

10679

I N A S S E M B L Y

April 14, 2010

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

AN ACT to amend the general municipal law, in relation to the certification of businesses as clean energy enterprises and the termination or revision of an empire zone and procedures relating to uniformed tax exemption policy; to amend the tax law, in relation to empire zone credit for real property taxes and qualified emerging technology company facilities; to amend the public authorities law, in relation to certain financial assistance programs; to amend section 15 of chapter 66 of the laws of 1994, amending the public health law, the general municipal law and the insurance law relating to the financing of life care communities, in relation to the date of approval of certificates of authority; to amend the economic development law, in relation to establishing a high tech marketing program and providing an appropriation therefor; to amend the New York state urban development corporation act, in relation to establishing a new technology seed fund; and to repeal certain provisions of the public authorities law relating to the recovery of state governmental costs from institutional development agencies

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Jobs for New York State (JOBS4NY) Act".
3 S 2. Legislative intent. The legislature hereby determined that it is
4 necessary to foster economic growth throughout New York state, partic-
5 ularly given the current economic challenges facing the state and
6 nation. It is the public policy of the state to offer incentives that
7 will promote the development of new businesses and the expansion of
8 existing businesses and stimulate private investment, private business
9 development and the creation of good paying jobs in all areas of the
10 state, and particularly in economically distressed areas.
11 The legislature further recognizes the need to foster the development
12 and growth of emerging technology industries, by increasing the avail-
13 ability of seed and early-stage funding to New York state businesses and

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

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1 entrepreneurs. In addition, the legislature recognizes the need to
2 attract private venture capital to New York. The legislature hereby
3 determines that a New York state new technology seed fund should be
4 established and that existing tax credits designed to support the expansion
5 of emerging technology-based businesses be expanded.

6 The Legislature further finds that New York's nonprofit employers
7 provide important services to New York's residents, and that because of
8 the sunset of the law allowing nonprofits to access tax-exempt bonding
9 through industrial development agencies, nonprofits are not able to
10 expand to meet increased service demands due to the recession, or
11 modernize their plant and equipment to deliver services more efficient-
12 ly. Therefore, the legislature determines that in order to allow nonpro-
13 fit agencies to meet service demands, this legislation makes permanent
14 the authority to allow nonprofits to access low cost tax-exempt bond
15 financing through industrial development agencies.

16 The legislature further finds that in the last decade the state has
17 invested more than two billion dollars in university-sponsored research
18 and development and in incentive programs for high technology projects,
19 and as a result has created important competitive strengths in certain
20 technology sectors, especially in nanotechnology, biosciences, and
21 cleantech. The legislature determines therefore that in an effort to
22 leverage these advantages with the global business community, this Act
23 creates a business marketing public-private partnership to promote these
24 known advantages.

25 It is further recognized that it is the public policy of the state to
26 achieve these goals through the mutual cooperation of all levels of
27 state and local government and the business community.

28 Therefore, it is the intent of this legislature that for the benefit
29 of the people of New York these issues be addressed by enacting this
30 comprehensive Jobs for New York State (JOBS4NY) Act.

31 S 3. Subdivision (b) of section 959-b of the general municipal law, as
32 amended by section 4 of part S-1 of chapter 57 of the laws of 2009, is
33 amended to read as follows:

34 (b) The commissioner of economic development shall serve as the sole
35 certification officer for businesses seeking certification as a clean
36 energy enterprise. The commissioner of economic development, after
37 consultation with the executive director of the New York state energy
38 research and development authority, shall promulgate regulations govern-
39 ing (i) criteria of eligibility for designation of a clean energy enter-
40 prise, (ii) the application process, and (iii) the certification by the
41 commissioner of economic development as to the eligibility of business
42 enterprises for benefits referred to in section nine hundred sixty-six
43 of this article. A business so certified shall be deemed to be eligible
44 for such benefits as if such business were located in an investment zone
45 as defined in paragraph (i) of subdivision (d) of section nine hundred
46 fifty-seven of this article. No such certification shall be made after
47 [June thirtieth, two thousand ten] DECEMBER THIRTY-FIRST, TWO THOUSAND
48 FIFTEEN.

49 S 4. Subdivision (a) of section 969 of the general municipal law, as
50 amended by section 10 of part S-1 of chapter 57 of the laws of 2009, is
51 amended to read as follows:

52 (a) Except as provided in this section, any designation of an area as
53 an empire zone shall remain in effect during the period beginning on the
54 date of designation and ending [June thirtieth, two thousand ten] DECEM-
55 BER 31, 2015.

1 S 5. The tax law is amended by adding a new section 33 to read as
2 follows:

3 S 33. EMPIRE ZONE CREDIT FOR REAL PROPERTY TAXES. (A) ALLOWANCE OF
4 CREDIT. A TAXPAYER WHICH IS A QUALIFYING BUSINESS AS DEFINED IN THIS
5 SECTION, OR WHICH IS A SOLE PROPRIETOR OF A QUALIFYING BUSINESS OR A
6 MEMBER OF A PARTNERSHIP WHICH IS A QUALIFYING BUSINESS, AND WHICH IS
7 SUBJECT TO TAX UNDER ARTICLE NINE, NINE-A, TWENTY-TWO, THIRTY-TWO OR
8 THIRTY-THREE OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH
9 TAX, PURSUANT TO THE PROVISIONS REFERENCED IN THIS SECTION, FOR ELIGIBLE
10 REAL PROPERTY TAXES.

11 (B) AMOUNT OF CREDIT. (1) THE CREDIT SHALL BE EQUAL TO EITHER THE
12 PRODUCT (OR PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A
13 PARTNERSHIP) OF TWENTY-FIVE PERCENT OF THE TOTAL WAGES, HEALTH BENEFITS
14 AND RETIREMENT BENEFITS PAID TO OR ON BEHALF OF NET NEW EMPLOYEES DURING
15 THE TAXABLE YEAR, PROVIDED HOWEVER, THAT THE TOTAL AMOUNT OF THE CREDIT
16 SHALL NOT EXCEED TEN THOUSAND DOLLARS FOR EACH SUCH EMPLOYEE. FOR
17 PURPOSES OF COMPUTING TOTAL WAGES, HEALTH BENEFITS AND RETIREMENT BENE-
18 FITS, WAGES, HEALTH BENEFITS AND RETIREMENT BENEFITS FOR EACH EMPLOYEE
19 IN EXCESS OF FORTY THOUSAND DOLLARS SHALL BE EXCLUDED FROM SUCH COMPUTA-
20 TION.

21 (2) THE CREDIT SHALL BE AVAILABLE FOR THE TEN TAX YEARS BEGINNING WITH
22 THE TAX YEAR IN WHICH THE TAXPAYER QUALIFIES AS AN ELIGIBLE BUSINESS
23 PROJECT.

24 (C) RECAPTURE OF CREDIT. WHERE A QUALIFIED BUSINESS' ELIGIBLE REAL
25 PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE CREDIT
26 PROVIDED FOR UNDER THIS SECTION ARE SUBSEQUENTLY REDUCED AS A RESULT OF
27 A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE REAL PROPERTY
28 TAX LAW OR OTHER PROVISIONS OF LAW, THE TAXPAYER SHALL ADD BACK, IN THE
29 TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE EXCESS OF (1) THE
30 AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR OVER (2) THE
31 AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED ELIGIBLE REAL PROPER-
32 TY TAXES. IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR MORE THAN
33 ONE YEAR, THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH REDUCTION IS
34 ATTRIBUTABLE TO EACH YEAR COVERED BY SUCH FINAL ORDER AND CALCULATE THE
35 AMOUNT OF CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO BE RECAPTURED
36 FOR EACH YEAR BASED ON SUCH REDUCTION.

37 (D) DEFINITIONS. (1) "ELIGIBLE REAL PROPERTY TAXES" MEANS TAXES
38 IMPOSED ON REAL PROPERTY WHICH IS OWNED BY THE QUALIFIED BUSINESS WHICH
39 IS THE SITE OF THE QUALIFYING PROJECT, PROVIDED SUCH TAXES ARE PAID BY
40 THE QUALIFIED BUSINESS WHICH IS THE OWNER OF THE REAL PROPERTY OR ARE
41 PAID BY A TENANT WHICH EITHER (I) DOES NOT MEET THE ELIGIBILITY REQUIRE-
42 MENTS UNDER THIS SECTION TO BE A QUALIFIED BUSINESS OR (I) CANNOT TREAT
43 SUCH PAYMENT AS ELIGIBLE REAL PROPERTY TAXES PURSUANT TO THIS PARAGRAPH
44 AND SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY DURING A TAXABLE YEAR
45 IN WHICH THE OWNER OF THE REAL PROPERTY MEETS THE DEFINITION OF A QUALI-
46 FIED BUSINESS. IN ADDITION, "ELIGIBLE REAL PROPERTY TAXES" SHALL INCLUDE
47 TAXES PAID BY A QUALIFIED BUSINESS WHICH IS A LESSEE OF REAL PROPERTY IF
48 THE FOLLOWING CONDITIONS ARE SATISFIED: (1) THE TAXES MUST BE PAID BY
49 THE LESSEE PURSUANT TO EXPLICIT REQUIREMENTS IN A WRITTEN LEASE EXECUTED
50 OR AMENDED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION (2) SUCH TAXES
51 BECOME A LIEN ON THE REAL PROPERTY DURING A TAXABLE YEAR IN WHICH THE
52 LESSEE OF THE REAL PROPERTY IS A QUALIFIED BUSINESS, AND (3) THE LESSEE
53 HAS MADE DIRECT PAYMENT OF SUCH TAXES TO THE TAXING AUTHORITY AND HAS
54 RECEIVED A RECEIPT FOR SUCH PAYMENT OF TAXES FROM THE TAXING AUTHORITY.
55 IN ADDITION, THE TERM "ELIGIBLE REAL PROPERTY TAXES" INCLUDES PAYMENTS
56 IN LIEU OF TAXES MADE BY THE QUALIFIED BUSINESS TO THE STATE, A MUNICI-

1 PAL CORPORATION OR A PUBLIC BENEFIT CORPORATION PURSUANT TO A WRITTEN
2 AGREEMENT ENTERED INTO BETWEEN THE QUALIFIED BUSINESS AND THE STATE,
3 MUNICIPAL CORPORATION, OR PUBLIC BENEFIT CORPORATION. PROVIDED, HOWEVER,
4 A PAYMENT IN LIEU OF TAXES MADE BY THE QUALIFIED BUSINESS PURSUANT TO A
5 WRITTEN AGREEMENT EXECUTED OR AMENDED ON OR AFTER THE EFFECTIVE DATE OF
6 THIS SECTION SHALL NOT CONSTITUTE ELIGIBLE REAL PROPERTY TAXES IN ANY
7 TAXABLE YEAR TO THE EXTENT THAT SUCH PAYMENT EXCEEDS THE PRODUCT OF (A)
8 THE GREATER OF (I) THE BASIS FOR FEDERAL INCOME TAX PURPOSES, CALCULATED
9 WITHOUT REGARD TO DEPRECIATION, DETERMINED AS OF THE EFFECTIVE DATE OF
10 THIS SECTION OF REAL PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPO-
11 NENTS OF BUILDINGS, THAT COMPRISES THE QUALIFIED BUSINESS FACILITY, AND
12 PROVIDED THAT IF SUCH BASIS IS FURTHER ADJUSTED OR REDUCED PURSUANT TO
13 ANY PROVISION OF THE INTERNAL REVENUE CODE, THE QUALIFIED BUSINESS MAY
14 PETITION THE DEPARTMENT, THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE
15 OFFICE OF REAL PROPERTY SERVICES TO DISREGARD SUCH REDUCTION OR ADJUST-
16 MENT FOR THE PURPOSE OF THIS SUBDIVISION OR (II) THE BASIS FOR FEDERAL
17 INCOME TAX PURPOSES OF SUCH REAL PROPERTY DESCRIBED IN CLAUSE (I) OF
18 THIS SUBPARAGRAPH, CALCULATED WITHOUT REGARD TO DEPRECIATION, ON THE
19 LAST DAY OF THE TAXABLE YEAR, AND PROVIDED THAT IF SUCH BASIS IS FURTHER
20 ADJUSTED OR REDUCED PURSUANT TO ANY PROVISION OF THE INTERNAL REVENUE
21 CODE, THE QUALIFIED BUSINESS MAY PETITION THE DEPARTMENT, THE DEPARTMENT
22 OF ECONOMIC DEVELOPMENT AND THE OFFICE OF REAL PROPERTY SERVICES TO
23 DISREGARD SUCH REDUCTION OR ADJUSTMENT FOR THE PURPOSE OF THIS SUBDIVI-
24 SION; AND (B) THE ESTIMATED EFFECTIVE FULL VALUE TAX RATE WITHIN THE
25 COUNTY IN WHICH SUCH PROPERTY IS LOCATED, AS MOST RECENTLY REPORTED TO
26 THE COMMISSIONER BY THE SECRETARY OF THE STATE BOARD OF REAL PROPERTY
27 SERVICES, OR HIS OR HER DESIGNEE. THE STATE BOARD SHALL ANNUALLY CALCU-
28 LATE ESTIMATED EFFECTIVE FULL VALUE TAX RATES WITHIN EACH COUNTY FOR
29 THIS PURPOSE BASED UPON THE MOST CURRENT INFORMATION AVAILABLE TO IT IN
30 RELATION TO COUNTY, CITY, TOWN, VILLAGE AND SCHOOL DISTRICT TAXES.

31 (2) "QUALIFYING BUSINESS PROJECT" MEANS:

32 (I) A MANUFACTURER FACILITY THAT CREATES FIFTY NEW JOBS OR MAKES A
33 QUALIFYING CAPITAL INVESTMENT;

34 (II) A WAREHOUSE AND DISTRIBUTION FACILITY THAT CREATES AT LEAST ONE
35 HUNDRED NEW JOBS;

36 (III) A RESEARCH AND DEVELOPMENT FACILITY THAT CREATES AT LEAST FIFTY
37 NEW JOBS;

38 (IV) A FINANCIAL SERVICE FACILITY THAT CREATES ONE HUNDRED NEW JOBS;

39 (V) A TOURISM DESTINATION PROJECT THAT CREATES AT LEAST ONE HUNDRED
40 NEW JOBS; OR

41 (VI) A BUSINESS FACILITY WITHIN AN INDUSTRY WITH SIGNIFICANT POTENTIAL
42 FOR PRIVATE-SECTOR ECONOMIC GROWTH AND DEVELOPMENT IN NEW YORK STATE AS
43 ESTABLISHED BY THE COMMISSIONER IN REGULATIONS AND THAT CREATES AT LEAST
44 FIFTY NEW JOBS.

45 (3) "QUALIFYING CAPITAL INVESTMENT" MEANS AN INVESTMENT CONSISTING OF
46 TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILD-
47 INGS AND STRUCTURAL COMPONENTS OF BUILDINGS, DESCRIBED IN SUBPARAGRAPHS
48 (I), (II), (III), (IV) AND CLAUSES (A) AND (C) OF SUBPARAGRAPH (V) OF
49 PARAGRAPH (B) OF SUBDIVISION TWELVE-B OF SECTION TWO HUNDRED TEN OF THIS
50 CHAPTER RELATED TO THE CONSTRUCTION, EXPANSION OR REHABILITATION OF A
51 FACILITY, THE BASIS OF WHICH FOR FEDERAL INCOME TAX PURPOSES WILL EQUAL
52 OR EXCEED THE GREATER OF TEN MILLION DOLLARS OR TWENTY-FIVE PERCENT OF
53 THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES, DETERMINED FOR
54 THE TAX YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE CAPITAL
55 INVESTMENT IS MADE, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF
56 BUILDINGS, OWNED BY THE TAXPAYER AT THE SITE OR (II) THE PRODUCT OF THE

1 COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF SUCH REAL PROPER-
2 TY DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH DETERMINED ON FOR THE
3 TAX YEAR IMMEDIATELY PRECEEDING THE YEAR IN WHICH THE CAPITAL INVESTMENT
4 IS MADE AND THE PERCENTAGE OF SUCH REAL PROPERTY DESCRIBED IN CLAUSE (I)
5 OF SUBPARAGRAPH (A) OF THIS PARAGRAPH WHICH IS PHYSICALLY OCCUPIED AND
6 USED BY THE TAXPAYER OR BY A RELATED PERSON TO THE TAXPAYER, AS THE TERM
7 "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF
8 SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVEN-
9 UE CODE.

