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

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2009-2010 Regular Sessions

I N A S S E M B L Y

June 18, 2009

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the economic development law, in relation to the New York state innovation investment act; and to amend the tax law, in relation to certain credits for eligible high-tech enterprises

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 "New York state innovation investment act".

S 2. Statement of legislative findings and declaration. It is hereby found and declared that the development of a high-tech industrial base of businesses centered on the innovation, invention, and manufacture of high-tech devices and components will contribute favorably to the state's economic sustenance and development. It is the public policy of the state to offer special incentives and assistance that will promote the development of new high-tech businesses, the expansion of existing high-tech businesses and to do so without encouraging the relocation of business investment from other areas of the state.

S 3. The economic development law is amended by adding a new article 17 to read as follows:

ARTICLE 17

NEW YORK STATE INNOVATION INVESTMENT ACT

SECTION 350. DEFINITIONS.
351. INNOVATION TECHNOLOGY INVESTMENT PROGRAM.
352. RESPONSIBILITIES OF THE COMMISSIONER.

S 350. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDICATE ANOTHER OR DIFFERENT MEANING OR INTENT:

(A) "APPLICANT" SHALL MEAN THE HIGH-TECH ENTERPRISE SEEKING APPROVAL AS AN ELIGIBLE HIGH-TECH ENTERPRISE TO RECEIVE THE BENEFITS PURSUANT TO THIS ARTICLE.

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

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(B) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF ECONOMIC DEVELOPMENT.

(C) "HIGH-TECH ENTERPRISE" SHALL MEAN AN ENTERPRISE WHICH IS ENGAGED IN THE DEVELOPMENT OR MANUFACTURING OF SEMICONDUCTOR CHIPS OR MICRO-ELECTRONIC DEVICES OR PHOTOVOLTAICS.

(D) "ELIGIBLE HIGH-TECH ENTERPRISE" SHALL MEAN A HIGH-TECH ENTERPRISE WHICH IS APPROVED BY THE COMMISSIONER PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND WHICH INVESTS IN TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT, DESCRIBED IN SUBPARAGRAPHS (I), (II), (III), AND CLAUSE (A) OR (C) OF SUBPARAGRAPH (V) OF PARAGRAPH (B) OF SUBDIVISION TWELVE-B OF SECTION TWO HUNDRED TEN OF THE TAX LAW, OR AS DESCRIBED IN SUBPARAGRAPHS (A), (B), (C), AND CLAUSE (I) OR (III) OF SUBPARAGRAPH (E) OF PARAGRAPH TWO OF SUBSECTION (J) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, THE BASIS OF WHICH FOR FEDERAL INCOME TAX PURPOSES WILL EQUAL OR EXCEED TEN MILLION DOLLARS.

(E) "EFFECTIVE DATE" SHALL MEAN THE DATE WHICH IS THE LATER OF THE DATE OF THE APPLICATION TO THE COMMISSIONER BY THE HIGH-TECH ENTERPRISE, OR THE DATE BY WHICH THE HIGH-TECH ENTERPRISE HAS PLACED IN SERVICE TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY AS SET FORTH IN SUBDIVISION (D) OF THIS SECTION, THE BASIS OF WHICH FOR FEDERAL INCOME TAX PURPOSES WILL EQUAL OR EXCEED TEN MILLION DOLLARS.

S 351. INNOVATION TECHNOLOGY INVESTMENT PROGRAM. (A) THERE IS HEREBY CREATED IN THE DEPARTMENT AN INNOVATION TECHNOLOGY INVESTMENT PROGRAM TO CREATE ECONOMIC INCENTIVES FOR THE DEVELOPMENT OF HIGH-TECH ENTERPRISES INCLUDING THOSE ENTERPRISES WHICH ARE ENGAGED IN THE DEVELOPMENT OR MANUFACTURING OF SEMICONDUCTOR CHIPS, MICROELECTRONIC DEVICES OR PHOTOVOLTAICS. A BUSINESS WHICH IS DESIGNATED BY THE COMMISSIONER AS A HIGH-TECH ENTERPRISE PURSUANT TO THIS ARTICLE AND WHICH PLACES IN SERVICE TANGIBLE PERSONAL PROPERTY INCLUDING BUILDINGS AND CAPITAL EQUIPMENT WITH BASIS IN AN AMOUNT EQUAL TO OR EXCEEDING TEN MILLION DOLLARS SHALL BE ELIGIBLE FOR SPECIFIED TAX BENEFITS RELATING TO REAL PROPERTY TAXES, TAX REDUCTION CREDITS, INVESTMENT CREDITS, EMPLOYMENT INCENTIVE CREDITS AND WAGE TAX CREDITS AS SET FORTH IN THE TAX LAW.

(B) DEFINITIONS. (1) THE TERM "BUSINESS TAX BENEFIT PERIOD" SHALL MEAN THE TEN TAXABLE YEARS STARTING WITH THE TAXABLE YEAR IN WHICH THE BUSINESS ENTERPRISE'S BENEFIT PERIOD COMMENCEMENT DATE OCCURS, BUT ONLY WITH RESPECT TO EACH OF SUCH BUSINESS TAX BENEFIT PERIOD YEARS FOR WHICH THE EMPLOYMENT TEST IS MET.

(2) THE TERM "BENEFIT PERIOD COMMENCEMENT DATE" SHALL MEAN THE DATE WHEN PROPERTY CONSTITUTING THE PROJECT IS FIRST PLACED IN SERVICE.

(3) THE TERM "LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE" SHALL MEAN THE LOCATION OR LOCATIONS THAT THE HIGH-TECH ENTERPRISE IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE UNDER SECTION THREE HUNDRED FIFTY OF THIS ARTICLE.

(C) FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR CERTAIN BENEFITS UNDER THIS ARTICLE AND THE CORRESPONDING TAX LAW PROVISIONS, THE FOLLOWING PROVISIONS AND DEFINITIONS SHALL APPLY AND SHALL BE UTILIZED BY THE COMMISSIONER OF TAXATION AND FINANCE TO DETERMINE SUCH ELIGIBILITY:

(1) THE EMPLOYMENT TEST SHALL BE MET WITH RESPECT TO A TAXABLE YEAR IF THE BUSINESS ENTERPRISE'S EMPLOYMENT NUMBER AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE FOR SUCH TAXABLE YEAR EQUALS OR EXCEEDS ITS EMPLOYMENT NUMBER IN SUCH LOCATIONS FOR THE BASE PERIOD.

