credit base pursuant to section 46(c)(8) of the internal revenue code (treating such property as section thirty-eight property irrespective of whether or not it in fact constitutes section thirty-eight property). If, at the close of a taxable year following the taxable year in which such property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to such property, such net decrease shall be treated as if it were the cost or other basis of property described in paragraph (b) of this subdivision acquired, constructed, reconstructed or erected during the year of the decrease in the amount of nonqualified nonrecourse financing. In the case of a combined report the term investment credit base shall mean the sum of the investment credit base of each corporation included on such report. The percentage to be used to compute the credit allowed pursuant to this subdivision shall be that percentage appearing in column two which is opposite the appropriate period in column one in which the tangible personal property was acquired, constructed, reconstructed or erected, as the case may be:

Column 1	Column 2
After December 31, 1968 and prior to January 1, 1974	one per cent
After December 31, 1973 and prior to January 1, 1978	two per cent
After December 31, 1977 and prior to January 1, 1979	three per cent
After December 31, 1978 and prior to June 1, 1981	four per cent
After May 31, 1981 and prior to July 1, 1982	five per cent
After June 30, 1982 and prior to January 1, 1987	six per cent
For taxable years beginning in 1987, 1988 and 1989	five per cent with respect to the first five hundred million dollars of the

	investment credit base, and four percent with respect to the investment credit base in excess of five hundred million dollars, except that in the case of research and development property at the option of the taxpayer the applicable percentage shall be nine
For taxable years beginning in 1990	five percent with respect to the first four hundred twenty-five million dollars of the investment credit base, and four percent with respect to the investment credit base in excess of four hundred twenty-five million dollars, except that in the case of research and development property at the option of the taxpayer the applicable percentage shall be nine
For taxable years beginning after 1990 BUT BEFORE 2010	five percent with respect to the first three hundred fifty million dollars of the investment credit base, and four percent with respect to the investment credit base in excess of three hundred fifty million dollars, except that in the case of research and development property at the option of the taxpayer the applicable percentage shall be nine
FOR TAXABLE YEARS BEGINNING AFTER 2009	FIVE PERCENT WITH RESPECT TO THE FIRST THREE HUNDRED FIFTY MILLION DOLLARS OF THE INVESTMENT CREDIT BASE, AND FOUR PERCENT WITH RESPECT TO THE INVESTMENT CREDIT BASE IN EXCESS OF THREE HUNDRED FIFTY MILLION DOLLARS, EXCEPT THAT IN THE CASE OF RESEARCH AND DEVELOPMENT PROPERTY AT THE OPTION OF THE TAXPAYER THE APPLICABLE PERCENTAGE SHALL BE NINE, AND THAT IN THE CASE OF RESEARCH AND DEVELOPMENT PROPERTY LOCATED WITHIN A RESEARCH AND DEVELOPMENT ZONE AT THE OPTION OF THE TAXPAYER THE APPLICABLE PERCENTAGE SHALL BE EIGHTEEN

Provided, however, that in the case of an acquisition, construction, reconstruction or erection which was commenced in any one period and continued or completed in any subsequent period the credit shall be the sum of the portions of the investment credit base attributable to each

such period, which portion with respect to each such period shall be ascertained by multiplying such investment credit base by a fraction the numerator of which shall be the expenditures paid or incurred during such period for such purposes and the denominator of which shall be the total of all expenditures paid or incurred for such acquisition, construction, reconstruction or erection, multiplied by the allowable percentage for each such period.

S 10. Paragraph 1 of subsection (a) of section 606 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(1) A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article. The amount of the credit shall be the per cent provided for hereinbelow of the investment credit base. The investment credit base is the cost or other basis, for federal income tax purposes, of tangible personal property and other tangible property, including buildings and structural components of buildings, described in paragraph two of this subsection, less the amount of the nonqualified nonrecourse financing with respect to such property to the extent such financing would be excludible from the credit base pursuant to section 46(c)(8) of the internal revenue code (treating such property as section thirty-eight property irrespective of whether or not it in fact constitutes section thirty-eight property). If, at the close of a taxable year following the taxable year in which such property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to such property, such net decrease shall be treated as if it were the cost or other basis of property described in paragraph two of this subsection acquired, constructed, reconstructed or erected during the year of the decrease in the amount of nonqualified nonrecourse financing. The percentage to be used to compute the credit allowed pursuant to this subsection shall be that percentage appearing in column two which is opposite the appropriate period in column one in which the tangible personal property was acquired, constructed, reconstructed or erected, as the case may be:

Column 1	Column 2
After December 31, 1968 and prior to January 1, 1974	one per cent
After December 31, 1973 and prior to January 1, 1978	two per cent
After December 31, 1977 and prior to January 1, 1979	three per cent
After December 31, 1978 and prior to June 1, 1981	four per cent
After May 31, 1981 and prior to July 1, 1982	five per cent
After June 30, 1982 and before January 1, 1987	six per cent
After December 31, 1986 AND BEFORE JANUARY 1, 2010	four per cent, except that in the case of research and development property the applicable percentage shall be seven
AFTER DECEMBER 31, 2010	FOUR PER CENT, EXCEPT THAT IN THE CASE OF RESEARCH AND DEVELOPMENT PROPERTY THE APPLICABLE

PERCENTAGE SHALL BE SEVEN, AND THAT IN THE CASE OF RESEARCH AND DEVELOPMENT PROPERTY LOCATED WITHIN A RESEARCH AND DEVELOPMENT ZONE THE APPLICABLE PERCENTAGE SHALL BE FOURTEE

Provided, however, that in the case of an acquisition, construction, reconstruction or erection which was commenced in any one period and continued or completed in any subsequent period the credit shall be the sum of the portions of the investment credit base attributable to each such period, which portion with respect to each such period shall be ascertained by multiplying such investment credit base by a fraction the numerator of which shall be the expenditures paid or incurred during such period for such purposes and the denominator of which shall be the total of all expenditures paid or incurred for such acquisition, construction, reconstruction or erection, multiplied by the allowable percentage for each such period.

S 11. Paragraph (a) of subdivision 9 of section 208 of the tax law is amended by adding two new subparagraphs 18 and 19 to read as follows:

(18) IN THE CASE OF A CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE WHICH HAS BEEN DESIGNATED UNDER SECTION NINE HUNDRED SEVENTY OF THE GENERAL MUNICIPAL LAW, AN AMOUNT EQUAL TO FIFTY PERCENT OF ANY PAYMENTS RECEIVED TO CONDUCT RESEARCH AND DEVELOPMENT ACTIVITIES WHICH ARE CONDUCTED WITHIN A RESEARCH AND DEVELOPMENT ZONE, LESS ANY DEDUCTIBLE EXPENSES INCURRED TO CONDUCT THE RESEARCH AND DEVELOPMENT ACTIVITY.

(19) IN THE CASE OF A CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE WHICH HAS BEEN DESIGNATED UNDER SECTION NINE HUNDRED SEVENTY OF THE GENERAL MUNICIPAL LAW, AN AMOUNT EQUAL TO TWENTY PERCENT OF ANY ROYALTY PAYMENTS RECEIVED ON PATENTS DERIVED FROM RESEARCH AND DEVELOPMENT ACTIVITIES CONDUCTED WITHIN A RESEARCH AND DEVELOPMENT ZONE.

S 12. Subsection (c) of section 612 of the tax law is amended by adding two new paragraphs 39 and 40 to read as follows:

(39) IN THE CASE OF A CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE WHICH HAS BEEN DESIGNATED UNDER SECTION NINE HUNDRED SEVENTY OF THE GENERAL MUNICIPAL LAW, AN AMOUNT EQUAL TO FIFTY PERCENT OF ANY PAYMENTS RECEIVED TO CONDUCT RESEARCH AND DEVELOPMENT ACTIVITIES WHICH ARE CONDUCTED WITHIN A RESEARCH AND DEVELOPMENT ZONE, LESS ANY DEDUCTIBLE EXPENSES INCURRED TO CONDUCT THE RESEARCH AND DEVELOPMENT ACTIVITY.

(40) IN THE CASE OF A CERTIFIED RESEARCH AND DEVELOPMENT ENTERPRISE WHICH HAS BEEN DESIGNATED UNDER SECTION NINE HUNDRED SEVENTY OF THE GENERAL MUNICIPAL LAW, AN AMOUNT EQUAL TO TWENTY PERCENT OF ANY ROYALTY PAYMENTS RECEIVED ON PATENTS DERIVED FROM RESEARCH AND DEVELOPMENT ACTIVITIES CONDUCTED WITHIN A RESEARCH AND DEVELOPMENT ZONE.

S 13. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2010; 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 seven 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.