10 (4) "MANUFACTURER" MEANS A TAXPAYER WHICH DURING THE TAXABLE YEAR IS
11 PRINCIPALLY ENGAGED IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROC-
12 ESSING INCLUDING FOOD PROCESSING, ASSEMBLING, REFINING, OR A TAXPAYER
13 WHICH IS DEFINED AS A QUALIFIED EMERGING TECHNOLOGY COMPANY UNDER PARA-
14 GRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE
15 PUBLIC AUTHORITIES LAW. HOWEVER, THE GENERATION AND DISTRIBUTION OF
16 ELECTRICITY, THE DISTRIBUTION OF NATURAL GAS, AND THE PRODUCTION OF
17 STEAM ASSOCIATED WITH THE GENERATION OF ELECTRICITY SHALL NOT BE QUALI-
18 FYING ACTIVITIES FOR A MANUFACTURER UNDER THIS SUBPARAGRAPH. MOREOVER,
19 THE COMBINED GROUP SHALL BE CONSIDERED A "MANUFACTURER" FOR PURPOSES OF
20 THIS SUBPARAGRAPH ONLY IF THE COMBINED GROUP DURING THE TAXABLE YEAR IS
21 PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS PARAGRAPH, OR
22 ANY COMBINATION THEREOF. A TAXPAYER OR A COMBINED GROUP SHALL BE "PRIN-
23 CIPALLY ENGAGED" IN ACTIVITIES DESCRIBED ABOVE IF, DURING THE TAXABLE
24 YEAR, MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR
25 COMBINED GROUP, RESPECTIVELY, ARE DERIVED FROM RECEIPTS FROM THE SALE OF
26 GOODS PRODUCED BY SUCH ACTIVITIES. IN COMPUTING A COMBINED GROUP'S GROSS
27 RECEIPTS, INTERCORPORATE RECEIPTS SHALL BE ELIMINATED.

28 (5) "NET NEW EMPLOYEES" MEANS THE NUMBER OF NET NEW EMPLOYEES FOR A
29 QUALIFIED BUSINESS IS EQUAL TO THE EXCESS OF THE QUALIFIED BUSINESS'
30 EMPLOYMENT NUMBER AT THE FACILITY WHERE THE QUALIFIED INVESTMENT IS
31 MADE, OVER THE QUALIFIED BUSINESSES EMPLOYMENT AT THE FACILITY FOR THE
32 PRECEEDING TAX YEAR.

33 (6) "TAX BENEFIT PERIOD" MEANS, FOR THE PURPOSES OF ARTICLES NINE,
34 NINE-A, TWENTY-TWO, THIRTY-TWO AND THIRTY-THREE OF THIS CHAPTER, THE
35 FIRST TEN TAXABLE YEARS AFTER THE YEAR IN WHICH A TAXPAYER MEETS THE
36 CRITERIA TO BECOME A QUALIFIED BUSINESS PROJECT, PROVIDED THAT A TAXPAY-
37 ER THAT QUALIFIES BASED ON A QUALIFIED CAPITAL INVESTMENT, THE TAX BENE-
38 FIT PERIOD SHALL BE THE TEN TAXABLE YEARS STARTING WITH THE TAXABLE YEAR
39 IN WHICH PROPERTY COMPRISING THE QUALIFYING CAPITAL INVESTMENT IS FIRST
40 PLACED IN SERVICE, AND PROVIDED FURTHER THE TAX BENEFIT PERIOD MEANS
41 ONLY THE TAX YEARS WITHIN THE BUSINESS TAX BENEFIT PERIOD FOR WHICH THE
42 TAXPAYER CONTINUES TO MEET ANY APPLICABLE EMPLOYMENT INCREASE CRITERIA
43 SET FORTH IN SECTION THIRTY-FOUR OF THIS ARTICLE.

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

46 (1) ARTICLE 9: SECTION 187-O.

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

48 (3) ARTICLE 22: SECTION 606: SUBSECTIONS (I) AND (QQ).

49 (4) ARTICLE 22: SECTION 606: SUBSECTION (I): PARAGRAPH (B): CLAUSE
50 (XXXI).

51 (5) ARTICLE 32: SECTION 1456: SUBSECTION (U).

52 (6) ARTICLE 33: SECTION 1511: SUBDIVISION (Y).

53 S 6. The tax law is amended by adding a new section 187-o to read as
54 follows:

55 S 187-O. EMPIRE ZONE CREDIT FOR REAL PROPERTY TAXES. 1. ALLOWANCE OF
56 CREDIT. A TAXPAYER WHICH IS A QUALIFIED PROJECT SHALL BE ALLOWED A CRED-

1 IT FOR ELIGIBLE REAL PROPERTY TAXES, TO BE COMPUTED AS PROVIDED IN
2 SUBDIVISION (B) OF SECTION THIRTY-THREE OF THIS CHAPTER, AGAINST THE TAX
3 IMPOSED BY THIS ARTICLE.

4 2. APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
5 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
6 THAN THE HIGHER OF THE AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
7 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF
8 THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
9 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE
10 IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
11 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE
12 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS
13 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
14 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

15 S 7. Section 210 of the tax law is amended by adding a new subdivision
16 41 to read as follows:

17 41. EMPIRE ZONE CREDIT FOR REAL PROPERTY TAXES. (A) ALLOWANCE OF CRED-
18 IT. A TAXPAYER WHICH IS A QUALIFIED PROJECT SHALL BE ALLOWED A CREDIT
19 FOR ELIGIBLE REAL PROPERTY TAXES, TO BE COMPUTED AS PROVIDED IN SUBDIVI-
20 SION (B) OF SECTION THIRTY-THREE OF THIS CHAPTER, AGAINST THE TAX
21 IMPOSED BY THIS ARTICLE.

22 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
23 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
24 THAN THE HIGHER OF THE AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
25 SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT
26 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
27 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
28 YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT
29 DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF
30 TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF
31 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE
32 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF
33 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

34 S 8. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
35 of the tax law is amended by adding a new clause (xxxi) to read as
36 follows:

37 (XXXI) EMPIRE ZONE CREDIT FOR AMOUNT OF CREDIT UNDER
38 REAL PROPERTY TAXES SUBDIVISION FIFTY-ONE
39 UNDER SUBSECTION (QQ) OF SECTION TWO HUNDRED
40 TEN

41 S 9. Section 606 of the tax law is amended by adding a new subsection
42 (qq) to read as follows:

43 (QQ) EMPIRE ZONE CREDIT FOR REAL PROPERTY TAXES. (1) ALLOWANCE OF
44 CREDIT. A TAXPAYER WHICH IS A QUALIFIED PROJECT SHALL BE ALLOWED A CRED-
45 IT FOR ELIGIBLE REAL PROPERTY TAXES, TO BE COMPUTED AS PROVIDED IN
46 SUBDIVISION (B) OF SECTION THIRTY-THREE OF THIS CHAPTER, AGAINST THE TAX
47 IMPOSED BY THIS ARTICLE.

48 (2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
49 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
50 THAN THE HIGHER OF THE AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
51 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF
52 THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
53 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE
54 IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
55 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE
56 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS

1 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
2 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

3 S 10. Section 1456 of the tax law is amended by adding a new
4 subsection (u) to read as follows:

5 (U) EMPIRE ZONE CREDIT FOR REAL PROPERTY TAXES. (1) ALLOWANCE OF CRED-
6 IT. A TAXPAYER WHICH IS A QUALIFIED PROJECT SHALL BE ALLOWED A CREDIT
7 FOR ELIGIBLE REAL PROPERTY TAXES, TO BE COMPUTED AS PROVIDED IN SUBDIVI-
8 SION (B) OF SECTION THIRTY-THREE OF THIS CHAPTER, AGAINST THE TAX
9 IMPOSED BY THIS ARTICLE.

10 (2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
11 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
12 THAN THE HIGHER OF THE AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
13 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF
14 THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
15 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE
16 IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
17 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE
18 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS
19 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
20 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

21 S 11. Section 1511 of the tax law is amended by adding a new subdivi-
22 sion (y) to read as follows:

23 (Y) EMPIRE ZONE CREDIT FOR REAL PROPERTY TAXES. (1) ALLOWANCE OF CRED-
24 IT. A TAXPAYER WHICH IS A QUALIFIED PROJECT SHALL BE ALLOWED A CREDIT
25 FOR ELIGIBLE REAL PROPERTY TAXES, TO BE COMPUTED AS PROVIDED IN SUBDIVI-
26 SION (B) OF SECTION THIRTY-THREE OF THIS CHAPTER, AGAINST THE TAX
27 IMPOSED BY THIS ARTICLE.

28 (2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
29 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
30 THAN THE HIGHER OF THE AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
31 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF
32 THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
33 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE
34 IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
35 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE
36 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS
37 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
38 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

39 S 12. The tax law is amended by adding a new section 34 to read as
40 follows:

41 S 34. TAX REDUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH
42 IS OR OWNS A QUALIFIED BUSINESS PROJECT, OR WHICH IS A SOLE PROPRIETOR
43 OF OR OWNS A QUALIFIED BUSINESS PROJECT OR A MEMBER OF A PARTNERSHIP
44 WHICH IS A OR OWNS A QUALIFIED BUSINESS PROJECT, AND WHICH IS SUBJECT TO
45 TAX UNDER ARTICLE NINE, NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE
46 OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO
47 THE PROVISIONS REFERENCED IN SUBDIVISION (G) OF THIS SECTION, TO BE
48 COMPUTED AS HEREINAFTER PROVIDED.

49 (B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT
50 OF:

51 (1) THE BENEFIT PERIOD FACTOR;

52 (2) THE EMPLOYMENT INCREASE FACTOR OR THE CAPITAL INCREASE FACTOR IF
53 THE TAXPAYER HAS MADE A QUALIFYING CAPITAL INVESTMENT;

54 (3) THE ZONE ALLOCATION FACTOR; AND

55 (4) THE TAX FACTOR.

1 (C) BENEFIT PERIOD FACTOR. THE BENEFIT PERIOD FACTOR FOR THE TAXABLE
2 YEAR SHALL BE AS PRESCRIBED IN SUBDIVISION (C) OF SECTION FIFTEEN OF
3 THIS ARTICLE.

4 (D)(1) EMPLOYMENT INCREASE FACTOR. THE EMPLOYMENT INCREASE FACTOR FOR
5 THE TAXABLE YEAR SHALL BE:

6 NET NEW EMPLOYEES:	EMPLOYMENT INCREASE FACTOR:
7 1 TO 10	0.25
8 11 TO 49	0.5
9 50 TO 75	0.75
10 76 AND ABOVE	THE AMOUNT, NOT TO EXCEED 1.0, OF NEW 11 EMPLOYEES DIVIDED BY 100

12 (2) CAPITAL INCREASE FACTOR. THE CAPITAL INCREASE FACTOR REPRESENTS
13 THE VALUE OF THE QUALIFYING CAPITAL INVESTMENT AS DEFINED IN SECTION
14 THIRTY-THREE OF THIS ARTICLE.

15 PERCENT INCREASE:	EMPLOYMENT INCREASE FACTOR:
16 25 TO 50	0.5
17 50 TO 75	0.75
18 76 AND ABOVE	1.0

19 (E) ALLOCATION FACTOR. THE ALLOCATION FACTOR SHALL BE THE PERCENTAGE
20 REPRESENTING THE TAXPAYER'S ECONOMIC PRESENCE AT THE SITE CONSTITUTING A
21 QUALIFIED BUSINESS PROJECT. THIS PERCENTAGE SHALL BE COMPUTED BY:

22 (1) ASCERTAINING THE PERCENTAGE WHICH THE AVERAGE VALUE OF THE TAXPAY-
23 ER'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT,
24 AT THE SITE WHICH QUALIFIES AS A QUALIFYING BUSINESS PROJECT DURING THE
25 PERIOD COVERED BY THE TAXPAYER'S REPORT OR RETURN BEARS TO THE AVERAGE
26 VALUE OF THE TAXPAYER'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER
27 OWNED OR RENTED TO IT, WITHIN THE STATE DURING SUCH PERIOD; PROVIDED
28 THAT THE TERM "VALUE OF THE TAXPAYER'S REAL AND TANGIBLE PERSONAL PROP-
29 erty" SHALL HAVE THE SAME MEANING AS SUCH TERM HAS IN SUBPARAGRAPH ONE
30 OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION TWO HUNDRED TEN OF THIS
31 CHAPTER; AND

32 (2) ASCERTAINING THE PERCENTAGE OF THE TOTAL WAGES, SALARIES AND OTHER
33 PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF
34 EMPLOYEES, EXCEPT GENERAL EXECUTIVE OFFICERS, AT THE SITE WHICH QUALI-
35 FIES AS A QUALIFYING BUSINESS PROJECT TO THE TOTAL WAGES, SALARIES AND
36 OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH
37 PERIOD, OF ALL THE TAXPAYER'S EMPLOYEES WITHIN THE STATE, EXCEPT GENERAL
38 EXECUTIVE OFFICERS; AND

39 (3) ADDING TOGETHER THE PERCENTAGES SO DETERMINED AND DIVIDING THE
40 RESULT BY THE NUMBER OF PERCENTAGES.

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

45 (F) TAX FACTOR. (1) GENERAL. THE TAX FACTOR SHALL BE, IN THE CASE OF
46 ARTICLE NINE-A OF THIS CHAPTER, THE LARGER OF THE AMOUNTS OF TAX DETER-
47 MINED FOR THE TAXABLE YEAR UNDER PARAGRAPHS (A) AND (C) OF SUBDIVISION
48 ONE OF SECTION TWO HUNDRED TEN OF SUCH ARTICLE. THE TAX FACTOR SHALL
49 BE, IN THE CASE OF ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TAX DETER-
50 MINED FOR THE TAXABLE YEAR UNDER SUBSECTIONS (A) THROUGH (D) OF SECTION
51 SIX HUNDRED ONE OF SUCH ARTICLE. THE TAX FACTOR SHALL BE, IN THE CASE OF
52 ARTICLE THIRTY-TWO OF THIS CHAPTER, THE LARGER OF THE AMOUNTS OF TAX
53 DETERMINED FOR THE TAXABLE YEAR UNDER SUBSECTION (A) AND PARAGRAPH TWO
54 OF SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF SUCH ARTI-
55 cle. THE TAX FACTOR SHALL BE, IN THE CASE OF ARTICLE THIRTY-THREE OF
56 THIS CHAPTER, THE LARGER OF THE AMOUNTS OF TAX DETERMINED FOR THE TAXA-

1 BLE YEAR UNDER PARAGRAPHS ONE AND THREE OF SUBDIVISION (A) OF SECTION
2 FIFTEEN HUNDRED TWO OF SUCH ARTICLE.

3 (2) SOLE PROPRIETORS, PARTNERS AND S CORPORATION SHAREHOLDERS. (A)
4 WHERE THE TAXPAYER IS A SOLE PROPRIETOR OF A QUALIFIED BUSINESS PROJECT,
5 THE TAXPAYER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED
6 IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME
7 OF THE QUALIFIED BUSINESS PROJECT. SUCH ATTRIBUTION SHALL BE MADE IN
8 ACCORDANCE WITH THE RATIO OF THE TAXPAYER'S INCOME FROM THE QUALIFIED
9 BUSINESS PROJECT ALLOCATED WITHIN THE STATE, ENTERING INTO NEW YORK
10 ADJUSTED GROSS INCOME, TO THE TAXPAYER'S NEW YORK ADJUSTED GROSS INCOME,
11 OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY
12 PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE
13 PORTION OF THE TAXPAYER'S TAX ATTRIBUTABLE TO THE INCOME OF THE QUALI-
14 FIED BUSINESS PROJECT. IN NO EVENT MAY THE RATIO SO DETERMINE EXCEED
15 1.0.

16 (B)(I) WHERE THE TAXPAYER IS A MEMBER OF A PARTNERSHIP WHICH IS A
17 QUALIFIED BUSINESS PROJECT, THE TAXPAYER'S TAX FACTOR SHALL BE THAT
18 PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION
19 WHICH IS ATTRIBUTABLE TO THE INCOME OF THE PARTNERSHIP. SUCH ATTRIBUTION
20 SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE PARTNER'S INCOME FROM
21 THE PARTNERSHIP ALLOCATED WITHIN THE STATE TO THE PARTNER'S ENTIRE
22 INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY
23 PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE
24 PORTION OF THE PARTNER'S TAX ATTRIBUTABLE TO THE INCOME OF THE PARTNER-
25 SHIP. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

26 (II) FOR PURPOSES OF DETERMINING THE AMOUNT OF CREDIT TO BE CLAIMED BY
27 A TAXPAYER PURSUANT TO THIS SECTION AGAINST THE TAXES DUE UNDER ARTICLE
28 NINE, NINE-A, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER, THE TERM
29 "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF
30 INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO,
31 ENTERING INTO ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE
32 ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION AND THE TERM
33 "PARTNER'S ENTIRE INCOME" MEANS ENTIRE NET INCOME, MINIMUM TAXABLE
34 INCOME, ALTERNATIVE ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPEN-
35 SATION, ALLOCATED WITHIN THE STATE. FOR PURPOSES OF DETERMINING THE
36 AMOUNT OF CREDIT TO BE CLAIMED BY A TAXPAYER PURSUANT TO THIS SECTION
37 AGAINST THE TAXES DUE UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TERM
38 "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF
39 INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO,
40 ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, AND THE TERM "PARTNER'S
41 ENTIRE INCOME" MEANS NEW YORK ADJUSTED GROSS INCOME.