(2) THE TERM "BASE PERIOD" MEANS THE FIVE TAXABLE YEARS IMMEDIATELY PRECEDING THE TEST YEAR. IF THE HIGH-TECH ENTERPRISE HAS FEWER THAN FIVE SUCH YEARS, THEN THE TERM "BASE PERIOD" MEANS SUCH SMALLER SET OF YEARS.

(3) THE TERM "TEST YEAR" MEANS THE LAST TAXABLE YEAR OF THE HIGH-TECH ENTERPRISE ENDING BEFORE THE TEST DATE. IF A HIGH-TECH ENTERPRISE DOES NOT HAVE A TAXABLE YEAR THAT ENDS ON OR BEFORE THE TEST DATE, SUCH ENTERPRISE SHALL BE DEEMED TO HAVE A TEST YEAR WHICH SHALL BE EITHER THE LAST CALENDAR YEAR ENDING ON OR BEFORE ITS TEST DATE, OR IF SUCH ENTERPRISE HAS AS ITS TAXABLE YEAR A FISCAL YEAR, THE LAST SUCH FISCAL YEAR ENDING ON OR BEFORE ITS TEST DATE, WHETHER OR NOT SUCH ENTERPRISE IN FACT HAD A TAXABLE YEAR DURING THAT PERIOD.

(4) THE TERM "TEST DATE" MEANS THE DATE ON WHICH THE HIGH-TECH ENTERPRISE FILED ITS SUBMISSION AS AN ELIGIBLE HIGH-TECH ENTERPRISE TO THE COMMISSIONER.

(5) THE TERM "TAXABLE YEAR" MEANS THE TAXABLE YEAR OF THE HIGH-TECH ENTERPRISE UNDER SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR, ONE HUNDRED EIGHTY-FIVE OR FORMER SECTION ONE HUNDRED EIGHTY-SIX OF ARTICLE NINE, OR UNDER ARTICLE NINE-A OR TWENTY-TWO OF THE TAX LAW.

(6) THE TERM "NET NEW EMPLOYEES" SHALL MEAN THE EXCESS OF THE EMPLOYMENT NUMBER OF THE ELIGIBLE HIGH-TECH ENTERPRISE FOR THE TAXABLE YEAR AT THE LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, OVER THE EMPLOYMENT NUMBER OF THE ELIGIBLE HIGH-TECH ENTERPRISE AT SUCH LOCATIONS FOR THE BASE PERIOD.

(7) THE TERM "EMPLOYMENT NUMBER" SHALL MEAN THE AVERAGE NUMBER OF INDIVIDUALS, EXCLUDING GENERAL EXECUTIVE OFFICERS (IN THE CASE OF A CORPORATION) EMPLOYED FULL-TIME BY THE ENTERPRISE FOR AT LEAST ONE-HALF OF THE TAXABLE YEAR. SUCH NUMBER SHALL BE COMPUTED BY DETERMINING THE NUMBER OF SUCH 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 STATE WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS BY A RELATED PERSON TO THE ELIGIBLE HIGH-TECH ENTERPRISE, AS SUCH TERM "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE FEDERAL INTERNAL REVENUE CODE. FOR THIS PURPOSE, A "RELATED PERSON" SHALL INCLUDE AN ENTITY WHICH WOULD HAVE QUALIFIED AS A "RELATED PERSON" TO THE ELIGIBLE HIGH-TECH ENTERPRISE IF IT HAD NOT BEEN DISSOLVED, LIQUIDATED, MERGED WITH ANOTHER ENTITY OR OTHERWISE CEASED TO EXIST OR OPERATE.

(D) CESSATION OF STATUS. A HIGH-TECH ENTERPRISE SHALL CEASE TO BE AN ELIGIBLE HIGH-TECH ENTERPRISE ONLY IF IT CEASES TO MEET THE REQUIREMENTS FOR SUCH TREATMENT UNDER SUBDIVISION (D) OF SECTION THREE HUNDRED FIFTY OF THIS ARTICLE. SUCH CESSATION OF STATUS SHALL BE EFFECTIVE AS OF THE DATE ON WHICH THE ELIGIBLE HIGH-TECH ENTERPRISE FAILS TO MEET SUCH REQUIREMENTS.

S 352. RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL PROMULGATE REGULATIONS:

(A) REGARDING THE PROCESS FOR HIGH-TECH ENTERPRISES TO BE DESIGNATED AS ELIGIBLE HIGH-TECH ENTERPRISES FOR PURPOSES OF THIS ARTICLE. SUCH REGULATIONS SHALL NOT IMPOSE ANY ADDITIONAL CONSIDERATIONS FOR TREATMENT

AS AN ELIGIBLE HIGH-TECH ENTERPRISE OTHER THAN REQUIRING THE APPLICANT TO SUBMIT DOCUMENTATION THAT IT WILL SATISFY THE CONDITIONS SET FORTH IN SUBDIVISION (D) OF SECTION THREE HUNDRED FIFTY OF THIS ARTICLE AND SHALL REQUIRE THE APPLICANT TO IDENTIFY THE LOCATION OR LOCATIONS THAT WILL BE THE SITUS OF THE INVESTMENT UNDER SUCH SUBDIVISION;

(B) IN CONSULTATION WITH THE COMMISSIONER OF THE STATE DEPARTMENT OF TAXATION AND FINANCE, GOVERNING THE PROCEDURE AND NECESSARY FORMS FOR TAXPAYERS ENTITLED TO THE TAX CREDITS AS ELIGIBLE HIGH-TECH ENTERPRISES TO RECEIVE SUCH CREDITS; AND

(C) IN CONSULTATION WITH THE COMMISSIONER OF LABOR, FOR PROGRAM EVALUATION AND COORDINATE IMPLEMENTATION OF AN EVALUATION SYSTEM, WHICH IS CAPABLE OF COMPILING AND ANALYZING ACCURATE AND CONSISTENT INFORMATION NECESSARY FOR AN ASSESSMENT OF WHETHER STATUTORY OBJECTIVES AND CRITERIA ARE BEING MET; AND

THE FAILURE OF THE COMMISSIONER TO PROMULGATE THE REGULATIONS REQUIRED IN THIS SECTION SHALL NOT PREVENT A TAXPAYER QUALIFIED AS AN ELIGIBLE HIGH-TECH ENTERPRISE FROM CLAIMING AND RECEIVING THE TAX CREDITS WHICH IT IS ENTITLED TO UNDER THE RELEVANT PROVISIONS OF THE TAX LAW.

S 4. The tax law is amended by adding four new sections 33, 34, 35 and 36 to read as follows:

S 33. INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, AS DEFINED IN SUBDIVISION (D) OF SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW, OR WHICH IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTERPRISE OR A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, 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 (F) OF THIS SECTION, FOR ELIGIBLE REAL PROPERTY TAXES FOR ITS BUSINESS TAX BENEFIT PERIOD.

(B) AMOUNT OF CREDIT. AN ELIGIBLE HIGH-TECH ENTERPRISE SHALL BE ENTITLED TO RECEIVE A CREDIT EQUAL TO THE GREATER OF: (1) THE PRODUCT (OR PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF TWENTY-FIVE PERCENT OF THE TOTAL WAGES, HEALTH BENEFITS AND RETIREMENT BENEFITS PAID TO OR ON BEHALF OF NET NEW EMPLOYEES DURING THE TAXABLE YEAR, PROVIDED HOWEVER, THAT THE TOTAL AMOUNT OF THE CREDIT SHALL NOT EXCEED TEN THOUSAND DOLLARS FOR EACH SUCH EMPLOYEE, OR

(2) THE PRODUCT OF (A) TEN PERCENT OF THE GREATER OF (I) THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF REAL PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT, OWNED BY THE ELIGIBLE HIGH-TECH ENTERPRISE AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT AS DETERMINED ON THE EFFECTIVE DATE, AS DEFINED IN SUBDIVISION (E) OF SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW, OR (II) THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF SUCH REAL PROPERTY DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH ON THE LAST DAY OF THE TAXABLE YEAR, AND (B) THE GREATER OF (I) THE PERCENTAGE OF SUCH REAL PROPERTY DESCRIBED IN CLAUSE (I) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH WHICH IS PHYSICALLY OCCUPIED AND USED BY THE ELIGIBLE HIGH-TECH ENTERPRISE, OR (II) THE PERCENTAGE OF SUCH COST OR OTHER BASIS WHICH IS ATTRIBUTABLE TO THE CONSTRUCTION, EXPANSION OR REHABILITATION OF SUCH PROPERTY, RATHER THAN THE ACQUISITION OF SUCH REAL PROPERTY, BY THE ELIGIBLE HIGH-TECH ENTERPRISE.

PROVIDED, HOWEVER, IF THE PERCENTAGE OF SUCH COST OR OTHER BASIS, WHICH IS ATTRIBUTABLE TO THE CONSTRUCTION, EXPANSION OR REHABILITATION OF SUCH REAL PROPERTY EQUALS OR EXCEEDS FIFTY PERCENT, THEN THE PERCENT-

AGE DESCRIBED IN CLAUSE (II) OF SUBPARAGRAPH (B) OF THIS PARAGRAPH SHALL BE DEEMED TO BE ONE HUNDRED PERCENT. FOR PURPOSES OF COMPUTING TOTAL WAGES, HEALTH BENEFITS AND RETIREMENT BENEFITS, WAGES, HEALTH BENEFITS AND RETIREMENT BENEFITS FOR EACH EMPLOYEE IN EXCESS OF FORTY THOUSAND DOLLARS SHALL BE EXCLUDED FROM SUCH COMPUTATION. PROVIDED FURTHER, THE AMOUNT OF THE CREDIT MAY NOT EXCEED THE CREDIT AMOUNT SET FORTH IN SUBDIVISION (C) OF THIS SECTION.

(C) ELIGIBLE REAL PROPERTY TAXES. THE TERM "ELIGIBLE REAL PROPERTY TAXES" MEANS TAXES IMPOSED ON REAL PROPERTY WHICH IS OWNED BY THE ELIGIBLE HIGH-TECH ENTERPRISE AT THE LOCATION OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, PROVIDED SUCH TAXES ARE PAID BY THE ELIGIBLE HIGH-TECH ENTERPRISE WHICH IS THE OWNER OF THE REAL PROPERTY AND SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY DURING THE TAXABLE YEAR. IN ADDITION, "ELIGIBLE REAL PROPERTY TAXES" SHALL INCLUDE TAXES PAID BY AN ELIGIBLE HIGH-TECH ENTERPRISE WHICH IS A LESSEE OF REAL PROPERTY IF THE FOLLOWING CONDITIONS ARE SATISFIED:

(1) THE TAXES MUST BE PAID BY THE LESSEE PURSUANT TO EXPLICIT REQUIREMENTS IN A WRITTEN LEASE,

(2) SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY DURING THE TAXABLE YEAR AND

(3) THE LESSEE HAS MADE DIRECT PAYMENT OF SUCH TAXES TO THE TAXING AUTHORITY AND HAS RECEIVED A RECEIPT FOR SUCH PAYMENT OF TAXES FROM THE TAXING AUTHORITY. IN ADDITION, THE TERM "ELIGIBLE REAL PROPERTY TAXES" INCLUDES PAYMENTS IN LIEU OF TAXES MADE BY THE ELIGIBLE HIGH-TECH ENTERPRISE TO THE STATE, A MUNICIPAL CORPORATION OR A PUBLIC BENEFIT CORPORATION PURSUANT TO A WRITTEN AGREEMENT ENTERED INTO BETWEEN THE ELIGIBLE HIGH-TECH ENTERPRISE AND THE STATE, MUNICIPAL CORPORATION, OR PUBLIC BENEFIT CORPORATION.

(4) PROVIDED, HOWEVER, A PAYMENT IN LIEU OF TAXES MADE BY THE ELIGIBLE HIGH-TECH ENTERPRISE PURSUANT TO A WRITTEN AGREEMENT SHALL NOT CONSTITUTE ELIGIBLE REAL PROPERTY TAXES IN ANY TAXABLE YEAR TO THE EXTENT THAT SUCH PAYMENT EXCEEDS THE PRODUCT OF (A) THE ASSESSED VALUE OF THE PROPERTY, AND (B) THE CURRENT TAX RATE WITHIN THE TAXING JURISDICTION IN WHICH SUCH PROPERTY IS LOCATED, AS MOST RECENTLY REPORTED TO THE COMMISSIONER BY THE SECRETARY OF THE STATE BOARD OF REAL PROPERTY SERVICES, OR HIS OR HER DESIGNEE.

(D) CREDIT RECAPTURE. WHERE AN ELIGIBLE HIGH-TECH ENTERPRISE'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 (1) THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR OVER (2) 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.