42 (C) WHERE THE TAXPAYER IS A SHAREHOLDER OF A NEW YORK S CORPORATION
43 WHICH IS A QUALIFIED BUSINESS PROJECT, THE SHAREHOLDER'S TAX FACTOR
44 SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS
45 SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE S CORPORATION.
46 SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE
47 SHAREHOLDER'S INCOME FROM THE S CORPORATION ALLOCATED WITHIN THE STATE,
48 ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, TO THE SHAREHOLDER'S NEW
49 YORK ADJUSTED GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS
50 THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH
51 REASONABLY REFLECTS THE PORTION OF THE SHAREHOLDER'S TAX ATTRIBUTABLE TO
52 THE INCOME OF THE QUALIFIED BUSINESS PROJECT. IN NO EVENT MAY THE RATIO
53 SO DETERMINED EXCEED 1.0.

54 (3) COMBINED RETURNS OR REPORTS. (A) WHERE THE TAXPAYER IS A QUALIFIED
55 BUSINESS PROJECT AND IS REQUIRED OR PERMITTED TO MAKE A RETURN OR REPORT
56 ON A COMBINED BASIS UNDER ARTICLE NINE, NINE-A, THIRTY-TWO OR

1 THIRTY-THREE OF THIS CHAPTER, THE TAXPAYER'S TAX FACTOR SHALL BE THE
2 AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIB-
3 UTABLE TO THE INCOME OF THE QUALIFIED BUSINESS PROJECT. SUCH ATTRI-
4 BUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE QUALIFIED BUSI-
5 NESS PROJECT INCOME ALLOCATED WITHIN THE STATE TO THE COMBINED GROUP'S
6 INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY
7 PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE
8 PORTION OF THE COMBINED GROUP'S TAX ATTRIBUTABLE TO THE INCOME OF THE
9 QUALIFIED BUSINESS PROJECT. IN NO EVENT MAY THE RATIO SO DETERMINED
10 EXCEED 1.0.

11 (B) THE TERM "INCOME OF THE QUALIFIED BUSINESS PROJECT" MEANS ENTIRE
12 NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR
13 ENTIRE NET INCOME PLUS COMPENSATION CALCULATED AS IF THE TAXPAYER WAS
14 FILING SEPARATELY AND THE TERM "COMBINED GROUP'S INCOME" MEANS ENTIRE
15 NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR
16 ENTIRE NET INCOME PLUS COMPENSATION AS SHOWN ON THE COMBINED RETURN OR
17 REPORT, ALLOCATED WITHIN THE STATE.

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

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

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

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

25 (3) ARTICLE 32: SECTION 1456: SUBSECTION (P).

26 (4) ARTICLE 33: SECTION 1511: SUBDIVISION (S).

27 S 13. The tax law is amended by adding a new section 35 to read as
28 follows:

29 S 35. EMPIRE ZONE ITC. 1. A TAXPAYER THAT MEETS THE DEFINITION OF A
30 QUALIFIED BUSINESS PROJECT PURSUANT TO SECTION 33 OF THIS ARTICLE SHALL
31 BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREIN PROVIDED, AGAINST THE TAX
32 IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT
33 OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF TANGIBLE
34 PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND
35 STRUCTURAL COMPONENTS OF BUILDINGS, DESCRIBED IN SUBDIVISION TWO OF THIS
36 SECTION, WHICH IS LOCATED AT A FACILITY THAT QUALIFIES AS A QUALIFIED
37 BUSINESS PROJECT BUT ONLY IF THE ACQUISITION, CONSTRUCTION, RECON-
38 STRUCTION OR ERECTION OF SUCH PROPERTY OCCURRED OR WAS COMMENCED ON OR
39 AFTER THE EFFECTIVE DATE OF THIS ARTICLE PROVIDED THAT THE AMOUNT OF THE
40 CREDIT SHALL BE TWELVE PERCENT IF THE TAXPAYER MAKES A QUALIFYING CAPI-
41 TAL INVESTMENT.

42 2. A CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO
43 TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILD-
44 INGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH (A) ARE DEPRECIABLE
45 PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE
46 CODE, (B) HAVE A USEFUL LIFE OF FOUR YEARS OR MORE, (C) ARE ACQUIRED BY
47 PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE (D) OF THE
48 INTERNAL REVENUE CODE, (D) HAVE A SITUS AT A FACILITY THAT QUALIFIES AS
49 A QUALIFIED BUSINESS PROJECT AND (E) ARE (I) PRINCIPALLY USED BY THE
50 TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING INCLUD-
51 ING FOOD PROCESSING, ASSEMBLING, (II) MEET THE DEFINITION OF A QUALIFIED
52 EMERGING TECHNOLOGY COMPANY UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF
53 SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES OR (III)
54 RESEARCH AND DEVELOPMENT PROPERTY. FOR THE PURPOSE OF THIS SUBDIVISION,
55 THE TERM "GOODS" SHALL NOT INCLUDE ELECTRICITY. FOR PURPOSES OF THIS
56 PARAGRAPH, "MANUFACTURING" SHALL MEAN THE PROCESS OF WORKING RAW MATERI-

1 ALS INTO WARES SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY
2 OR NEW COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH SOME ARTI-
3 FICIAL PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND OTHER
4 SIMILAR EQUIPMENT. PROPERTY USED IN THE PRODUCTION OF GOODS SHALL
5 INCLUDE MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY WHICH IS PRINCI-
6 PALLY USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY, EQUIPMENT OR
7 OTHER TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION OF GOODS AND
8 SHALL INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERATION, INCLUDING
9 STORAGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE PRODUCTS THAT
10 ARE PRODUCED. FOR PURPOSES OF THIS PARAGRAPH, THE TERMS "RESEARCH AND
11 DEVELOPMENT PROPERTY" SHALL HAVE THE MEANINGS ASCRIBED THERETO BY CLAUSE
12 (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION TWELVE OF
13 SECTION TWO HUNDRED TEN OF THIS CHAPTER, AND THE PROVISIONS OF SUBPARA-
14 GRAPH (III) OF SUCH PARAGRAPH (B) SHALL APPLY.

15 3. A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION
16 WITH RESPECT TO ANY TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROP-
17 erty, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH
18 IT LEASES TO ANY OTHER PERSON OR CORPORATION.

19 4. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
20 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF
21 THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF
22 SECTION TWO HUNDRED TEN OF THIS CHAPTER. PROVIDED, HOWEVER, THAT IF THE
23 AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
24 REDUCES THE TAX TO SUCH AMOUNT, MAY ELECT, ON ITS REPORT FOR ITS TAXABLE
25 YEAR WITH RESPECT TO WHICH SUCH CREDIT IS ALLOWED, TO TREAT FIFTY
26 PERCENT OF THE AMOUNT OF SUCH CARRYOVER AS AN OVERPAYMENT OF TAX TO BE
27 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE
28 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, SUCH OWNER SHALL
29 BE ALLOWED SUCH REFUND FOR A MAXIMUM OF TEN TAXABLE YEARS WITH RESPECT
30 TO SUCH QUALIFIED INVESTMENT PROJECT AND EACH SIGNIFICANT CAPITAL
31 INVESTMENT PROJECT, STARTING WITH THE FIRST TAXABLE YEAR IN WHICH PROP-
32 erty COMPRISING SUCH PROJECT IS PLACED IN SERVICE. PROVIDED, FURTHER,
33 HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHT-
34 Y-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THER-
35 EON.

36 5. (A) WITH RESPECT TO PROPERTY WHICH IS DEPRECIABLE PURSUANT TO
37 SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE BUT IS NOT
38 SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF SUCH
39 CODE AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO
40 THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE
41 AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN
42 THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALI-
43 FIED USE BEAR TO THE MONTHS OF USEFUL LIFE. IF PROPERTY ON WHICH CREDIT
44 HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO
45 THE END OF ITS USEFUL LIFE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND
46 THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF
47 DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEAS-
48 ES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE
49 THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE
50 CREDIT AS PROVIDED IN THIS PARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR
51 ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE
52 RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL
53 LIFE. FOR PURPOSES OF THIS PARAGRAPH, USEFUL LIFE OF PROPERTY SHALL BE
54 THE SAME AS THE TAXPAYER USES FOR DEPRECIATION PURPOSES WHEN COMPUTING
55 HIS FEDERAL INCOME TAX LIABILITY.

1 (B) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH PARAGRAPH (D) OF
2 THIS SUBDIVISION APPLIES, WITH RESPECT TO THREE-YEAR PROPERTY, AS
3 DEFINED IN SUBSECTION (E) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE
4 INTERNAL REVENUE CODE, WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED
5 USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE
6 TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT
7 PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE
8 MONTHS OF QUALIFIED USE BEAR TO THIRTY-SIX. IF PROPERTY ON WHICH CREDIT
9 HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO
10 THE END OF THIRTY-SIX MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN
11 AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF
12 DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETER-
13 MINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS
14 OF QUALIFIED USE BEAR TO THIRTY-SIX.

15 (C) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH PARAGRAPH (D) OF
16 THIS SUBDIVISION APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE
17 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
18 CODE OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF SUCH
19 SECTION ONE HUNDRED SIXTY-EIGHT WHICH IS DISPOSED OF OR CEASES TO BE IN
20 QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT
21 IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE
22 CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH
23 THE MONTHS OF QUALIFIED USE BEAR TO SIXTY. IF PROPERTY ON WHICH CREDIT
24 HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO
25 THE END OF SIXTY MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE
26 CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSI-
27 TION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY
28 MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALI-
29 FIED USE BEAR TO SIXTY.

30 (D) WITH RESPECT TO ANY PROPERTY TO WHICH SECTION ONE HUNDRED
31 SIXTY-EIGHT OF THE INTERNAL REVENUE CODE APPLIES, WHICH IS A BUILDING OR
32 A STRUCTURAL COMPONENT OF A BUILDING AND WHICH IS DISPOSED OF OR CEASES
33 TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE
34 CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF
35 THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO
36 WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS
37 OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTER-
38 NAL REVENUE CODE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED
39 OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE PERIOD OVER
40 WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL
41 REVENUE CODE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT
42 ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION.
43 PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN
44 QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE
45 CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS
46 PROVIDED IN THIS PARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE
47 SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO
48 WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS
49 OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTER-
50 NAL REVENUE CODE.

51 (E) FOR PURPOSES OF THIS PARAGRAPH, DISPOSAL OR CESSATION OF QUALIFIED
52 USE SHALL NOT BE DEEMED TO HAVE OCCURRED SOLELY BY REASON OF THE TERMI-
53 NATION OR EXPIRATION OF AN EMPIRE ZONE'S DESIGNATION AS SUCH.

54 (F) EXCEPT AS PROVIDED IN THIS PARAGRAPH, THIS PARAGRAPH SHALL NOT
55 APPLY TO A CREDIT ALLOWED BY THIS SUBDIVISION TO A TAXPAYER THAT IS A
56 PARTNER IN A PARTNERSHIP IN THE CASE OF MANUFACTURING PROPERTY;

1 PROVIDED, AT THE TIME SUCH PROPERTY WAS PLACED IN SERVICE BY SUCH PART-
2 NERSHIP THE BASIS FOR FEDERAL INCOME TAX PURPOSES OF SUCH PROPERTY (OR A
3 PROJECT THAT INCLUDES SUCH PROPERTY) EQUALED OR EXCEEDED THREE HUNDRED
4 MILLION DOLLARS AND SUCH PARTNER OWNED ITS PARTNERSHIP INTEREST FOR AT
5 LEAST THREE YEARS FROM THE DATE SUCH PROPERTY WAS PLACED IN SERVICE. IF
6 SUCH PROPERTY CEASES TO BE IN QUALIFIED USE AFTER IT IS PLACED IN
7 SERVICE, THIS PARAGRAPH SHALL APPLY TO SUCH PARTNER IN THE YEAR SUCH
8 PROPERTY CEASES TO BE IN QUALIFYING USE.

9 S 14. The tax law is amended by adding a new section 36 to read as
10 follows:

11 S 36. MANUFACTURERS INVESTMENT TAX CREDIT. 1. FOR PURPOSES OF THIS
12 SECTION, AN ELIGIBLE TAXPAYER SHALL MEAN A MANUFACTURER, DEFINED AS A
13 TAXPAYER WHICH DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE
14 PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING OR ASSEMBLING, AND
15 SHALL ALSO INCLUDE THE ACTIVITIES OF A QUALIFIED EMERGING TECHNOLOGY
16 COMPANY AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIR-
17 TY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE TEN
18 MILLION DOLLAR LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH PARA-
19 GRAPH; PROVIDED HOWEVER, THE GENERATION AND DISTRIBUTION OF ELECTRICITY,
20 THE DISTRIBUTION OF NATURAL GAS, AND THE PRODUCTION OF STEAM ASSOCIATED
21 WITH THE GENERATION OF ELECTRICITY SHALL NOT BE QUALIFYING ACTIVITIES
22 FOR A MANUFACTURER UNDER THIS SUBDIVISION.

23 2. AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR FIFTEEN PER
24 CENTUM OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF
25 RESEARCH AND DEVELOPMENT PROPERTY AS DEFINED IN PARAGRAPH (B) OF SUBDI-
26 VISION TWELVE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER THAT IS
27 ACQUIRED BY THE TAXPAYER BY PURCHASE AS DEFINED IN SECTION 179(D) OF THE
28 INTERNAL REVENUE CODE AND PLACED IN SERVICE DURING THE TAXABLE YEAR.
29 PROVIDED, HOWEVER, FOR THE PURPOSES OF THIS SUBDIVISION ONLY, AN ELIGI-
30 BLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR SUCH PERCENTAGE OF THE (A)
31 COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES FOR PROPERTY USED IN
32 THE TESTING OR INSPECTION OF MATERIALS AND PRODUCTS, (B) THE COSTS OR
33 EXPENSES ASSOCIATED WITH QUALITY CONTROL OF THE RESEARCH AND DEVELOP-
34 MENT, (C) FEES FOR USE OF SOPHISTICATED TECHNOLOGY FACILITIES AND PROC-
35 ESSES, (D) FEES FOR THE PRODUCTION OR EVENTUAL COMMERCIAL DISTRIBUTION
36 OF MATERIALS AND PRODUCTS RESULTING FROM THE ACTIVITIES OF AN ELIGIBLE
37 TAXPAYER AS LONG AS SUCH ACTIVITIES FALL UNDER THE ACTIVITIES LISTED IN
38 PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF
39 THE PUBLIC AUTHORITIES LAW. THE COSTS, EXPENSES AND OTHER AMOUNTS FOR
40 WHICH A CREDIT IS ALLOWED AND CLAIMED UNDER THIS SUBDIVISION SHALL NOT
41 BE USED IN THE CALCULATION OF ANY OTHER CREDIT ALLOWED UNDER THIS ARTI-
42 CLE.