(E) REFUND. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION 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 CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

(F) DEFINITIONS AND CROSS-REFERENCES. FOR DEFINITIONS OF TERMS USED IN THIS SECTION SEE SECTION TWO OF THIS ARTICLE. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210: SUBDIVISION 27-A.

(2) ARTICLE 22: SECTION 606: SUBSECTIONS (I) AND (BB-1).

S 34. INNOVATION TECHNOLOGY TAX REDUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, OR WHICH IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTERPRISE OR A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, 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 (G) OF THIS SECTION, TO BE COMPUTED AS HEREINAFTER PROVIDED FOR ITS BUSINESS TAX BENEFIT PERIOD.

(B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT OF (1) THE BENEFIT PERIOD FACTOR, (2) THE EMPLOYMENT INCREASE FACTOR, (3) THE LOCATION ALLOCATION FACTOR AND (4) THE TAX FACTOR.

(C) BENEFIT PERIOD FACTOR. THE BENEFIT PERIOD FACTOR SHALL EQUAL 1.0 FOR EACH TAXABLE YEAR OF THE BUSINESS TAX BENEFIT PERIOD.

(D) EMPLOYMENT INCREASE FACTOR. (1) THE EMPLOYMENT INCREASE FACTOR IS THE AMOUNT, NOT TO EXCEED 1.0, WHICH IS THE GREATER OF:

(I) THE EXCESS OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S EMPLOYMENT NUMBER AT THE LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, OVER THE ELIGIBLE HIGH-TECH ENTERPRISE'S TEST YEAR EMPLOYMENT NUMBER AT SUCH LOCATION, DIVIDED BY SUCH TEST YEAR EMPLOYMENT NUMBER AT SUCH LOCATION; OR

(II) THE EXCESS OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S EMPLOYMENT NUMBER IN SUCH LOCATIONS FOR THE TAXABLE YEAR OVER THE ELIGIBLE HIGH-TECH ENTERPRISE'S TEST YEAR EMPLOYMENT NUMBER IN SUCH LOCATIONS, DIVIDED BY 100.

(2) FOR PURPOSES OF PARAGRAPH ONE OF THIS SUBDIVISION, WHERE THERE IS AN EXCESS AS DESCRIBED IN SUCH PARAGRAPH, AND WHERE THE TEST YEAR EMPLOYMENT NUMBER AS SUCH TERMS ARE DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF THE ECONOMIC DEVELOPMENT LAW IS ZERO, THEN THE EMPLOYMENT INCREASE FACTOR SHALL BE 1.0.

(E) LOCATION ALLOCATION FACTOR. THE LOCATION ALLOCATION FACTOR SHALL BE THE PERCENTAGE REPRESENTING THE ELIGIBLE HIGH-TECH ENTERPRISE'S ECONOMIC PRESENCE AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE. THIS PERCENTAGE SHALL BE COMPUTED BY:

(1) ASCERTAINING THE PERCENTAGE WHICH THE AVERAGE VALUE OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE DURING THE PERIOD COVERED BY THE TAXPAYER'S REPORT OR RETURN BEARS TO THE AVERAGE VALUE OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, WITHIN THE STATE DURING SUCH PERIOD; AND

(2) ASCERTAINING THE PERCENTAGE OF THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF EMPLOYEES, EXCEPT GENERAL EXECUTIVE OFFICERS, OF THE ELIGIBLE HIGH-TECH ENTERPRISE AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, TO THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD, OF ALL THE

ELIGIBLE HIGH-TECH ENTERPRISE'S EMPLOYEES WITHIN THE STATE, EXCEPT GENERAL EXECUTIVE OFFICERS; AND

(3) ADDING TOGETHER THE PERCENTAGES SO DETERMINED AND DIVIDING THE RESULT BY THE NUMBER OF PERCENTAGES. FOR PURPOSES OF ARTICLE TWENTY-TWO OF THIS CHAPTER, REFERENCES IN THIS SUBDIVISION TO PROPERTY, WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION SHALL BE DEEMED TO BE REFERENCES TO SUCH ITEMS CONNECTED WITH THE CONDUCT OF A BUSINESS.

(F) TAX FACTOR. (1) GENERAL. THE TAX FACTOR SHALL BE, IN THE CASE OF ARTICLE NINE-A OF THIS CHAPTER, THE LARGER OF THE AMOUNTS OF TAX DETERMINED FOR THE TAXABLE YEAR UNDER PARAGRAPHS (A) AND (C) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. THE TAX FACTOR SHALL BE, IN THE CASE OF ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TAX DETERMINED FOR THE TAXABLE YEAR UNDER SUBSECTIONS (A) THROUGH (D) OF SECTION SIX HUNDRED ONE OF THIS CHAPTER.

(2) SOLE PROPRIETORS, PARTNERS AND S CORPORATION SHAREHOLDERS. (A) WHERE THE TAXPAYER IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTERPRISE, THE TAXPAYER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE TAXPAYER'S INCOME FROM THE ELIGIBLE HIGH-TECH ENTERPRISE ALLOCATED WITHIN THE STATE, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, TO THE TAXPAYER'S NEW YORK ADJUSTED GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE PORTION OF THE TAXPAYER'S TAX ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

(B)(I) WHERE THE TAXPAYER IS A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, THE TAXPAYER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE PARTNERSHIP. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE PARTNER'S INCOME FROM THE PARTNERSHIP ALLOCATED WITHIN THE STATE TO THE PARTNER'S ENTIRE INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE PORTION OF THE PARTNER'S TAX ATTRIBUTABLE TO THE INCOME OF THE PARTNERSHIP. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

(II) FOR PURPOSES OF ARTICLE NINE-A OF THIS CHAPTER, THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO, ENTERING INTO ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION, ALLOCATED WITHIN THE STATE. FOR PURPOSES OF ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS NEW YORK ADJUSTED GROSS INCOME.

(C) WHERE THE TAXPAYER IS A SHAREHOLDER OF A NEW YORK S CORPORATION WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, THE SHAREHOLDER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE S CORPORATION. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE SHAREHOLDER'S INCOME FROM THE S CORPORATION ALLOCATED WITHIN THE STATE, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, TO THE SHAREHOLDER'S NEW

YORK ADJUSTED GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE PORTION OF THE SHAREHOLDER'S TAX ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

(3) COMBINED RETURNS OR REPORTS. (A) WHERE THE TAXPAYER IS AN ELIGIBLE HIGH-TECH ENTERPRISE AND IS REQUIRED OR PERMITTED TO MAKE A RETURN OR REPORT ON A COMBINED BASIS UNDER ARTICLE NINE-A OF THIS CHAPTER, THE TAXPAYER'S TAX FACTOR SHALL BE THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S INCOME ALLOCATED WITHIN THE STATE TO THE COMBINED GROUP'S INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE PORTION OF THE COMBINED GROUP'S TAX ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

(B) THE TERM "INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE" MEANS ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION CALCULATED AS IF THE TAXPAYER WAS FILING SEPARATELY AND THE TERM "COMBINED GROUP'S INCOME" MEANS ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION AS SHOWN ON THE COMBINED RETURN OR REPORT, ALLOCATED WITHIN THE STATE.

(4) DENIAL OF ALLOWANCE. IF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION IS LESS THAN ZERO, A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SECTION.

(G) DEFINITIONS AND CROSS-REFERENCES. FOR DEFINITIONS OF TERMS USED IN THIS SECTION SEE SECTION TWO OF THIS ARTICLE. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210: SUBDIVISION 28-A.

(2) ARTICLE 22: SECTION 606: SUBSECTIONS (I) AND (CC-1).

S 35. INNOVATION TECHNOLOGY INVESTMENT TAX CREDIT. (A) (1) AN ELIGIBLE HIGH-TECH ENTERPRISE SUBJECT TO TAX UNDER ARTICLE NINE-A OF THE THIS CHAPTER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED UNDER SUCH ARTICLE NINE-A. THE AMOUNT OF SUCH CREDIT SHALL BE TEN PERCENT OF 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 SUBDIVISION (B) OF THIS SECTION, WHICH IS PLACED IN SERVICE BY AN ELIGIBLE HIGH-TECH ENTERPRISE, BUT ONLY IF THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION OF SUCH PROPERTY OR CAPITAL EQUIPMENT OCCURRED OR WAS COMMENCED ON OR AFTER THE TEST DATE, AS DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF THE ECONOMIC DEVELOPMENT LAW. PROVIDED, HOWEVER, THAT IN THE CASE OF AN ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION WHICH WAS COMMENCED DURING SUCH PERIOD AND CONTINUED OR COMPLETED SUBSEQUENTLY, THE CREDIT SHALL BE TEN PERCENT OF THE PORTION OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES ATTRIBUTABLE TO SUCH PERIOD, WHICH PORTION SHALL BE ASCERTAINED BY MULTIPLYING SUCH COST OR BASIS 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.

(2) AN ELIGIBLE HIGH-TECH ENTERPRISE SUBJECT TO TAX UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED UNDER SUCH ARTICLE TWENTY-TWO. THE AMOUNT OF SUCH CREDIT SHALL BE EIGHT PERCENT OF 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 AND CAPITAL EQUIPMENT, DESCRIBED IN SUBDIVISION (B) OF THIS SECTION, WHICH IS PLACED IN SERVICE BY AN ELIGIBLE HIGH-TECH ENTERPRISE, BUT ONLY IF THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION OF SUCH PROPERTY OR EQUIPMENT OCCURRED OR WAS COMMENCED ON OR AFTER THE TEST DATE, AS DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF THE ECONOMIC DEVELOPMENT LAW. PROVIDED, HOWEVER, THAT IN THE CASE OF AN ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION WHICH WAS COMMENCED DURING SUCH PERIOD AND CONTINUED OR COMPLETED SUBSEQUENTLY, THE CREDIT SHALL BE EIGHT PERCENT OF THE PORTION OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES ATTRIBUTABLE TO SUCH PERIOD, WHICH PORTION SHALL BE ASCERTAINED BY MULTIPLYING SUCH COST OR BASIS 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.

(B) A CREDIT SHALL BE ALLOWED UNDER THIS SECTION WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT WHICH: (1) ARE DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, (2) HAVE A USEFUL LIFE OF FOUR YEARS OR MORE, (3) ARE ACQUIRED BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE (D) OF THE INTERNAL REVENUE CODE, (4) HAVE A SITUS IN A LOCATION OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, AND (5) ARE (A) PRINCIPALLY USED BY THE TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, ASSEMBLING, (B) INDUSTRIAL WASTE TREATMENT FACILITIES OR AIR POLLUTION CONTROL FACILITIES USED IN THE TAXPAYER'S TRADE OR BUSINESS, OR (C) RESEARCH AND DEVELOPMENT PROPERTY. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "GOODS" SHALL NOT INCLUDE ELECTRICITY. FOR PURPOSES OF THIS PARAGRAPH, MANUFACTURING SHALL MEAN THE PROCESS OF WORKING RAW MATERIALS INTO WARES SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR NEW COMBINATION TO MATTER WHICH ALREADY HAS GONE THROUGH SOME ARTIFICIAL PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND OTHER SIMILAR EQUIPMENT. PROPERTY USED IN THE PRODUCTION OF GOODS SHALL INCLUDE MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY WHICH IS PRINCIPALLY USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION OF GOODS AND SHALL INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERATION, INCLUDING STORAGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE PRODUCTS THAT ARE PRODUCED. FOR PURPOSES OF THIS PARAGRAPH, THE TERMS "RESEARCH AND DEVELOPMENT PROPERTY", "INDUSTRIAL WASTE TREATMENT FACILITIES", AND "AIR POLLUTION CONTROL FACILITIES" SHALL HAVE THE MEANINGS ASCRIBED THERETO BY PARAGRAPH (B) OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER AND THE PROVISIONS OF PARAGRAPH (C) OF SUCH SUBDIVISION TWELVE SHALL APPLY.

(C) A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO ANY TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT, WHICH IT LEASES TO ANY OTHER PERSON OR CORPORATION.

(D) A TAXPAYER MAY CLAIM THE CREDIT ALLOWED UNDER THIS SECTION FOR TEN YEARS, COMMENCING WITH THE PERIOD THE TAXPAYER PLACES THE PROPERTY THAT COMPRISES THE PROJECT IN SERVICE. IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF CARRYING OVER ANY SUCH EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE FIFTY PERCENT OF SUCH EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO THIS PARAGRAPH SHALL BE DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

(E) AT THE OPTION OF THE TAXPAYER, AIR OR WATER POLLUTION CONTROL FACILITIES WHICH QUALIFY FOR ELECTIVE MODIFICATIONS UNDER SUBSECTION (H) OF SECTION SIX HUNDRED TWELVE OF THIS CHAPTER, OR RESEARCH AND DEVELOPMENT FACILITIES WHICH QUALIFY FOR ELECTIVE MODIFICATION UNDER PARAGRAPHS THREE AND FOUR OF SUBSECTION (G) OF SECTION SIX HUNDRED TWELVE OF THIS CHAPTER, OR PROPERTY WHICH QUALIFIES FOR THE CREDIT PROVIDED UNDER SUBDIVISION (A) OF THIS SECTION MAY BE TREATED AS PROPERTY PRINCIPALLY USED BY THE TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, OR ASSEMBLING, PROVIDED THE PROPERTY OTHERWISE QUALIFIES UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, IN WHICH EVENT A DEDUCTION SHALL NOT BE ALLOWED UNDER SUCH SUBSECTION (H) OR SUCH PARAGRAPHS THREE AND FOUR OF SUBSECTION (G) AND A CREDIT SHALL NOT BE ALLOWED UNDER SUCH SUBSECTION (G) OR (H).