43 3. AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR SEVEN AND
44 ONE-HALF PER CENTUM OF "QUALIFIED RESEARCH EXPENSES" PAID OR INCURRED BY
45 THE TAXPAYER IN THE TAXABLE YEAR. "QUALIFIED RESEARCH EXPENSES" SHALL
46 MEAN EXPENSES ASSOCIATED WITH IN-HOUSE RESEARCH AND PROCESSES, AND COSTS
47 ASSOCIATED WITH THE DISSEMINATION OF THE RESULTS OF THE PRODUCTS THAT
48 DIRECTLY RESULT FROM SUCH RESEARCH AND DEVELOPMENT ACTIVITIES; PROVIDED,
49 HOWEVER, THAT SUCH COSTS SHALL NOT INCLUDE ADVERTISING OR PROMOTION
50 THROUGH MEDIA. IN ADDITION, COSTS ASSOCIATED WITH THE PREPARATION OF
51 PATENT APPLICATIONS, PATENT APPLICATION FILING FEES, PATENT RESEARCH
52 FEES, PATENT EXAMINATIONS FEES, PATENT POST ALLOWANCE FEES, PATENT MAIN-
53 TENANCE FEES, AND GRANT APPLICATION EXPENSES AND FEES SHALL BE ELIGIBLE
54 FOR SUCH CREDIT. IN NO CASE SHALL THE CREDIT ALLOWED UNDER THIS SUBDIVI-
55 SION APPLY TO EXPENSES FOR LITIGATION OR THE CHALLENGE OF ANOTHER ENTI-

1 TY'S INTELLECTUAL PROPERTY RIGHTS, OR FOR CONTRACT EXPENSES INVOLVING
2 OUTSIDE PAID CONSULTANTS.

3 4. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
4 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF
5 THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF
6 SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF THE AMOUNT OF
7 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE
8 TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE
9 YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
10 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
11 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
12 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
13 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

14 5. CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
15 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

16 (A) ARTICLE 9-A: SECTION 210, SUBDIVISION 12: PARAGRAPH (B)

17 (B) ARTICLE 22: SECTION 606, SUBSECTION (I)

18 S 15. Paragraph (b) of subdivision 4 of section 874 of the general
19 municipal law, as amended by chapter 357 of the laws of 1993, is amended
20 and a new subdivision 9 is added to read as follows:

21 (b) THE UNIFORM TAX EXEMPTION POLICY ESTABLISHED PURSUANT TO THIS
22 SECTION SHALL BE REVIEWED AND READOPTED BY THE AGENCY AT LEAST EVERY
23 FIVE YEARS FOLLOWING A PUBLIC HEARING. NOTICE OF THIS HEARING SHALL BE
24 GIVEN TO THE CHIEF EXECUTIVE OFFICER OF EACH AFFECTED TAX JURISDICTION
25 AT LEAST SIXTY DAYS BEFORE THE HEARING. PRIOR TO THE HEARING THE AGENCY
26 SHALL REVIEW, AND RESPOND TO ANY CORRESPONDENCE RECEIVED FROM ANY
27 AFFECTED TAX JURISDICTION. THE AGENCY SHALL ALLOW ANY REPRESENTATIVE OF
28 AN AFFECTED TAX JURISDICTION TO ADDRESS THE AGENCY AT THE HEARING. THE
29 AGENCY SHALL DEVELOP AND SUBMIT A REPORT TO THE AFFECTED TAX JURISDIC-
30 TIONS SIXTY DAYS PRIOR TO THE HEARING WHICH DETAILS THE PROJECTS WHICH
31 THE AGENCY HAS ASSISTED IN THE PREVIOUS FIVE YEARS AND SHALL INCLUDE
32 INFORMATION SPECIFIC TO EACH PROJECT INCLUDING THE PERIOD OF EXEMPTION;
33 THE TYPE OF PROJECT; THE ESTIMATED PERCENTAGE OF EXEMPTION BY YEAR; THE
34 ESTIMATED VALUE OF ANY OTHER ASSISTANCE PROVIDED BY THE AGENCY; WHETHER
35 COMMITMENTS FOR PAYMENTS IN LIEU OF TAXES WERE MADE AND MET; THE ESTI-
36 MATED VALUE OF SUCH PAYMENTS BY YEAR AND AFFECTED TAX JURISDICTION; THE
37 ESTIMATED AMOUNT OF PRIVATE SECTOR INVESTMENT GENERATED BY THE PROJECT;
38 AND THE EXTENT TO WHICH THE PROJECT CREATED OR RETAINED PERMANENT,
39 PRIVATE SECTOR JOBS.

40 (C) The agency shall establish a procedure for deviation from the
41 uniform tax exemption policy required pursuant to this subdivision. The
42 agency shall set forth in writing the reasons for deviation from such
43 policy, and shall further notify the affected local taxing jurisdictions
44 of the proposed deviation from such policy and the reasons therefor.

45 SUCH NOTICE TO THE AFFECTED TAX JURISDICTIONS SHALL BE GIVEN TO THE
46 CHIEF EXECUTIVE OFFICER OF EACH AFFECTED TAX JURISDICTION AT LEAST THIR-
47 TY DAYS PRIOR TO THE MEETING OF THE AGENCY AT WHICH THE AGENCY SHALL
48 CONSIDER WHETHER TO APPROVE SUCH PROPOSED DEVIATION. PRIOR TO TAKING
49 FINAL ACTION AT SAID MEETING, THE AGENCY SHALL REVIEW AND RESPOND TO ANY
50 CORRESPONDENCE RECEIVED FROM ANY AFFECTED TAX JURISDICTION REGARDING
51 SUCH PROPOSED DEVIATION. THE AGENCY SHALL ALLOW ANY REPRESENTATIVE OF AN
52 AFFECTED TAX JURISDICTION PRESENT AT SUCH MEETING TO ADDRESS THE AGENCY
53 REGARDING SUCH PROPOSED DEVIATION.

54 (9) WITHIN THIRTY DAYS OF THE DATE THAT THE AGENCY DESIGNATES A
55 PROJECT OPERATOR OR OTHER PERSON TO ACT AS AGENT OF THE AGENCY FOR
56 PURPOSES OF EXTENDING A SALES TAX EXEMPTION TO SUCH PERSON, THE AGENCY

1 SHALL FILE A STATEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE
2 RELATING THERETO, ON A FORM AND IN SUCH MANNER AS IS PRESCRIBED BY THE
3 COMMISSIONER OF TAXATION AND FINANCE, IDENTIFYING EACH SUCH AGENT SO
4 NAMED BY THE AGENCY, SETTING FORTH THE TAXPAYER IDENTIFICATION NUMBER OF
5 EACH SUCH AGENT, GIVING A BRIEF DESCRIPTION OF THE GOODS AND/OR SERVICES
6 INTENDED TO BE EXEMPTED FROM SALES TAXES AS A RESULT OF SUCH APPOINTMENT
7 AS AGENT, INDICATING THE AGENCY'S ROUGH ESTIMATE OF THE VALUE OF THE
8 GOODS AND/OR SERVICES TO WHICH SUCH APPOINTMENT AS AGENT RELATES, INDI-
9 CATING THE DATE WHEN SUCH DESIGNATION AS AGENT BECAME EFFECTIVE AND
10 INDICATING THE DATE UPON WHICH SUCH DESIGNATION AS AGENT SHALL CEASE.

11 S 16. Subdivision 4 of section 854 of the general municipal law, as
12 amended by chapter 541 of the laws of 1982, is amended and a new subdivi-
13 sion 13 is added to read as follows:

14 (4) "Project" - shall mean any land, any building or other improve-
15 ment, and all real and personal properties located within the state of
16 New York and within or outside or partially within and partially outside
17 the municipality for whose benefit the agency was created, including,
18 but not limited to, machinery, equipment and other facilities deemed
19 necessary or desirable in connection therewith, or incidental thereto,
20 whether or not now in existence or under construction, which shall be
21 suitable for manufacturing, warehousing, research, CIVIC commercial or
22 industrial purposes or other economically sound purposes identified and
23 called for to implement a state designated urban cultural park manage-
24 ment plan as provided in title G of the parks, recreation and historic
25 preservation law and which may include or mean an industrial pollution
26 control facility, a recreation facility, educational or cultural facili-
27 ty, a horse racing facility [or], a railroad facility OR CIVIC FACILITY,
28 provided, however, no agency shall use its funds in respect of any
29 project wholly or partially outside the municipality for whose benefit
30 the agency was created without the prior consent thereto by the govern-
31 ing body or bodies of all the other municipalities in which a part or
32 parts of the project is, or is to be, located. PROVIDED FURTHER, THAT
33 NO AGENCY SHALL PROVIDE FINANCIAL ASSISTANCE FOR ANY PROJECT WHERE THE
34 PROJECT APPLICANT HAS ANY AGREEMENT TO SUBSEQUENTLY CONTRACT WITH A
35 MUNICIPALITY FOR THE LEASE OR PURCHASE OF SUCH PROJECT OR PROJECT FACIL-
36 ITY.

37 (13) "CIVIC FACILITY" - SHALL MEAN ANY FACILITY WHICH SHALL BE OWNED
38 OR OCCUPIED BY A NOT-FOR-PROFIT CORPORATION ORGANIZED AND EXISTING UNDER
39 THE LAWS OF THIS STATE OR AUTHORIZED TO CONDUCT ACTIVITIES IN THIS
40 STATE. SUCH FACILITIES SHALL NOT INCLUDE CONVENTION CENTERS, HOUSING
41 FACILITIES, DORMITORIES FOR EDUCATIONAL INSTITUTIONS OR ROADS, BUILD-
42 INGS, WATER SYSTEMS, SEWER SYSTEMS, OR ANY PUBLIC FACILITY FOR USE BY A
43 MUNICIPALITY IN THE PERFORMANCE OF ITS GOVERNMENTAL FUNCTIONS OR MEDICAL
44 FACILITIES WHICH ARE PREDOMINANTLY USED FOR THE DELIVERY OF MEDICAL
45 SERVICES, EXCEPT THAT SUCH FACILITIES SHALL INCLUDE REHABILITATION
46 CENTERS AND HOSPICES. NOTWITHSTANDING THE LIMITATIONS CONTAINED IN THE
47 PRECEDING SENTENCE, A CIVIC FACILITY PROJECT MAY INCLUDE: (A) DORMITO-
48 RIES FOR EDUCATIONAL INSTITUTIONS; (B) FACILITIES AS DEFINED IN ARTICLE
49 TWENTY-EIGHT OF THE PUBLIC HEALTH LAW; AND (C) HOUSING FACILITIES PRIMA-
50 RILY DESIGNED TO BE OCCUPIED BY INDIVIDUALS SIXTY YEARS OF AGE OR OLDER.
51 NOTHING IN THIS ARTICLE SHALL BE DEEMED TO WAIVE ANY APPLICABLE REQUIRE-
52 MENT FOR AN OPERATING FACILITY CERTIFICATE, CONSENT OR ANY OTHER
53 APPROVAL AS PROVIDED BY LAW.

54 S 17. Subdivision 3 of section 859-a of the general municipal law, as
55 added by chapter 356 of the laws of 1993, is amended to read as follows:

1 3. The agency must give at least [ten] THIRTY days published notice of
2 said public hearing and shall, at the same time, provide notice of such
3 hearing to the chief executive officer of each affected tax jurisdiction
4 within which the project is located. The notice of hearing must state
5 the time and place of the hearing, contain a general, functional
6 description of the project, describe the prospective location of the
7 project, identify the initial owner, operator or manager of the project
8 and generally describe the financial assistance contemplated by the
9 agency with respect to the project, AND PROVIDE AN OPPORTUNITY FOR THE
10 PUBLIC TO REVIEW THE PROJECT APPLICATION, WHICH SHALL INCLUDE AN ANALY-
11 SIS OF THE COSTS AND BENEFITS OF THE PROPOSED PROJECT.

12 S 18. Section 862 of the general municipal law, as added by chapter
13 1030 of the laws of 1969, is amended to read as follows:

14 S 862. Restrictions on funds of the agency. 1. No [funds] FINANCIAL
15 ASSISTANCE of the agency shall be used in respect of any project if the
16 completion thereof would result in the removal of [an industrial or
17 manufacturing] A FACILITY OR plant of the project occupant from one area
18 of the state to another area of the state or in the abandonment of one
19 or more plants or facilities of the project occupant located within the
20 state, provided, however, that neither restriction shall apply if the
21 agency shall determine on the basis of the application before it that
22 the project is reasonably necessary to discourage the project occupant
23 from removing such other plant or facility to a location outside the
24 state or is reasonably necessary to preserve the competitive position of
25 the project occupant in its respective industry.

26 2. (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, NO
27 FINANCIAL ASSISTANCE OF THE AGENCY SHALL BE PROVIDED IN RESPECT OF ANY
28 PROJECT WHERE FACILITIES OR PROPERTY THAT ARE PRIMARILY USED IN MAKING
29 RETAIL SALES TO CUSTOMERS WHO PERSONALLY VISIT SUCH FACILITIES CONSTI-
30 TUTE MORE THAN ONE-THIRD OF THE TOTAL PROJECT COST. FOR THE PURPOSES OF
31 THIS ARTICLE, RETAIL SALES SHALL MEAN: (I) SALES BY A REGISTERED VENDOR
32 UNDER ARTICLE TWENTY-EIGHT OF THE TAX LAW PRIMARILY ENGAGED IN THE
33 RETAIL SALE OF TANGIBLE PERSONAL PROPERTY, AS DEFINED IN SUBPARAGRAPH
34 (I) OF PARAGRAPH FOUR OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE
35 OF THE TAX LAW; OR (II) SALES OF A SERVICE TO SUCH CUSTOMERS. EXCEPT,
36 HOWEVER, THAT TOURISM DESTINATION PROJECTS AND PROJECTS OPERATED BY
37 NOT-FOR-PROFIT CORPORATIONS SHALL NOT BE PROHIBITED BY THIS SUBDIVISION.
38 FOR THE PURPOSES OF THIS PARAGRAPH, "TOURISM DESTINATION" SHALL MEAN A
39 LOCATION OR FACILITY WHICH IS LIKELY TO ATTRACT A SIGNIFICANT NUMBER OF
40 VISITORS FROM OUTSIDE THE ECONOMIC DEVELOPMENT REGION AS ESTABLISHED BY
41 SECTION TWO HUNDRED THIRTY OF THE ECONOMIC DEVELOPMENT LAW, IN WHICH THE
42 PROJECT IS LOCATED.

43 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
44 SION, FINANCIAL ASSISTANCE MAY, HOWEVER, BE PROVIDED TO A PROJECT WHERE
45 FACILITIES OR PROPERTY THAT ARE PRIMARILY USED IN MAKING RETAIL SALES OF
46 GOODS OR SERVICES TO CUSTOMERS WHO PERSONALLY VISIT SUCH FACILITIES TO
47 OBTAIN SUCH GOODS OR SERVICES CONSTITUTE MORE THAN ONE-THIRD OF THE
48 TOTAL PROJECT COST, WHERE (I) THE PROJECT OCCUPANT WOULD, BUT FOR THE
49 ASSISTANCE PROVIDED BY THE AGENCY, LOCATE THE RELATED JOBS OUTSIDE THE
50 STATE, OR (II) THE PREDOMINANT PURPOSE OF THE PROJECT WOULD BE TO MAKE
51 AVAILABLE GOODS OR SERVICES WHICH WOULD NOT, BUT FOR THE PROJECT, BE
52 REASONABLY ACCESSIBLE TO THE RESIDENTS OF THE CITY, TOWN, OR VILLAGE
53 WITHIN WHICH THE PROPOSED PROJECT WOULD BE LOCATED BECAUSE OF A LACK OF
54 REASONABLY ACCESSIBLE RETAIL TRADE FACILITIES OFFERING SUCH GOODS OR
55 SERVICES, OR (III) THE PROJECT IS LOCATED IN A HIGHLY DISTRESSED AREA.

1 (C) WITH RESPECT TO PROJECTS AUTHORIZED PURSUANT TO PARAGRAPH (B) OF
2 THIS SUBDIVISION, NO PROJECT SHALL BE APPROVED UNLESS THE AGENCY SHALL
3 FIND AFTER THE PUBLIC HEARING REQUIRED BY SECTION EIGHT HUNDRED
4 FIFTY-NINE OF THIS TITLE THAT UNDERTAKING THE PROJECT WILL SERVE THE
5 PUBLIC PURPOSES OF THIS ARTICLE BY PRESERVING PERMANENT, PRIVATE SECTOR
6 JOBS OR INCREASING THE OVERALL NUMBER OF PERMANENT, PRIVATE SECTOR JOBS
7 IN THE STATE. WHERE THE AGENCY MAKES SUCH A FINDING, PRIOR TO A GRANT OF
8 ASSISTANCE TO THE PROJECT BY THE AGENCY, THE CHIEF EXECUTIVE OFFICER OF
9 THE MUNICIPALITY FOR WHOSE BENEFIT THE AGENCY WAS CREATED SHALL CONFIRM
10 THE PROPOSED ACTION OF THE AGENCY.

11 3. NO FUNDS OF THE AGENCY SHALL BE USED FOR THE PURPOSE OF PREVENTING
12 THE ESTABLISHMENT OF AN INDUSTRIAL OR MANUFACTURING PLANT, NOR SHALL ANY
13 FUNDS OF THE AGENCY BE GIVEN TO ANY GROUP OR ORGANIZATION WHICH IS
14 ATTEMPTING TO PREVENT THE ESTABLISHMENT OF AN INDUSTRIAL OR MANUFACTUR-
15 ING PLANT WITHIN THIS STATE NOR SHALL SUCH FUNDS BE USED FOR ADVERTISING
16 OR PROMOTIONAL MATERIALS WHICH DEPICT ELECTED OR APPOINTED GOVERNMENT
17 OFFICIALS IN EITHER PRINT OR ELECTRONIC MEDIA.

18 S 19. Section 2306 of the public authorities law, as added by chapter
19 915 of the laws of 1969, the opening paragraph and subdivision 9 as
20 amended by chapter 556 of the laws of 1973, subdivision 8 as amended,
21 subdivision 14 as added and subdivisions 15 and 16 as renumbered by
22 chapter 356 of the laws of 1993, is amended to read as follows:

23 S 2306. Purpose and powers of the authority. The purposes of the
24 authority shall be to promote, develop, encourage and assist in the
25 acquiring, constructing, reconstructing, improving, maintaining, equip-
26 ping and furnishing industrial, manufacturing, warehouse, commercial and
27 research facilities and facilities for use by a federal agency or a
28 medical facility including industrial pollution control facilities,
29 which may include transportation facilities including but not limited to
30 those relating to water, highway, rail and air, in one or more areas of
31 the city, and thereby advance the job opportunities, health, general
32 prosperity and economic welfare of the people of said city and to
33 improve their medical care and standard of living; provided, however,
34 that the authority shall not undertake any project if the completion
35 thereof would result in the removal of an industrial or manufacturing
36 plant of the project occupant from one area of the state to another area
37 of the state or in abandonment of one or more plants or facilities of
38 the project applicant located within the state, provided, however, that
39 neither restriction shall apply if the authority shall determine on the
40 basis of the application before it that the project is reasonably neces-
41 sary to discourage the project occupant from removing such other plant
42 or facility to a location outside the state or is reasonably necessary
43 to preserve the competitive position of the project occupant in its
44 respective industry.

45 EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, NO FINANCIAL ASSISTANCE
46 OF THE AUTHORITY SHALL BE PROVIDED IN RESPECT TO ANY PROJECT WHERE
47 FACILITIES OR PROPERTY THAT ARE PRIMARILY USED IN MAKING RETAIL SALES TO
48 CUSTOMERS WHO PERSONALLY VISIT SUCH FACILITIES CONSTITUTE MORE THAN
49 ONE-THIRD OF THE TOTAL PROJECT COST. FOR PURPOSES OF THIS ARTICLE,
50 RETAIL SALES SHALL MEAN: (I) SALES BY A REGISTERED VENDOR UNDER ARTICLE
51 TWENTY-EIGHT OF THE TAX LAW PRIMARILY ENGAGED IN THE RETAIL SALE OF
52 TANGIBLE PERSONAL PROPERTY, AS DEFINED IN SUBPARAGRAPH (I) OF PARAGRAPH
53 FOUR OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE OF THE TAX LAW; OR
54 (II) SALES OF A SERVICE TO SUCH CUSTOMERS. EXCEPT, HOWEVER, THAT TOURISM
55 DESTINATION PROJECTS AND PROJECTS OPERATED BY NOT-FOR-PROFIT CORPO-
56 RATIONS SHALL NOT BE PROHIBITED BY THIS SECTION. FOR PURPOSES OF THIS

1 SECTION, "TOURISM DESTINATION" SHALL MEAN A LOCATION OR FACILITY WHICH
2 IS LIKELY TO ATTRACT A SIGNIFICANT NUMBER OF VISITORS FROM OUTSIDE THE
3 ECONOMIC DEVELOPMENT REGION AS ESTABLISHED BY SECTION TWO HUNDRED THIRTY
4 OF THE ECONOMIC DEVELOPMENT LAW, IN WHICH THE PROJECT IS LOCATED.

5 NOTWITHSTANDING THE PROVISIONS OF THIS SECTION TO THE CONTRARY, SUCH
6 FINANCIAL ASSISTANCE MAY, HOWEVER, BE PROVIDED TO A PROJECT WHERE FACIL-
7 ITIES OR PROPERTY THAT ARE PRIMARILY USED IN MAKING RETAIL SALES OF
8 GOODS OR SERVICES TO CUSTOMERS WHO PERSONALLY VISIT SUCH FACILITIES TO
9 OBTAIN GOODS OR SERVICES CONSTITUTE MORE THAN ONE-THIRD OF THE TOTAL
10 PROJECT COST WHERE (I) THE PROJECT OCCUPANT WOULD, BUT FOR THE ASSIST-
11 ANCE PROVIDED BY THE AUTHORITY, LOCATE THE RELATED JOBS OUTSIDE THE
12 STATE; OR (II) THE PREDOMINANT PURPOSE OF THE PROJECT WOULD BE TO MAKE
13 AVAILABLE GOODS OR SERVICES WHICH WOULD NOT, BUT FOR THE PROJECT, BE
14 REASONABLY ACCESSIBLE TO THE RESIDENTS OF THE CITY OF TROY BECAUSE OF A
15 LACK OF REASONABLY ACCESSIBLE RETAIL FACILITIES OFFERING SUCH GOODS OR
16 SERVICES; OR (III) THE PROJECT IS LOCATED IN A HIGHLY DISTRESSED AREA,
17 WITH RESPECT TO PROJECTS AUTHORIZED PURSUANT TO THIS PARAGRAPH. NO
18 PROJECT SHALL BE APPROVED UNLESS THE AUTHORITY SHALL FIND AFTER THE
19 PUBLIC HEARING REQUIRED BY SECTION TWENTY-THREE HUNDRED SEVEN OF THIS
20 TITLE THAT UNDERTAKING THE PROJECT WILL SERVE THE PUBLIC PURPOSES OF
21 THIS ARTICLE BY PRESERVING PERMANENT, PRIVATE SECTOR JOBS IN THE STATE.
22 WHERE THE AUTHORITY MAKES SUCH A FINDING, PRIOR TO A GRANT OF ASSISTANCE
23 TO THE PROJECT BY THE AUTHORITY, THE CHIEF EXECUTIVE OFFICER OF THE CITY
24 OF AUBURN SHALL CONFIRM THE PROPOSED ACTION OR THE AUTHORITY.

25 NO FUNDS OF THE AUTHORITY SHALL BE USED FOR THE PURPOSE OF PREVENTING
26 THE ESTABLISHMENT OF AN INDUSTRIAL OR MANUFACTURING PLANT, NOR SHALL ANY
27 FINANCIAL ASSISTANCE OF THE AUTHORITY BE GIVEN TO ANY GROUP OR ORGANIZA-
28 TION WHICH IS ATTEMPTING TO PREVENT THE ESTABLISHMENT OF AN INDUSTRIAL
29 OR MANUFACTURING PLANT WITHIN THIS STATE NOR SHALL SUCH FINANCIAL
30 ASSISTANCE BY USED FOR ADVERTISING OR PROMOTIONAL MATERIALS WHICH DEPICT
31 ELECTED OR APPOINTED GOVERNMENTAL OFFICIALS IN EITHER PRINT OR ELECTRON-
32 IC MEDIA. To carry out said purpose, the authority shall have power:

- 33 1. To sue and be sued;
- 34 2. To have a seal and alter the same at pleasure;
- 35 3. To acquire, hold and dispose of personal property for its corporate
36 purpose;
- 37 4. To acquire by purchase, grant, lease, gift, condemnation, or other-
38 wise and to use, real property or rights or easements therein necessary
39 for its corporate purposes, and to sell, convey, mortgage, lease,
40 pledge, exchange or otherwise dispose of any such property in such
41 manner as the authority shall determine. With respect to real property
42 conveyed to it by the city, however, such power of disposition shall be
43 limited as hereinafter provided in section twenty-three hundred ten of
44 this title;
- 45 5. To make by-laws for the management and regulation of its affairs
46 and, subject to agreements with its bondholders, for the regulation of
47 the use of the project.
- 48 6. With the consent of the city, to use agents, employees and facili-
49 ties of the city, paying the city its agreed proportion of the compen-
50 sation or costs.
- 51 7. To appoint officers, agents and employees, to prescribe their qual-
52 ifications and to fix their compensation and to pay the same out of
53 funds of the authority, subject, however, to the provisions of the civil
54 service law hereinafter provided in section twenty-three hundred eight
55 of this title;

1 8. To retain and employ financial advisors, engineers, architects,
2 attorneys and other consultants for professional and technical assist-
3 ance and advice; that an attorney acting as bond counsel for a project
4 must file with the authority a written statement in which the attorney
5 identifies each party to the transaction which such attorney represents.
6 If bond counsel provides any legal services to the parties other than
7 the authority, the written statement must describe the nature of legal
8 services provided by such bond counsel to all parties to the trans-
9 action, including the nature of the services provided to the authority;

10 9. To make contracts and leases upon such terms as the authority shall
11 deem appropriate, including without limitation leases which grant the
12 tenant of a project an option to renew or an option to purchase the
13 project, or both, at a fixed or otherwise predetermined price, and to
14 execute all instruments necessary or convenient;

15 10. To acquire, construct, reconstruct, lease, improve, maintain,
16 equip or furnish one or more projects;

17 11. To accept gifts, grants, loans or contributions from, and enter
18 into contracts or other transactions with, the United States and the
19 state or any agency of either of them, any municipality, any public or
20 private corporation or any other legal entity, and to use any such
21 gifts, grants, loans or contributions for any of its corporate purposes;

22 12. To borrow money and to issue bonds and to provide for the rights
23 of the holders thereof;

24 13. To designate the depositories of its money in the city of Auburn.

25 14. To enter into agreements requiring payments in lieu of taxes. Such
26 agreements shall be in writing and in addition to other terms shall
27 contain: the amount due annually to each affected tax jurisdiction (or a
28 formula by which the amount due can be calculated), the name and address
29 of the person, office or agency to which payment shall be delivered, the
30 date on which the payment shall be made, and the date on which payment
31 shall be considered delinquent if not paid. Unless otherwise agreed by
32 the affected tax jurisdictions, any such agreement shall provide that
33 payments in lieu of taxes shall be allocated among affected tax juris-
34 dictions in proportion to the amount of real property tax and other
35 taxes which would have been received by each affected tax jurisdiction
36 had the project not been tax exempt due to the status of the agency
37 involved in the project. A copy of any such agreement shall be delivered
38 to each tax affected jurisdiction within fifteen days of signing the
39 agreement. In the absence of any such written agreement, payments in
40 lieu of taxes shall be allocated in the same proportions as they had
41 been prior to January first, nineteen hundred ninety-three for so long
42 as the authority's activities render a project non-taxable by affected
43 tax jurisdictions.

44 15. To establish and reestablish its fiscal year; and

45 16. To do all things necessary or convenient to carry out its purposes
46 and exercise the powers expressly given in this title.

47 S 20. Section 859 of the general municipal law is amended by adding a
48 new subdivision 4 to read as follows:

49 4. EACH AGENCY WHICH HAS ISSUED BONDS TO FINANCE ANY CIVIC FACILITY,
50 AS SUCH PROJECT IS DEFINED IN SUBDIVISION THIRTEEN OF SECTION EIGHT
51 HUNDRED FIFTY-FOUR OF THIS TITLE, SHALL ANNUALLY SUBMIT A REPORT TO THE
52 DEPARTMENT OF ECONOMIC DEVELOPMENT, THE DIRECTOR OF THE BUDGET, THE
53 CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIRPERSON OF THE
54 ASSEMBLY WAYS AND MEANS COMMITTEE. SUCH REPORT SHALL BE SUBMITTED ON THE
55 SAME DAY AND PERTAIN TO THE SAME PERIOD OF TIME AS THE REPORT SPECIFIED
56 IN SUBDIVISIONS ONE AND TWO OF THIS SECTION. SUCH REPORT SHALL CONTAIN A

1 LIST OF THE CIVIC FACILITIES AND FOR EACH SUCH FACILITY CONTAIN A SUMMA-
 2 RY DESCRIPTION INCLUDING, BUT NOT LIMITED TO, TOTAL PROJECT COSTS AND
 3 THE AMOUNTS OF BONDS OF THE AGENCY ISSUED AND THE NUMBER OF JOBS CREATED
 4 OR RETAINED IN CONNECTION WITH EACH SUCH FACILITY.

5 S 21. Section 15 of chapter 66 of the laws of 1994, amending the
 6 public health law, the general municipal law and the insurance law
 7 relating to the financing of life care communities, as amended by chap-
 8 ter 381 of the laws of 2007, is amended to read as follows:

9 S 15. This act shall take effect immediately, provided, however that
 10 the amendment made to subdivision 4 of section 854 of the general munic-
 11 ipal law by section eight of this act shall not affect the reversion of
 12 such subdivision as provided by section 5 of chapter 905 of the laws of
 13 1986, as amended and that where the continuing care retirement community
 14 council is authorized to promulgate regulations by this act, it is here-
 15 by authorized to implement the provisions of this act in advance of such
 16 regulations; and provided further that sections one, three, seven,
 17 eight, nine, ten, eleven, twelve and thirteen of this act, and paragraph
 18 m of subdivision 2 of section 4602 of the public health law, as added by
 19 section two of this act, shall apply only to applicants for a certifi-
 20 cate of authority pursuant to article 46 of the public health law that
 21 have been approved to receive and have received such certificate of
 22 authority on or before [January 31, 2008] JULY 1, 2015.

23 S 22. The economic development law is amended by adding a new article
 24 11-B to read as follows:

25 ARTICLE 11-B

26 HIGH TECH MARKETING PROGRAM

27 SECTION 239-A. DEFINITIONS.

28 239-B. APPLICATION.

29 239-C. USE OF FUNDS.

30 239-D. ADVISORY COMMITTEE.

31 239-E. REPORTING REQUIREMENTS.

32 S 239-A. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND
 33 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

34 1. "ELIGIBLE APPLICANT" SHALL MEAN A STATEWIDE ECONOMIC DEVELOPMENT
 35 NOT-FOR-PROFIT ORGANIZATION ESTABLISHED TO PROMOTE THE ECONOMIC DEVELOP-
 36 MENT OF THE STATE AND ITS COMMUNITIES, ENCOURAGE SOUND PRACTICES IN THE
 37 CONDUCT OF REGIONAL AND STATEWIDE DEVELOPMENT PROGRAMS, AND TO DEVELOP
 38 EDUCATION PROGRAMS THAT ENHANCE THE PROFESSIONAL DEVELOPMENT SKILLS OF
 39 ITS MEMBERS, AND WHOSE MEMBERS REPRESENT COUNTY, STATEWIDE, AND LOCAL
 40 GOVERNMENT JURISDICTIONS FOR THE PURPOSE OF ATTRACTING INVESTMENT AND
 41 JOBS TO THE REGIONS THEY REPRESENT.

42 2. "STATEWIDE HIGH TECH MARKETING PROGRAM" SHALL MEAN A PROGRAM THAT
 43 PROMOTES THE STATE'S STRENGTHS AND ASSETS IN THE FOLLOWING TECHNOLOGY
 44 SECTORS: NANO-TECHNOLOGY; BIOTECHNOLOGY; PHOTONICS, OPTICS, IMAGING AND
 45 ALTERNATIVE ENERGY.

46 3. "REGIONAL BUSINESS MARKETING CORPORATION" SHALL MEAN ANY
 47 NOT-FOR-PROFIT CORPORATION CREATED FOR THE PRIMARY PURPOSE OF MARKETING
 48 A MULTI-COUNTY REGION OF THE STATE FOR THE PURPOSE OF ATTRACTING PRIVATE
 49 SECTOR INVESTMENT AND CREATING JOBS, AND WHICH HAS RECEIVED THE FINAN-
 50 CIAL SUPPORT OF AT LEAST THREE COUNTY GOVERNMENTS.

51 S 239-B. APPLICATION. THE COMMISSIONER SHALL, WITHIN THREE MONTHS OF
 52 THE EFFECTIVE DATE OF THIS ARTICLE, IMPLEMENT A REQUEST FOR PROPOSALS
 53 PROCESS FOR SELECTING THE "ELIGIBLE APPLICANT". THE COMMISSIONER SHALL
 54 INSURE THAT THE APPLICATION OF THE WINNING APPLICANT FOR SUCH FUNDS
 55 SHALL HAVE SET FORTH THE SCHEDULE, BUDGET, SCOPE, USES OF FUNDS, AND
 56 THEME OF THE PROPOSED STATEWIDE MARKETING PROGRAM TO BE UNDERTAKEN FOR

1 THE PURPOSE OF ENCOURAGING AND STIMULATING BUSINESS DEVELOPMENT AND
2 ECONOMIC ACTIVITY IN THE TARGETED HIGH TECHNOLOGY SECTORS WITHIN NEW
3 YORK STATE AND ITS REGIONS. THE APPROPRIATION FOR THIS PROGRAM SHALL
4 BE PAID TO THE WINNING APPLICANT WITHIN SIXTY DAYS OF ITS SELECTION.

5 S 239-C. USE OF FUNDS. 1. THREE MILLION DOLLARS OF THE FUNDS MAY BE
6 USED BY THE SELECTED APPLICANT TO DEVELOP AND IMPLEMENT A STATEWIDE HIGH
7 TECH MARKETING PROGRAM, AND MAY BE USED FOR THE FOLLOWING PURPOSES:

8 (A) PARTICIPATION AT KEY INTERNATIONAL AND DOMESTIC TRADE SHOWS AND
9 INDUSTRY CONFERENCES.

10 (B) DEVELOPMENT OF TARGETED INDUSTRY PROFILES AND OTHER PRIMARY
11 RESEARCH ON TARGETED INDUSTRIES.