(F) (1) WITH RESPECT TO PROPERTY WHICH IS DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE BUT IS NOT SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF SUCH CODE AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SECTION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL LIFE. IF THE PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF ITS USEFUL LIFE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS PROVIDED IN THIS SUBDIVISION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL LIFE. FOR PURPOSES OF THIS SUBDIVISION, USEFUL LIFE OF PROPERTY SHALL BE THE SAME AS THE TAXPAYER USES FOR DEPRECIATION PURPOSES WHEN COMPUTING HIS FEDERAL INCOME TAX LIABILITY.

(2) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH FOUR OF THIS PARAGRAPH APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF SUCH SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF SIXTY MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL

USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY.

(3) WITH RESPECT TO ANY PROPERTY TO WHICH SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE APPLIES, WHICH IS A BUILDING OR A STRUCTURAL COMPONENT OF A BUILDING AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE PERIOD OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE.

(4) FOR PURPOSES OF THIS PARAGRAPH, WHERE A CREDIT IS ALLOWED WITH RESPECT TO AN AIR POLLUTION CONTROL FACILITY ON THE BASIS OF A CERTIFICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVATION LAW AND THE CERTIFICATE IS REVOKED PURSUANT TO SUBDIVISION THREE OF SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, SUCH REVOCATION SHALL CONSTITUTE A DISPOSAL OR CESSATION OF QUALIFIED USE, EXCEPT WITH RESPECT TO PROPERTY CONTAINED IN OR COMPRISING SUCH FACILITY AS DESCRIBED IN CLAUSE (A) OR (C) OF SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER, OTHER THAN AS PART OF OR COMPRISING AN AIR POLLUTION CONTROL FACILITY.

S 36. INNOVATION TECHNOLOGY EMPLOYMENT INCENTIVE CREDIT. (A) WHERE A TAXPAYER IS ALLOWED A CREDIT UNDER SECTION THIRTY-FIVE OF THIS ARTICLE, THE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EACH OF THE THREE YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH SECTION THIRTY-FIVE IS ALLOWED, WITH RESPECT TO SUCH PROPERTY, WHETHER OR NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR IN SUBSEQUENT TAXABLE YEARS OF THIRTY PERCENT OF THE CREDIT ALLOWABLE UNDER SUCH SECTION THIRTY-FIVE; PROVIDED, HOWEVER, THAT THE CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL ONLY BE ALLOWED IF THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED BY THE TAXPAYER AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, IN WHICH SUCH PROPERTY IS LOCATED DURING SUCH TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED BY THE TAXPAYER IN SUCH LOCATION DURING THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH SECTION THIRTY-FIVE IS ALLOWED.

(B) THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED IN A LOCATION OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE IN A TAXABLE YEAR SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF SUCH EMPLOYEES WITHIN SUCH LOCATION 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 IN THE TAXABLE YEAR, BY ADDING TOGETHER THE NUMBER OF EMPLOYEES ASCERTAINED IN EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH ABOVEMENTIONED DATES OCCURRING WITHIN THE TAXABLE YEAR.

(C) IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF CARRYING OVER ANY SUCH EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE FIFTY PERCENT OF SUCH EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO THIS PARAGRAPH SHALL BE DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 5. Section 210 of the tax law is amended by adding a new subdivision 19-a to read as follows:

19-A. INNOVATION TECHNOLOGY WAGE TAX CREDIT. (A) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER HAS BEEN APPROVED AS AN ELIGIBLE HIGH-TECH ENTERPRISE UNDER SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW. THE AMOUNT OF SUCH CREDIT SHALL BE AS PRESCRIBED IN PARAGRAPH (D) OF THIS SUBDIVISION. SUCH CREDIT SHALL BE AVAILABLE FOR FIVE SUCCESSIVE YEARS COMMENCING WITH THE YEAR IN WHICH THE TAXPAYER HAS NET NEW EMPLOYEES AS DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF THE ECONOMIC DEVELOPMENT LAW FOR MORE THAN HALF THE TAXPAYER'S FISCAL YEAR.

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

(1) "ELIGIBLE WAGES" MEANS WAGES PAID BY THE TAXPAYER FOR EMPLOYMENT DURING THE TAXABLE YEAR, AT LOCATIONS OF AN ELIGIBLE HIGH-TECH ENTERPRISE'S OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE.

(2) "TARGETED EMPLOYEE" MEANS A NEW YORK RESIDENT WHO RECEIVES ELIGIBLE WAGES AND WHO IS (I) AN ELIGIBLE INDIVIDUAL UNDER THE PROVISIONS OF THE TARGETED JOBS TAX CREDIT (SECTION FIFTY-ONE OF THE INTERNAL REVENUE CODE), (II) ELIGIBLE FOR BENEFITS UNDER THE PROVISIONS OF THE WORKFORCE INVESTMENT ACT AS A DISLOCATED WORKER OR LOW-INCOME INDIVIDUAL (P.L. 105-220, AS AMENDED), (III) A RECIPIENT OF PUBLIC ASSISTANCE BENEFITS, (IV) AN INDIVIDUAL WHOSE INCOME IS BELOW THE MOST RECENTLY ESTABLISHED POVERTY RATE PROMULGATED BY THE UNITED STATES DEPARTMENT OF COMMERCE, OR A MEMBER OF A FAMILY WHOSE FAMILY INCOME IS BELOW THE MOST RECENTLY ESTABLISHED POVERTY RATE PROMULGATED BY THE APPROPRIATE FEDERAL AGENCY OR (V) AN HONORABLY DISCHARGED MEMBER OF ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES. AN INDIVIDUAL WHO SATISFIES THE CRITERIA SET FORTH IN CLAUSE (I), (II), (IV) OR (V) OF THIS SUBPARAGRAPH AT THE TIME OF INITIAL EMPLOYMENT IN THE JOB WITH RESPECT TO WHICH THE CREDIT IS CLAIMED, OR WHO SATISFIES THE CRITERION SET FORTH IN CLAUSE (III) OF THIS SUBPARAGRAPH AT SUCH TIME OR AT ANY TIME WITHIN THE PREVIOUS TWO YEARS, SHALL BE A TARGETED EMPLOYEE SO LONG AS SUCH INDIVIDUAL CONTINUES TO RECEIVE ELIGIBLE WAGES.