12 (C) DEVELOPMENT OF TARGETED INDUSTRY COLLATERAL MATERIAL.

13 (D) ONE-ON-ONE MEETINGS WITH INDUSTRY DECISION MAKERS.

14 (E) DIRECT MAIL TO CORPORATE, SITE LOCATION CONSULTANTS, AND OTHER KEY
15 DECISION MAKERS FOR TARGETED TECHNOLOGY SECTORS.

16 (F) DEVELOPMENT OF NEW YORK LOVES NANO TECH, NEW YORK LOVES BIO TECH,
17 NEW YORK LOVES PHOTONICS, AND NEW YORK LOVES ALTERNATIVE ENERGY WEB
18 SITES.

19 (G) ADVERTISING IN INFLUENTIAL TRADE AND OTHER PUBLICATIONS.

20 (H) NEW YORK STATE TOURS WITH TARGETED INDUSTRY DECISION MAKERS.

21 (I) ALL FUNDS AWARDED TO THE WINNING APPLICANT MUST BE EXPENDED WITHIN
22 TWELVE MONTHS, UNLESS AN EXTENSION OF TIME IS REQUESTED AND, UPON SHOW-
23 ING OF GOOD CAUSE, GRANTED BY THE DEPARTMENT.

24 (J) NO MORE THAN TEN PERCENT OF THE TOTAL AMOUNT OF FUNDS AWARDED TO
25 THE SELECTED APPLICANT SHALL BE USED FOR ADMINISTRATIVE PURPOSES,
26 INCLUDING SALARIES AND OVERHEAD ASSOCIATED WITH IMPLEMENTING A STATEWIDE
27 HIGH TECH MARKETING PROGRAM.

28 2. TWO MILLION DOLLARS OF THE FUNDS MAY BE AWARDED BY THE SELECTED
29 APPLICANT ON A MATCHING BASIS TO NO MORE THAN FIVE ELIGIBLE REGIONAL
30 ECONOMIC DEVELOPMENT ORGANIZATIONS FOR THE PURPOSE OF IMPLEMENTING BUSI-
31 NESS MARKETING INITIATIVES WITHIN THE TARGETED TECHNOLOGY SECTORS.

32 (A) THE SELECTED APPLICANT SHALL ESTABLISH A REQUEST FOR PROPOSALS
33 PROCESS FOR SELECTING REGIONAL BUSINESS MARKETING CORPORATIONS TO BE
34 RECIPIENTS OF MATCHING GRANTS FROM THIS PROGRAM. THE SELECTED REGIONAL
35 ECONOMIC DEVELOPMENT ORGANIZATIONS SHALL HAVE DEMONSTRATED THAT:

36 (I) THE CORPORATION EXISTS IN LEGAL FORM.

37 (II) THE CORPORATION HAS SECURED AN AMOUNT EQUAL TO THE TOTAL MATCH
38 AWARDED BY THE SELECTED APPLICANT.

39 (III) THE CORPORATION HAS RECEIVED AND IS RECEIVING FINANCIAL SUPPORT
40 FROM AT LEAST COUNTY GOVERNMENTS FROM WITHIN ITS JURISDICTION.

41 (B) APPLICATIONS OF SELECTED REGIONAL ECONOMIC DEVELOPMENT ORGANIZA-
42 TIONS SHALL HAVE SET FORTH THE SCHEDULE, BUDGET, SCOPE, USES OF FUNDS,
43 AND THEME OF THE PROPOSED STATEWIDE MARKETING PROGRAM TO BE UNDERTAKEN
44 FOR THE PURPOSE OF ENCOURAGING AND STIMULATING BUSINESS DEVELOPMENT AND
45 ECONOMIC ACTIVITY IN THE TARGETED HIGH TECHNOLOGY SECTORS WITHIN THE
46 REGION, PROVIDED, HOWEVER, THAT:

47 (I) NO SUCH MATCHING FUNDS SHALL EXCEED THE SUM OF FIVE HUNDRED THOU-
48 SAND DOLLARS;

49 (II) NO MATCHING FUNDS WILL BE USED FOR ADMINISTRATIVE COSTS, INCLUD-
50 ING SALARIES AND OVERHEAD, ASSOCIATED WITH THE IMPLEMENTATION OF A
51 REGIONAL HIGH TECH BUSINESS MARKETING PROGRAM;

52 (III) NO SUCH MATCHING FUNDS SHALL BE USED FOR THE DIRECT BENEFIT OF A
53 FOR-PROFIT BUSINESS UNLESS SUCH EXPENDITURE SHALL FURTHER A PUBLIC
54 PURPOSE AND HAVE A CLEAR, LONG-TERM BENEFIT TO THE REGIONAL ECONOMY;

55 (IV) THE USES OF THE FUNDS ARE CONSISTENT WITH THE BUSINESS MARKETING
56 PROGRAMS DEVELOPED AND IMPLEMENTED BY THE WINNING APPLICANT; AND

1 (V) ALL FUNDS AWARDED TO REGIONAL ECONOMIC DEVELOPMENT ORGANIZATIONS
2 SHALL BE EXPENDED WITHIN TWELVE MONTHS OF SUCH PAYMENT UNLESS AN EXTEN-
3 SION OF TIME IS REQUESTED AND, UPON SHOWING OF GOOD CAUSE, GRANTED BY
4 THE WINNING APPLICANT.

5 (C) NO ADVERTISING OR MARKETING FUNDED FOR THE PURPOSE OF THIS ARTICLE
6 SHALL CONTAIN REFERENCES TO OR THE NAME OF ANY PUBLIC OFFICIAL OF THE
7 STATE OF NEW YORK, OR ITS POLITICAL SUBDIVISIONS. REFERENCE SHALL
8 INCLUDE BUT NOT BE LIMITED TO PHOTOGRAPHS, DRAWINGS, CARICATURES, OR
9 SOUND OR VIDEO RECORDINGS, UNLESS EXPRESSLY AUTHORIZED BY THE ADVISORY
10 COMMITTEE DESCRIBED IN SECTION TWO HUNDRED THIRTY-NINE-D OF THIS ARTI-
11 CLE.

12 S 239-D. ADVISORY COMMITTEE. THE WINNING APPLICANT SHALL ESTABLISH AN
13 ADVISORY COMMITTEE CONSISTING OF KEY STAKEHOLDERS TO ADVISE ON THE
14 DEVELOPMENT AND IMPLEMENTATION OF A MARKETING PLAN FOR EACH TARGETED
15 INDUSTRY SECTOR. THE ADVISORY COMMITTEE SHALL CONSIST OF REPRESENTATIVES
16 OF REGIONAL ECONOMIC DEVELOPMENT ORGANIZATIONS, ECONOMIC DEVELOPMENT
17 PROFESSIONALS, UNIVERSITY REPRESENTATIVES, PRIVATE INDUSTRY, EMPIRE
18 STATE DEVELOPMENT CORPORATION, THE SPEAKER OF THE ASSEMBLY, AND THE
19 TEMPORARY PRESIDENT OF THE SENATE. THE CHAIRPERSON OF THE ADVISORY
20 COMMITTEE SHALL BE SELECTED FROM AMONG ALL ITS MEMBERS.

21 S 239-E. REPORTING REQUIREMENTS. 1. EACH REGIONAL BUSINESS MARKETING
22 CORPORATION SHALL PROVIDE AN ANNUAL FINANCIAL STATEMENT PREPARED ACCORD-
23 ING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES TO THE WINNING APPLI-
24 CANT, THE COMMISSIONER, THE SPEAKER OF THE ASSEMBLY, AND THE TEMPORARY
25 PRESIDENT OF THE SENATE.

26 2. THE WINING APPLICANT SHALL PROVIDE AN ANNUAL FINANCIAL STATEMENT
27 PREPARED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES TO THE
28 COMMISSIONER, THE SPEAKER OF THE ASSEMBLY, AND THE TEMPORARY PRESIDENT
29 OF THE SENATE, AS WELL AS A PERFORMANCE REPORT INDICATING HOW FUNDS WERE
30 EXPENDED, AND RESULTS OF THOSE EXPENDITURES.

31 S 23. The sum of five million dollars (\$5,000,000), or so much thereof
32 as may be necessary, is hereby appropriated to the department of econom-
33 ic development from any moneys in the state treasury in the general fund
34 not otherwise appropriated for services and expenses; including the
35 expenses of the department of economic development, for the purposes of
36 carrying out the provisions of section twenty of this act. Such sum
37 shall be payable on the audit and warrant of the state comptroller on
38 vouchers certified or approved by the commissioner of economic develop-
39 ment, or his or her duly designated representative in the manner
40 provided by law.

41 S 24. Section 1 of chapter 174 of the laws of 1968, constituting the
42 New York state urban development corporation act, is amended by adding a
43 new section 16-u to read as follows:

44 S 16-U. NEW TECHNOLOGY SEED FUND. 1. THE NEW TECHNOLOGY SEED FUND IS
45 HEREBY CREATED. THE PURPOSE OF THE NEW TECHNOLOGY SEED FUND IS TO MAKE
46 AVAILABLE STATE FUNDS TO VENTURE CAPITAL AND OTHER SIMILAR FIRMS TO
47 SUPPORT EMERGING BUSINESS IDEAS AND PRODUCTS THAT MAY EVENTUALLY RESULT
48 IN THE GROWTH OF BUSINESS WITHIN THE STATE AND THE CONCOMITANT CREATION
49 OF JOBS AND TAX REVENUES FOR THE STATE. IT IS EXPECTED THAT THE APPLI-
50 CANT WILL PROVIDE MATCHING FUNDS AND SHARE THE RISK AND BENEFIT WITH THE
51 CORPORATION FOR ANY DEVELOPMENT FUNDED UNDER THIS PROGRAM. THE APPLICANT
52 WILL BE RESPONSIBLE FOR SELECTING THE BENEFICIARY COMPANIES THAT WILL
53 RECEIVE THE BENEFIT OF THE NEW TECHNOLOGY SEED FUNDS AND ENSURE THAT THE
54 FUNDS ARE EXPENDED IN ACCORDANCE WITH THE TERMS SET FORTH HEREIN.

55 2. THE CORPORATION IS AUTHORIZED TO MAKE INVESTMENTS FROM THE NEW
56 TECHNOLOGY SEED FUND TO ELIGIBLE APPLICANTS FOR THE PURPOSES OF FURTHER-

1 ING THE ECONOMIC DEVELOPMENT GOALS SET FORTH IN SUBDIVISION ONE OF THIS
2 SECTION.

3 3. ELIGIBLE APPLICANTS FOR NEW TECHNOLOGY SEED FUNDS MAY INCLUDE FOR-
4 PROFIT BUSINESSES, NOT-FOR-PROFIT CORPORATIONS, LOCAL DEVELOPMENT CORPO-
5 RATIONS OR UNIVERSITIES.

6 4. FUNDING FROM THE NEW TECHNOLOGY SEED FUND MAY BE MADE AVAILABLE TO
7 THE APPLICANT FOR APPLICATION TO ELIGIBLE COSTS INCURRED, OR TO BE
8 INCURRED, BY THE BENEFICIARY COMPANY WITH RESPECT TO APPLICABLE OPER-
9 ATIONS IN THE STATE, INCLUDING THE COST OF PURCHASING EQUIPMENT,
10 SUPPLIES, COSTS RELATED TO THE USE OF LABORATORIES OR CLEAN ROOMS,
11 PROTOTYPE DESIGN COSTS, MANUFACTURING COSTS, WAGES AND RELATED EMPLOYEE
12 COSTS WITH RESPECT TO EMPLOYEES INVOLVED IN RESEARCH AND DEVELOPMENT AND
13 SUCH OTHER COSTS DEEMED APPROPRIATE BY THE CORPORATION. ELIGIBLE COSTS
14 SHALL NOT INCLUDE GENERAL OVERHEAD COSTS OF THE APPLICANT OR BENEFICIARY
15 COMPANY, LEGAL COSTS OR OTHER COSTS DEEMED INAPPROPRIATE BY THE CORPO-
16 RATION.

17 5. APPLICATIONS FOR NEW TECHNOLOGY SEED FUNDS WILL BE RECEIVED BY THE
18 CORPORATION THROUGH A COMPETITIVE PROCESS ESTABLISHED BY THE CORPO-
19 RATION. TO BE ELIGIBLE FOR FUNDING, AN APPLICATION MUST DEMONSTRATE THAT
20 (A) THE BENEFICIARY COMPANY HAS A VIABLE PLAN FOR THE DEVELOPMENT OF A
21 NEW OR ENHANCED PRODUCT THAT COULD ULTIMATELY RESULT IN ADDITIONAL
22 PRIVATE INVESTMENT WITHIN THE STATE, RESULT IN THE CREATION OF JOBS OR
23 OTHERWISE GENERATE ECONOMIC DEVELOPMENT ACTIVITY WITHIN THE STATE; (B)
24 MATCHING FUNDS ARE COMMITTED AND AVAILABLE TO THE APPLICANT IN AN AMOUNT
25 NOT LESS THAN THE AMOUNT OF NEW TECHNOLOGY SEED FUNDS BEING APPLIED FOR;
26 (C) THE APPLICATION IS SUPPORTED BY LOCAL INDUSTRY ENTITIES, UNIVERSI-
27 TIES, OR OTHERWISE HAS MUNICIPAL OR REGIONAL SUPPORT; (D) THE BENEFICI-
28 ARY COMPANY HAS APPROPRIATE STAFFING AND MANAGEMENT CAPABILITIES AND
29 FINANCIAL RESOURCES TO BE REASONABLY LIKELY TO GENERATE A RETURN ON
30 INVESTMENT; AND (E) THE BENEFICIARY COMPANY HAS GENERATED REVENUE FOR NO
31 MORE THAN ONE YEAR.

32 6. IN ACCORDANCE WITH THE RULES AND REGULATIONS TO BE PROMULGATED BY
33 THE CORPORATION, THE CORPORATION MAY IMPOSE FEES, ESTABLISH REPAYMENT
34 TERMS AND PROVIDE FOR EQUITY PARTICIPATION BY THE CORPORATION IN
35 CONNECTION WITH INVESTMENTS FROM THE NEW TECHNOLOGY SEED FUND.

36 7. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE CORPO-
37 RATION MAY ESTABLISH A PROGRAM FUND FOR PROGRAM USE AND PAY INTO SUCH
38 FUND ANY FUNDS AVAILABLE TO THE CORPORATION FROM ANY SOURCE THAT ARE
39 ELIGIBLE FOR PROGRAM USE, INCLUDING MONEYS APPROPRIATED BY THE STATE.

40 8. THE CORPORATION SHALL SUBMIT A REPORT TO THE DIRECTOR OF THE BUDG-
41 ET, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINOR-
42 ITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY
43 CONSISTENT WITH SECTION TWENTY-NINE HUNDRED TWENTY-FIVE OF THE PUBLIC
44 AUTHORITIES LAW.

45 9. THE CORPORATION IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGU-
46 LATIONS IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT AS ARE
47 NECESSARY TO FULFILL THE PURPOSES OF THIS SECTION.

48 10. THE PROVISIONS OF SECTION TEN AND SUBDIVISION TWO OF SECTION
49 SIXTEEN OF THIS ACT SHALL NOT APPLY TO ASSISTANCE PROVIDED UNDER THIS
50 SECTION.

51 S 25. Subdivision 12-G of section 210 of the tax law, as amended by
52 section 1-a of part A of chapter 63 of the laws of 2005, is amended to
53 read as follows:

54 12-G. Qualified emerging technology company facilities, operations and
55 training credit. (a) A taxpayer that is a qualified emerging technology
56 company pursuant to the provisions of section thirty-one hundred two-e

1 (and specifically for the activities referenced in paragraph (b) of
2 subdivision one of such section thirty-one hundred two-e) of the public
3 authorities law, and that meets the eligibility requirements in para-
4 graph (b) of this subdivision, shall be allowed a credit against the tax
5 imposed by this article. The amount of credit shall be equal to the sum
6 of the amounts specified in paragraphs (c), (d), and (e) of this subdivi-
7 sion subject to the limitations in paragraph (f) of this subdivision.

8 (b) An eligible taxpayer shall (i) have no more than one hundred full-
9 time employees, of which at least seventy-five percent are employed in
10 New York state, EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, (ii)
11 have a ratio of research and development funds to net sales, as referred
12 to in section thirty-one hundred two-e of the public authorities law,
13 which equals or exceeds six percent during its taxable year, and (iii)
14 have gross revenues, along with the gross revenues of its affiliates and
15 related members, not exceeding [twenty] FORTY million dollars for the
16 taxable year immediately preceding the year the taxpayer is allowed a
17 credit under this subdivision. For purposes of this paragraph, the term
18 "related member" shall have the same meaning as set forth in clauses (A)
19 and (B) of subparagraph one of paragraph (o) of subdivision nine of
20 section two hundred eight of this article, and the term "affiliates"
21 shall mean those corporations that are members of the same affiliated
22 group (as defined in section fifteen hundred four of the internal reven-
23 ue code) as the taxpayer. FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS
24 PARAGRAPH, EMPLOYEES WHO ARE EMPLOYED OUTSIDE OF THE UNITED STATES
25 DURING THE TAXABLE YEAR CANNOT BE CONSIDERED; A TAXPAYER THAT MEETS THE
26 EMPLOYMENT REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IN THE
27 FIRST YEAR IN WHICH THE CREDIT ALLOWED BY THIS SUBDIVISION IS CLAIMED
28 WILL NOT BE CONSIDERED INELIGIBLE SOLELY AS A RESULT OF HAVING MORE THAN
29 ONE HUNDRED FULL-TIME EMPLOYEES IN OTHER TAXABLE YEARS IN WHICH THE
30 CREDIT IS CLAIMED, PROVIDED AT LEAST SEVENTY-FIVE PERCENT OF THE
31 FULL-TIME EMPLOYEES IN THE OTHER TAXABLE YEARS ARE EMPLOYED IN NEW YORK
32 STATE; AND AN INDIVIDUAL WHO IS A PARTNER IN A PARTNERSHIP THAT IS A
33 QUALIFIED EMERGING TECHNOLOGY COMPANY WILL BE CONSIDERED A FULL-TIME
34 EMPLOYEE IF THE INDIVIDUAL PARTNER PARTICIPATES IN THE PARTNERSHIP ON A
35 FULL-TIME BASIS DURING THE TAXABLE YEAR AND THE INVOLVEMENT OF THE INDI-
36 VIDUAL PARTNER IN THE ACTIVITIES OF THE PARTNERSHIP DURING THE TAXABLE
37 YEAR SATISFIES THE REQUIREMENTS FOR MATERIAL PARTICIPATION FOR THE SAME
38 TAXABLE YEAR WITHIN THE MEANING OF SUBSECTION (H) OF SECTION 469 OF THE
39 INTERNAL REVENUE CODE.

40 (c) An eligible taxpayer shall be allowed a credit for [eighteen]
41 THIRTY per centum of the cost or other basis for federal income tax
42 purposes of research and development property as defined in paragraph
43 (b) of subdivision twelve of this section that is acquired by the
44 taxpayer by purchase as defined in section 179(d) of the internal reven-
45 ue code and placed in service during the taxable year. Provided, howev-
46 er, for the purposes of this paragraph only, an eligible taxpayer shall
47 be allowed a credit for such percentage of the (i) cost or other basis
48 for federal income tax purposes for property used in the testing or
49 inspection of materials and products,

50 (ii) the costs or expenses associated with quality control of the
51 research and development,

52 (iii) fees for use of sophisticated technology facilities and proc-
53 esses,

54 (iv) fees for the production or eventual commercial distribution of
55 materials and products resulting from the activities of an eligible
56 taxpayer as long as such activities fall under the activities listed in

1 paragraph (b) of subdivision one of section thirty-one hundred two-e of
2 the public authorities law. The costs, expenses and other amounts for
3 which a credit is allowed and claimed under this paragraph shall not be
4 used in the calculation of any other credit allowed under this article.

5 (d) An eligible taxpayer shall be allowed a credit for [nine] FIFTEEN
6 per centum of "qualified research expenses" paid or incurred by the
7 taxpayer in the taxable year. "Qualified research expenses" shall mean
8 expenses associated with in-house research and processes, and costs
9 associated with the dissemination of the results of the products that
10 directly result from such research and development activities; provided,
11 however, that such costs shall not include advertising or promotion
12 through media. In addition, costs associated with the preparation of
13 patent applications, patent application filing fees, patent research
14 fees, patent examinations fees, patent post allowance fees, patent main-
15 tenance fees, and grant application expenses and fees shall be eligible
16 for such credit. In no case shall the credit allowed under this para-
17 graph apply to expenses for litigation or the challenge of another enti-
18 ty's intellectual property rights, or for contract expenses involving
19 outside paid consultants.

20 (e) An eligible taxpayer shall be allowed a credit for qualified high-
21 technology training expenditures as described in this paragraph paid or
22 incurred by the taxpayer. (i) The amount of credit shall be one hundred
23 percent of the training expenses described in subparagraph (iii) of this
24 paragraph, subject to a limitation of no more than four thousand dollars
25 per employee per year for such training expenses.

26 (ii) Qualified high-technology training shall include a course or
27 courses taken and satisfactorily completed by an employee of the taxpay-
28 er at an accredited, degree granting post-secondary college or universi-
29 ty in New York state that (A) directly relates to the activities
30 referred to in paragraph (b) of subdivision one of section thirty-one
31 hundred two-e of the public authorities law, and

32 (B) is intended to upgrade, retrain or improve the productivity or
33 theoretical awareness of the employee. Such course or courses may
34 include, but are not limited to, instruction or research relating to
35 techniques, meta, macro, or micro-theoretical or practical knowledge
36 bases or frontiers, or ethical concerns related to such activities. Such
37 course or courses shall not include classes in the disciplines of
38 management, accounting or the law or any class designed to fulfill the
39 discipline specific requirements of a degree program at the associate,
40 baccalaureate, graduate or professional level of these disciplines.
41 Satisfactory completion of a course or courses shall mean the earning
42 and granting of credit or equivalent unit, with the attainment of a
43 grade of "B" or higher in a graduate level course or courses, a grade of
44 "C" or higher in an undergraduate level course or courses, or a similar
45 measure of competency for a course that is not measured according to a
46 standard grade formula.

47 (iii) Qualified high-technology training expenditures shall include
48 expenses for tuition and mandatory fees, software required by the insti-
49 tution, fees for textbooks or other literature required by the institu-
50 tion offering the course or courses, minus applicable scholarships and
51 tuition or fee waivers not granted by the taxpayer or any affiliates of
52 the taxpayer, that are paid or reimbursed by the taxpayer. Qualified
53 high-technology expenditures do not include room and board, computer
54 hardware or software not specifically assigned for such course or cours-
55 es, late-charges, fines or membership dues and similar expenses. Such
56 qualified expenditures shall not be eligible for the credit provided by

1 this section unless the employee for whom the expenditures are disbursed
2 is continuously employed by the taxpayer in a full-time, full-year posi-
3 tion primarily located at a qualified site during the period of such
4 coursework and lasting through at least one hundred eighty days after
5 the satisfactory completion of the qualifying course-work. Qualified
6 high-technology training expenditures shall not include expenses for
7 in-house or shared training outside of a New York state higher education
8 institution or the use of consultants outside of credit granting cours-
9 es, whether such consultants function inside of such higher education
10 institution or not.

11 (iv) If a taxpayer relocates from an academic business incubator
12 facility partnered with an accredited post-secondary education institu-
13 tion located within New York state, which provides space and business
14 support services to taxpayers, to another site, the credit provided in
15 this section shall be allowed for all expenditures referenced in subpar-
16 agraph (iii) of this paragraph paid or incurred in the two preceding
17 taxable years that the taxpayer was located in such an incubator facili-
18 ty for employees of the taxpayer who also relocate from said incubator
19 facility to such New York site and are employed and primarily located by
20 the taxpayer in New York. Such expenditures in the two preceding years
21 shall be added to the amounts otherwise qualifying for the credit
22 provided by this subdivision that were paid or incurred in the taxable
23 year that the taxpayer relocates from such a facility. Such expendi-
24 tures shall include expenses paid for an eligible employee who is a
25 full-time, full-year employee of said taxpayer during the taxable year
26 that the taxpayer relocated from an incubator facility notwithstanding
27 (i) that such employee was employed full or part-time as an officer,
28 staff-person or paid intern of the taxpayer when such taxpayer was
29 located at such incubator facility or (ii) that such employee was not
30 continuously employed when such taxpayer was located at the incubator
31 facility during the one hundred eighty day period referred to in subpar-
32 agraph (iii) of this paragraph, provided such employee received wages or
33 equivalent income for at least seven hundred fifty hours during any
34 twenty-four month period when the taxpayer was located at the incubator
35 facility. Such expenditures shall include payments made to such employee
36 after the taxpayer has relocated from the incubator facility for quali-
37 fied expenditures if such payments are made to reimburse an employee for
38 expenditures paid by the employee during such two preceding years. The
39 credit provided under this subparagraph shall be allowed in any taxable
40 year that the taxpayer qualifies as an eligible taxpayer.

41 (v) For purposes of this subdivision the term "academic year" shall
42 mean the annual period of sessions of a post-secondary college or
43 university.

44 (vi) For the purposes of this subdivision the term "academic incubator
45 facility" shall mean a facility providing low-cost space, technical
46 assistance, support services and educational opportunities, including
47 but not limited to central services provided by the manager of the
48 facility to the tenants of the facility, to an entity located in New
49 York state. Such entity's primary activity must be an activity described
50 in paragraph (b) of subdivision one of section thirty-one hundred two-e
51 of the public authorities law, and such entity must be in the formative
52 stage of development. The academic incubator facility and the entity
53 must act in partnership with an accredited post-secondary college or
54 university located in New York state. An academic incubator facility's
55 mission shall be to promote job creation, entrepreneurship, technology
56 transfer, and provide support services to incubator tenants, including,

1 but not limited to, business planning, management assistance, finan-
2 cial-packaging, linkages to financing services, and coordinating with
3 other sources of assistance.

4 (f) An eligible taxpayer may claim credits under this subdivision for
5 four consecutive taxable years, except, if a taxpayer is located in an
6 academic incubator facility and relocates within New York state to a
7 nonacademic incubator site, then the taxpayer (i) may make a revocable
8 election to defer the credit provided under this subdivision to the
9 first taxable year beginning after the taxpayer relocates from an
10 academic incubator facility, and (ii) shall be eligible for such credit
11 for five consecutive taxable years. In no case shall the credit allowed
12 by this subdivision to a taxpayer exceed [two hundred and fifty] A
13 TOTAL OF FIVE HUNDRED thousand dollars per year UNDER PARAGRAPHS (C) AND
14 (D) OF THIS SUBDIVISION AND ONE HUNDRED THOUSAND DOLLARS PER YEAR UNDER
15 PARAGRAPH (E) OF THIS SUBDIVISION. IF THE TAXPAYER IS A PARTNER IN A
16 PARTNERSHIP OR SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE LIMIT
17 IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL,
18 SO THAT THE AGGREGATE CREDIT ALLOWED PER QUALIFIED SITE TO ALL PARTNERS
19 OF SHAREHOLDERS OF SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED FIVE
20 HUNDRED THOUSAND DOLLARS PER YEAR UNDER PARAGRAPHS (C) AND (D) OF THIS
21 SUBDIVISION AND ONE HUNDRED THOUSAND DOLLARS PER YEAR UNDER PARAGRAPH
22 (E) OF THIS SUBDIVISION.

23 (g) The credit allowed under this subdivision for any taxable year
24 shall not reduce the tax due for such year to less than the higher of
25 the amounts prescribed in paragraphs (c) and (d) of subdivision one of
26 this section. However, if the amount of credit allowed under this subdivi-
27 sion for any taxable year reduces the tax to such amount, any amount
28 of credit not deductible in such taxable year shall be treated as an
29 overpayment of tax to be credited or refunded in accordance with the
30 provisions of section ten hundred eighty-six of this chapter. Provided,
31 however, the provisions of subsection (c) of section ten hundred eight-
32 y-eight of this chapter notwithstanding, no interest shall be paid ther-
33 eon.

34 [(h) The credit allowed under this subdivision shall not be applicable
35 for taxable years beginning on or after January first, two thousand
36 twelve.]

37 S 26. Subsection (nn) of section 606 of the tax law, as amended by
38 section 1-a of part A of chapter 63 of the laws of 2005, is amended to
39 read as follows:

40 (nn) Qualified emerging technology company facilities, operations and
41 training credit. (1) A taxpayer that is a qualified emerging technology
42 company pursuant to the provisions of section thirty-one hundred two-e
43 (and specifically for the activities referenced in paragraph (b) of
44 subdivision one of such section thirty-one hundred two-e) of the public
45 authorities law, and that meets the eligibility requirements in para-
46 graph two of this subsection, shall be allowed a credit against the tax
47 imposed by this article. The amount of credit shall be equal to the sum
48 (or pro rata share of the sum in the case of a partnership) of the
49 amounts specified in paragraphs three, four, and five of this
50 subsection, subject to the limitations in paragraph six of this
51 subsection.

52 (2) An eligible taxpayer shall (i) have no more than one hundred full-
53 time employees, of which at least seventy-five percent are employed in
54 New York state, EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH,

55 (ii) have a ratio of research and development funds to net sales, as
56 referred to in section thirty-one hundred two-e of the public authori-

1 ties law, which equals or exceeds six percent during its taxable year,
2 and

3 (iii) have gross revenues, along with the gross revenues of its affil-
4 iates and related members, not exceeding [twenty] FORTY million dollars
5 for the taxable year immediately preceding the year the taxpayer is
6 allowed a credit under this subsection. For purposes of this paragraph,
7 the term "related member" shall have the same meaning as set forth in
8 clauses (A) and (B) of subparagraph one of paragraph (o) of subdivision
9 [9] NINE of section two hundred eight of this chapter, and the term
10 "affiliates" shall mean those corporations that are members of the same
11 affiliated group (as defined in section fifteen hundred four of the
12 internal revenue code) as the taxpayer. FOR PURPOSES OF SUBPARAGRAPH
13 (I) OF THIS PARAGRAPH, EMPLOYEES WHO ARE EMPLOYED OUTSIDE THE UNITED
14 STATES DURING THE TAXABLE YEAR CANNOT BE CONSIDERED; A TAXPAYER THAT
15 MEETS THE EMPLOYMENT REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS PARAGRAPH
16 IN THE FIRST YEAR IN WHICH THE CREDIT ALLOWED BY THIS SUBSECTION IS
17 CLAIMED WILL NOT BE CONSIDERED INELIGIBLE SOLELY AS A RESULT OF HAVING
18 MORE THAN ONE HUNDRED FULL-TIME EMPLOYEES IN OTHER TAXABLE YEARS IN
19 WHICH THE CREDIT IS CLAIMED, PROVIDED AT LEAST SEVENTY-FIVE PERCENT OF
20 THE FULL-TIME EMPLOYEES IN THE OTHER TAXABLE YEARS ARE EMPLOYED IN NEW
21 YORK STATE; AND AN INDIVIDUAL WHO IS A PARTNER IN A PARTNERSHIP THAT IS
22 A QUALIFIED EMERGING TECHNOLOGY COMPANY WILL BE CONSIDERED A FULL-TIME
23 EMPLOYEE IF THE INDIVIDUAL PARTNER PARTICIPATES IN THE PARTNERSHIP ON A
24 FULL-TIME BASIS DURING THE TAXABLE YEAR AND THE INVOLVEMENT OF THE INDI-
25 VIDUAL PARTNER IN THE ACTIVITIES OF THE PARTNERSHIP DURING THE TAXABLE
26 YEAR SATISFIES THE REQUIREMENTS FOR MATERIAL PARTICIPATION FOR THE SAME
27 TAXABLE YEAR WITHIN THE MEANING OF SUBSECTION (H) OF SECTION 469 OF THE
28 INTERNAL REVENUE CODE.

29 (3) An eligible taxpayer shall be allowed a credit for [eighteen]
30 THIRTY per centum of the cost or other basis for federal income tax
31 purposes of research and development property as defined in subparagraph
32 (B) of paragraph two of subsection (a) of this section that is acquired
33 by the taxpayer by purchase as defined in section 179(d) of the internal
34 revenue code and is placed in service during the taxable year. Provided,
35 however, for the purposes of this paragraph only, an eligible taxpayer
36 shall be allowed a credit for such percentage of the (i) cost or other
37 basis for federal income purposes for property used in the testing or
38 inspection of materials and products,

39 (ii) the costs or expenses associated with quality control of the
40 research and development,

41 (iii) fees for use of sophisticated technology facilities and proc-
42 esses, and

43 (iv) fees for production or eventual commercial distribution of mate-
44 rials and products resulting from the activities of an eligible taxpayer
45 as long as such activities fall under the activities listed in paragraph
46 (b) of subdivision one of section thirty-one hundred two-e of the public
47 authorities law. The costs, expenses and other amounts for which a cred-
48 it is allowed and claimed under this paragraph shall not be used in the
49 calculation of any other credit allowed under this article.