(3) "AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME" SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF SUCH 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 EACH TAXABLE YEAR OR OTHER APPLICABLE PERIOD, BY ADDING TOGETHER THE NUMBER OF SUCH INDIVIDUALS ASCERTAINED ON EACH OF SUCH DATES AND

DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITHIN SUCH TAXABLE YEAR OR OTHER APPLICABLE PERIOD.

(C) THE AMOUNT OF THE CREDIT SHALL EQUAL THE SUM OF: (1) THE PRODUCT OF THREE THOUSAND DOLLARS AND THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY THE TAXPAYER, COMPUTED PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH THREE OF PARAGRAPH (B) OF THIS SUBDIVISION, WHO (I) RECEIVED ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE YEAR, (II) RECEIVED WITH RESPECT TO MORE THAN HALF OF THE PERIOD OF EMPLOYMENT BY THE TAXPAYER DURING THE TAXABLE YEAR, AN HOURLY WAGE WHICH WAS AT LEAST ONE HUNDRED THIRTY-FIVE PERCENT OF THE MINIMUM WAGE SPECIFIED IN SECTION SIX HUNDRED FIFTY-TWO OF THE LABOR LAW, (III) ARE TARGETED EMPLOYEES, AND (IV) ARE HIRED AFTER THE TEST DATE; AND (2) THE PRODUCT OF FIFTEEN HUNDRED DOLLARS AND THE AVERAGE NUMBER OF INDIVIDUALS (EXCLUDING INDIVIDUALS DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH) EMPLOYED FULL-TIME BY THE TAXPAYER AND HIRED AFTER THE TEST DATE, COMPUTED PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH THREE OF PARAGRAPH (B) OF THIS SUBDIVISION, WHO RECEIVED ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE YEAR. PROVIDED, FURTHER, HOWEVER, THAT THE CREDIT PROVIDED FOR IN 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 SIX HUNDRED ONE OF THIS CHAPTER COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED FOR UNDER THIS ARTICLE.

(D) FOR PURPOSES OF CALCULATING THE AMOUNT OF THE CREDIT, INDIVIDUALS EMPLOYED WITHIN THE STATE WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS BY A RELATED PERSON, AS SUCH TERM IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER OF INDIVIDUALS DESCRIBED IN SUBPARAGRAPH ONE OR SUBPARAGRAPH TWO OF PARAGRAPH (C) OF THIS SUBDIVISION, UNLESS SUCH RELATED PERSON WAS NEVER ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO SUCH EMPLOYEES. FOR PURPOSES OF THIS SUBPARAGRAPH, A "RELATED PERSON" SHALL INCLUDE AN ENTITY WHICH WOULD HAVE QUALIFIED AS A "RELATED PERSON" TO THE TAXPAYER IF IT HAD NOT BEEN DISSOLVED, LIQUIDATED, MERGED WITH ANOTHER ENTITY OR OTHERWISE CEASED TO EXIST OR OPERATE.

(E) THE DOLLAR AMOUNTS SPECIFIED UNDER SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (C) OF THIS SUBDIVISION SHALL BE INCREASED BY FIVE HUNDRED DOLLARS FOR EACH QUALIFYING INDIVIDUAL UNDER SUCH SUBPARAGRAPH WHO RECEIVED, DURING THE TAXABLE YEAR, WAGES IN EXCESS OF FORTY THOUSAND DOLLARS.

(F) IF THE AMOUNT OF THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS SECTION 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 (D) OF THIS SUBDIVISION, MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF CARRYING OVER ANY SUCH EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE FIFTY PERCENT OF SUCH EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO THIS PARAGRAPH SHALL BE DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 6. Section 606 of the tax law is amended by adding a new subsection (k-1) to read as follows:

(K-1) INNOVATION TECHNOLOGY WAGE TAX CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE

TAX IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER HAS BEEN APPROVED AS AN ELIGIBLE HIGH-TECH ENTERPRISE UNDER SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW. THE AMOUNT OF SUCH CREDIT SHALL BE AS PRESCRIBED IN PARAGRAPH TWO OF THIS SUBSECTION. SUCH CREDIT SHALL BE AVAILABLE FOR FIVE SUCCESSIVE YEARS COMMENCING WITH THE YEAR IN WHICH THE TAXPAYER HAS EMPLOYEES FOR MORE THAN HALF THE TAXPAYER'S FISCAL YEAR.

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

(A) "ELIGIBLE WAGES" MEANS WAGES PAID BY THE TAXPAYER FOR EMPLOYMENT DURING THE TAXABLE YEAR, AT LOCATIONS OF AN ELIGIBLE HIGH-TECH ENTERPRISE'S OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE.

(B) "TARGETED EMPLOYEE" MEANS A NEW YORK RESIDENT WHO RECEIVES ELIGIBLE WAGES AND WHO IS (I) AN ELIGIBLE INDIVIDUAL UNDER THE PROVISIONS OF THE TARGETED JOBS TAX CREDIT (SECTION FIFTY-ONE OF THE INTERNAL REVENUE CODE), (II) ELIGIBLE FOR BENEFITS UNDER THE PROVISIONS OF THE WORKFORCE INVESTMENT ACT AS A DISLOCATED WORKER OR LOW-INCOME INDIVIDUAL (P.L. 105-220, AS AMENDED), (III) A RECIPIENT OF PUBLIC ASSISTANCE BENEFITS, (IV) AN INDIVIDUAL WHOSE INCOME IS BELOW THE MOST RECENTLY ESTABLISHED POVERTY RATE PROMULGATED BY THE UNITED STATES DEPARTMENT OF COMMERCE, OR A MEMBER OF A FAMILY WHOSE FAMILY INCOME IS BELOW THE MOST RECENTLY ESTABLISHED POVERTY RATE PROMULGATED BY THE APPROPRIATE FEDERAL AGENCY OR (V) AN HONORABLY DISCHARGED MEMBER OF ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES. AN INDIVIDUAL WHO SATISFIES THE CRITERIA SET FORTH IN CLAUSE (I), (II), (IV) OR (V) OF THIS SUBPARAGRAPH AT THE TIME OF INITIAL EMPLOYMENT IN THE JOB WITH RESPECT TO WHICH THE CREDIT IS CLAIMED, OR WHO SATISFIES THE CRITERION SET FORTH IN CLAUSE (III) OF THIS SUBPARAGRAPH AT SUCH TIME OR AT ANY TIME WITHIN THE PREVIOUS TWO YEARS, SHALL BE A TARGETED EMPLOYEE SO LONG AS SUCH INDIVIDUAL CONTINUES TO RECEIVE ELIGIBLE WAGES.

(C) "AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME" SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF SUCH 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 EACH TAXABLE YEAR OR OTHER APPLICABLE PERIOD, BY ADDING TOGETHER THE NUMBER OF SUCH INDIVIDUALS ASCERTAINED ON EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITHIN SUCH TAXABLE YEAR OR OTHER APPLICABLE PERIOD.

(3) THE AMOUNT OF THE CREDIT SHALL EQUAL THE SUM OF: (A) THE PRODUCT OF THREE THOUSAND DOLLARS AND THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY THE TAXPAYER, COMPUTED PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS SUBSECTION, WHO (I) RECEIVED ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE YEAR, (II) RECEIVED WITH RESPECT TO MORE THAN HALF OF THE PERIOD OF EMPLOYMENT BY THE TAXPAYER DURING THE TAXABLE YEAR, AN HOURLY WAGE WHICH WAS AT LEAST ONE HUNDRED THIRTY-FIVE PERCENT OF THE MINIMUM WAGE SPECIFIED IN SECTION SIX HUNDRED FIFTY-TWO OF THE LABOR LAW, AND (III) ARE TARGETED EMPLOYEES; AND (B) THE PRODUCT OF FIFTEEN HUNDRED DOLLARS AND THE AVERAGE NUMBER OF INDIVIDUALS (EXCLUDING INDIVIDUALS DESCRIBED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH) EMPLOYED FULL-TIME BY THE TAXPAYER, COMPUTED PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS SUBSECTION, WHO RECEIVED ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE YEAR. PROVIDED, FURTHER, HOWEVER, THAT THE CREDIT PROVIDED FOR IN 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 SIX HUNDRED ONE OF THIS PART COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED FOR UNDER THIS ARTICLE.

(4) FOR PURPOSES OF CALCULATING THE AMOUNT OF THE CREDIT, INDIVIDUALS EMPLOYED WITHIN THE STATE WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS BY A RELATED PERSON, AS SUCH TERM IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER OF INDIVIDUALS DESCRIBED IN SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS SUBSECTION, UNLESS SUCH RELATED PERSON WAS NEVER ALLOWED A CREDIT UNDER THIS SUBSECTION WITH RESPECT TO SUCH EMPLOYEES. FOR PURPOSES OF THIS SUBPARAGRAPH, A "RELATED PERSON" SHALL INCLUDE AN ENTITY WHICH WOULD HAVE QUALIFIED AS A "RELATED PERSON" TO THE TAXPAYER IF IT HAD NOT BEEN DISSOLVED, LIQUIDATED, MERGED WITH ANOTHER ENTITY OR OTHERWISE CEASED TO EXIST OR OPERATE.

(5) THE DOLLAR AMOUNTS SPECIFIED UNDER SUBPARAGRAPH (A) OR (B) OF PARAGRAPH THREE OF THIS SUBSECTION SHALL BE INCREASED BY FIVE HUNDRED DOLLARS FOR EACH QUALIFYING INDIVIDUAL UNDER SUCH SUBPARAGRAPH WHO RECEIVED, DURING THE TAXABLE YEAR, WAGES IN EXCESS OF FORTY THOUSAND DOLLARS.

(6) IF THE AMOUNT OF THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS, AS WELL AS ANY PART OF THE CREDIT OR CARRY-OVERS 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. IN LIEU OF CARRYING OVER ANY SUCH EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE FIFTY PERCENT OF SUCH EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO THIS PARAGRAPH SHALL BE DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 7. Section 606 of the tax law is amended by adding two new subsections (bb-1) and (cc-1) to read as follows:

(BB-1) INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES. (1) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTER-PRISE AS DEFINED IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOP-MENT LAW, OR WHICH IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTER-PRISE OR A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, SHALL BE ALLOWED A CREDIT FOR ELIGIBLE REAL PROPERTY TAXES, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-THREE 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.

(CC-1) INNOVATION TECHNOLOGY TAX REDUCTION CREDIT. ALLOWANCE OF CRED-IT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS DEFINED IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW, OR WHICH IS A SOLE PROPRIETOR OF A ELIGIBLE HIGH-TECH ENTERPRISE OR A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, SHALL BE ALLOWED AN INNOVATION TECHNOLOGY TAX REDUCTION CREDIT AGAINST THE TAX IMPOSED BY SUBSECTIONS (A) THROUGH (E) OF SECTION SIX HUNDRED ONE OF THIS PART.

S 8. Section 210 of the tax law is amended by adding two new subdivisions 27-a and 28-a to read as follows:

27-A. INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS DEFINED IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT FOR ELIGIBLE REAL PROPERTY TAXES, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-THREE 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 ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

28-A. INNOVATION TECHNOLOGY TAX REDUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS DEFINED IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED AN INNOVATION TECHNOLOGY TAX REDUCTION CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-FOUR 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 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION.

S 9. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding three new clauses (xxxi), (xxxii) and (xxxiii) to read as follows:

(XXXI) INNOVATION TECHNOLOGY WAGE TAX CREDIT UNDER SUBSECTION (K-1)	ELIGIBLE WAGES UNDER SUBDIVISION NINETEEN-A OF SECTION TWO HUNDRED TEN
(XXXII) INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES UNDER SUBSECTION (BB-1)	AMOUNT OF CREDIT UNDER SUBDIVISION TWENTY-SEVEN-A OF SECTION TWO HUNDRED TEN
(XXXIII) INNOVATION TECHNOLOGY TAX REDUCTION CREDIT UNDER SUBSECTION (CC-1)	AMOUNT OF BENEFIT UNDER SUBDIVISION TWENTY-EIGHT-A OF SECTION TWO HUNDRED TEN

S 10. This act shall take effect immediately.