50 (4) An eligible taxpayer shall be allowed a credit for [nine] FIFTEEN
51 percentum of "qualified research expenses", paid or incurred by the
52 taxpayer in the taxable year. "Qualified research expenses" shall mean
53 expenses associated with in-house research, use of sophisticated tech-
54 nology facilities and processes, and costs associated with the dissem-
55 ination of the results of the products that directly result from such
56 research and development activities; provided, however, that such costs

1 shall not include advertising or promotion through media. In addition,
2 costs associated with the preparation of patent applications, patent
3 application filing fees, patent research fees, patent examinations fees,
4 patent post allowance fees, patent maintenance fees, and grant applica-
5 tion expenses and fees shall be eligible for such credit. In no case
6 shall the credit allowed by this paragraph apply to expenses for liti-
7 gation or the challenge of another entity's intellectual property
8 rights, or for contract expenses involving outside paid consultants.

9 (5) An eligible taxpayer shall be allowed a credit for qualified high-
10 technology training expenditures as described in this paragraph paid or
11 incurred by the taxpayer.

12 (a) The amount of credit shall be one hundred percent of the training
13 expenses described in subparagraph (c) of this paragraph, subject to a
14 limitation of no more than four thousand dollars per employee per year
15 for such training expenses.

16 (b) Qualified high-technology training shall include a course or
17 courses taken and satisfactorily completed by an employee of the taxpay-
18 er at an accredited, degree granting post-secondary college or universi-
19 ty in New York state that

20 (i) directly relates to the activities referred to in paragraph (b) of
21 subdivision one of section thirty-one hundred two-e of the public
22 authorities law, and

23 (ii) is intended to upgrade, retrain or improve the productivity or
24 theoretical awareness of the employee. Such course or courses may
25 include, but are not limited to, instruction or research relating to
26 techniques, meta, macro, or micro-theoretical or practical knowledge
27 bases or frontiers, or ethical concerns related to such activities. Such
28 course or courses shall not include classes in the disciplines of
29 management, accounting or the law or any class designed to fulfill the
30 discipline specific requirements of a degree program at the associate,
31 baccalaureate, graduate or professional level of these disciplines.
32 Satisfactory completion of a course or courses shall mean the earning
33 and granting of credit or equivalent unit, with the attainment of a
34 grade of "B" or higher in a graduate level course or courses, a grade of
35 "C" or higher in an undergraduate level course or courses, or a similar
36 measure of competency for a course that is not measured according to a
37 standard grade formula.

38 (c) Qualified high-technology training expenditures shall include
39 expenses for tuition and mandatory fees, and software required by the
40 institution, fees for textbooks or other literature required by the
41 institution offering the course or courses, minus applicable scholar-
42 ships and tuition or fee waivers not granted by the taxpayer or any
43 affiliate of the taxpayer, paid or reimbursed by the taxpayer. Quali-
44 fied high technology expenditures do not include room and board, comput-
45 er hardware or software not specifically assigned for such course or
46 courses, late-charges, fines or membership dues and similar expenses.
47 Such qualified expenditures shall not be eligible for the credit allowed
48 by this subsection unless the employee for whom the expenditures are
49 disbursed is continuously employed by the taxpayer in a full-time, full-
50 year position primarily located at a qualified site during the period of
51 such coursework and lasting through at least one hundred and eighty days
52 after the satisfactory completion of the qualifying course-work. Quali-
53 fied high-technology training expenditures shall not include expenses
54 for in house or shared training outside of a New York state higher
55 education institution or the use of consultants outside of credit grant-

1 ing courses whether such consultants function inside of such higher
2 education institution or not.

3 (d) If a taxpayer relocates from an academic business incubator facil-
4 ity partnered with an accredited post-secondary education institution
5 located within New York state, which provides space and business support
6 services to taxpayers, to another site, the credit provided in this
7 subsection shall be allowed for all expenditures referenced in subpara-
8 graph (c) of this paragraph paid or incurred in the two preceding taxa-
9 ble years that the taxpayer was located in such an incubator facility
10 for employees of the taxpayer who also relocate from said incubator
11 facility to such New York site and are employed and primarily located by
12 the taxpayer in New York. Such expenditures in the two preceding years
13 shall be added to the amounts otherwise qualifying for the credit
14 provided by this subsection that were paid or incurred in the taxable
15 year that the taxpayer relocated from such a facility. Such expenditures
16 shall include expenses paid or incurred for an eligible employee who is
17 a full-time, full-year employee of said taxpayer during the taxable year
18 that the taxpayer relocated from an incubator facility notwithstanding
19 (i) that such employee was employed full or part-time as an officer,
20 staff-person or paid intern of the taxpayer when such taxpayer was
21 located at such incubator facility or (ii) that such employee was not
22 continuously employed when such taxpayer was located at the incubator
23 facility during the one hundred eighty day period referenced in subpara-
24 graph (c) of this paragraph, provided such employee received wages or
25 equivalent income for at least seven hundred fifty hours during any
26 twenty-four month period when the taxpayer was located at the incubator
27 facility. Such expenditures shall include payments made to such an
28 employee after the taxpayer has relocated from the incubator facility
29 for qualified expenditures if such payments are made to reimburse such
30 an employee for qualified expenditures paid by the employee during such
31 two preceding years. The credit provided under this subparagraph shall
32 be allowed, in any year that said taxpayer qualifies as an eligible
33 taxpayer.

34 (e) For purposes of this subsection the term "academic year" shall
35 mean the annual period of sessions of a post-secondary college or
36 university.

37 (f) For the purposes of this subsection the term "academic incubator
38 facility" shall mean a facility providing low-cost space, technical
39 assistance, support services and educational opportunities, including
40 but not limited to central services provided by the manager of the
41 facility to the tenants of the facility, to an entity located in New
42 York state. Such entity's primary activity must be an activity described
43 in paragraph (b) of subdivision one of section thirty-one hundred two-e
44 of the public authorities law, and such entity must be in the formative
45 stage of development. The academic incubator facility and the entity
46 must act in partnership with an accredited post-secondary college or
47 university located in New York state. An academic incubator facility's
48 mission shall be to promote job creation, entrepreneurship, technology
49 transfer, and provide support services to incubator tenants, including,
50 but not limited to, business planning, management assistance, finan-
51 cial-packaging, linkages to financing services, and coordinating with
52 other sources of assistance.

53 (6) An eligible taxpayer may claim credits under this subsection for
54 four consecutive taxable years, except, if a taxpayer is located in an
55 academic incubator facility and relocates within New York state to a
56 nonacademic incubator site, then the taxpayer (i) may make a revocable

1 election to defer the credit provided under this subsection to the first
2 taxable year beginning after the taxpayer relocates from an academic
3 incubator facility, and (ii) shall be eligible for such credit for five
4 consecutive years. In no case shall the credit allowed by this
5 subsection to a taxpayer exceed [two hundred fifty] FIVE HUNDRED thou-
6 sand dollars per year UNDER PARAGRAPHS THREE AND FOUR OF THIS SUBSECTION
7 AND ONE HUNDRED THOUSAND DOLLARS PER YEAR UNDER PARAGRAPH FIVE OF THIS
8 SUBSECTION. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR SHAREHOLD-
9 ER OF A NEW YORK S CORPORATION, THEN THE LIMIT IMPOSED BY THE PRECEDING
10 SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE
11 CREDIT ALLOWED PER QUALIFIED SITE TO ALL PARTNERS OF SHAREHOLDERS OF
12 SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED FIVE HUNDRED THOUSAND
13 DOLLARS PER YEAR UNDER PARAGRAPHS THREE AND FOUR OF THIS SUBSECTION AND
14 ONE HUNDRED THOUSAND DOLLARS PER YEAR UNDER PARAGRAPH FIVE OF THIS
15 SUBSECTION.

16 (7) If the amount of credit allowed under this subsection for any
17 taxable year shall exceed the taxpayer's tax for such year, the excess
18 shall be treated as an overpayment of tax to be credited or refunded in
19 accordance with the provisions of section six hundred eighty-six of this
20 article, provided, however, that no interest shall be paid thereon.

21 [(8) The credit allowed under this subsection shall not be applicable
22 for taxable years beginning on or after January first, two thousand
23 twelve.]

24 S 27. The first undesignated paragraph of section 970-b of the general
25 municipal law, as added by chapter 916 of the laws of 1984 and such
26 section as renumbered by chapter 686 of the laws of 1986, is amended and
27 a new fourth undesignated paragraph is added to read as follows:

28 It is hereby found and declared that there exists in many communities
29 blighted areas which threaten the economic and social well-being of the
30 people of the state. Blighted areas are characterized by one or more of
31 the conditions set forth in subdivision (a) of section nine hundred
32 [sixty-c] SEVENTY-C of this article.

33 IT IS FURTHER FOUND AND DECLARED THAT SOUND DEVELOPMENT AND REDEVELOP-
34 MENT OF BLIGHTED AREAS INCREASES PUBLIC SCHOOL ENROLLMENT BY PROVIDING
35 AFFORDABLE HOUSING AND EMPLOYMENT OPPORTUNITIES AND THE NEED FOR
36 EXPANDED PUBLIC EDUCATION FACILITIES AND SERVICES.

37 S 28. Subdivisions (b) and (f) of section 970-c of the general municipi-
38 pal law, as added by chapter 916 of the laws of 1984 and such section as
39 renumbered by chapter 686 of the laws of 1986, are amended and a new
40 subdivision (i) is added to read as follows:

41 (b) "Legislative body" means (I) the governing body of a municipality
42 empowered to adopt and amend local laws and ordinances[; provided,
43 however, that in the case of the city of New York, the legislative body
44 shall, for the purposes of this article be the board of estimate], AND
45 (II) THE BOARD OF EDUCATION OF A SCHOOL DISTRICT OF WHICH CONSENTS TO AN
46 ALLOCATION OF TAXES PRESCRIBED IN SECTION NINE HUNDRED SEVENTY-P OF THIS
47 ARTICLE.

48 (f) "Planning agency" means the planning board or commission of [the]
49 A municipality OR THE PLANNING BOARD OR COMMITTEE OF A SCHOOL DISTRICT.

50 (I) "SCHOOL DISTRICT" MEANS ANY SCHOOL DISTRICT, A CITY SCHOOL
51 DISTRICT OR A SCHOOL DISTRICT IN A CITY, AS THOSE TERMS ARE DEFINED IN
52 SECTION 2.00 OF THE LOCAL FINANCE LAW, WHICH APPROVES THE REDEVELOPMENT
53 PLAN AND CONSENTS TO AN ALLOCATION OF TAXES PRESCRIBED IN SECTION NINE
54 HUNDRED SEVENTY-P OF THIS ARTICLE.

55 S 29. Subdivisions (l) and (n) of section 970-f of the general municipi-
56 pal law, as added by chapter 916 of the laws of 1984 and such section as

1 renumbered by chapter 686 of the laws of 1986, are amended and a new
2 subdivision (o) is added to read as follows:

3 (l) shall provide a limitation on the amount of bonds which may be
4 issued pursuant to section nine hundred [sixty-o] SEVENTY-O of this
5 article for the purpose of carrying out or administering the redevelop-
6 ment plan;

7 (n) shall provide a plan for the relocation of families and persons to
8 be temporarily or permanently displaced from housing facilities in the
9 project area, which plan shall include the provision required by section
10 nine hundred [sixty-j] SEVENTY-J OF THIS ARTICLE that no person or fami-
11 ly of low and moderate income shall be displaced unless and until there
12 is suitable housing available and ready for occupancy by such displaced
13 person or family at rents comparable to those paid at the time of their
14 displacement.

15 (O) MAY PROVIDE FOR THE CONSENT TO AND APPROVAL OF THE PROJECT AREA
16 AND THE REDEVELOPMENT PLAN BY THE BOARD OF EDUCATION OF THE SCHOOL
17 DISTRICT.

18 S 30. Subdivisions (b) and (c) of section 970-h of the general municipi-
19 pal law, as added by chapter 916 of the laws of 1984 and such section as
20 renumbered by chapter 686 of the laws of 1986, are amended to read as
21 follows:

22 (b) Notice of the hearing shall be posted in at least four prominent
23 places within the project area for a period of three weeks prior to such
24 hearing and shall be published not less than once a week for three
25 successive weeks prior to the hearing in a newspaper of general circu-
26 lation in the municipality involved. The notice of hearing shall include
27 a legal description of the boundaries of the PROJECT area [or areas]
28 designated in the proposed redevelopment plan [and], a general statement
29 of the scope and objectives of the plan, AND A STATEMENT WHETHER ONE OR
30 MORE SCHOOL DISTRICTS HAVE CONSENTED TO AN ALLOCATION OF TAXES
31 PRESCRIBED IN SECTION NINE HUNDRED SEVENTY-P OF THIS ARTICLE. A copy of
32 the notices shall be mailed to the last known owner of each parcel of
33 land in the area designated in the redevelopment plan. A copy of the
34 notice shall also be mailed to the legislative body of each of the
35 taxing jurisdictions which levies taxes upon any real property in the
36 project area designated in the proposed redevelopment plan.

37 (c) Any and all persons who have any objections to the proposed rede-
38 velopment plan or who deny the existence of blight as defined by subdivi-
39 sion (a) of section nine hundred [sixty-c] SEVENTY-C of this article,
40 in the proposed project area, or the legality or appropriateness of any
41 of the prior proceedings, may appear before the legislative body at such
42 public hearing and show cause why the proposed plan should not be
43 adopted. At any time not later than the hour set for hearing objections
44 to the proposed redevelopment plan, any person may file in writing with
45 the clerk of the legislative body a statement of such person's
46 objections to the proposed plan.

47 S 31. Section 970-m of the general municipal law, as added by chapter
48 916 of the laws of 1984 and as renumbered by chapter 686 of the laws of
49 1986, is amended to read as follows:

50 S 970-m. Amendment of redevelopment plan. If at any time after the
51 adoption of a redevelopment plan for a project area by the legislative
52 body, it becomes necessary or desirable to amend or modify such plan,
53 the legislative body may by resolution amend such plan. Such amendments
54 may include a change in the boundaries of the project area to add land
55 to or, prior to the issuance of indebtedness pursuant to section nine
56 hundred [sixty-o] SEVENTY-O OF THIS ARTICLE as provided by such redevelop-

1 opment plan, exclude land from the project area. An amendment or modifi-
2 cation of the plan shall be approved pursuant to subdivisions (a)
3 through (g) of section nine hundred [sixty-h] SEVENTY-H of this article.
4 Upon adoption of the amended plan by the legislative body the legisla-
5 tive body shall transmit the amended plan as provided by subdivision (h)
6 of such section.

7 S 32. Paragraphs (iii), (iv) and (v) of subdivision (a) of section
8 970-n of the general municipal law, as added by chapter 916 of the laws
9 of 1984 and such section as renumbered by chapter 686 of the laws of
10 1986, are amended to read as follows:

11 (iii) If two or more municipalities jointly exercise the powers grant-
12 ed under this subdivision and a redevelopment plan as adopted provides
13 for the allocation of real property tax revenues pursuant to section
14 nine hundred [sixty-o] SEVENTY-O of this article the real property taxes
15 of each municipality shall be allocated pursuant to such section.

16 (iv) If two or more municipalities jointly exercise the powers granted
17 under this subdivision and the redevelopment plan as adopted provides
18 for the issuance of indebtedness pursuant to section nine hundred
19 [sixty-o] SEVENTY-O of this article, such indebtedness shall either be
20 issued jointly by the municipalities and the resolution authorizing the
21 issuance of such indebtedness must be approved by the legislative body
22 of each municipality acting separately or shall be issued by resolution
23 of the [the] designated agent on behalf of the municipality it repres-
24 ents and, by resolution of its legislative body, each municipality shall
25 irrevocably pledge the revenues allocated pursuant to section nine
26 hundred [sixty-p] SEVENTY-P of this article to the repayment of such
27 indebtedness and any interest thereon.

28 (v) The joint exercise of powers authorized by this subdivision shall
29 be permitted only for the purpose of redevelopment of an area located
30 wholly within each municipality AND WITHIN ONE OR MORE SCHOOL DISTRICTS.

31 S 33. Paragraphs (ii) and (iii) and subparagraph 1 of paragraph (v) of
32 subdivision (b) of section 970-n of the general municipal law, as added
33 by chapter 916 of the laws of 1984 and such section as renumbered by
34 chapter 686 of the laws of 1986, are amended to read as follows:

35 (ii) A municipal redevelopment authority shall be a corporate govern-
36 mental agency constituting a public benefit corporation. Except as
37 otherwise provided by special act of the legislature, an authority shall
38 consist of not less than five nor more than nine members. Membership
39 shall be apportioned among the municipalities AND SCHOOL DISTRICTS, and
40 the manner of selection of a chairman determined by an [intermunicipal]
41 agreement approved by local law by each such municipality, AND BY RESOL-
42 UTION OF THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT. Members shall
43 serve at the pleasure of the appointing authority, and each member shall
44 continue to hold office until his successor is appointed and has quali-
45 fied. The [governing] LEGISLATIVE body shall file with the secretary of
46 state a certificate of appointment or reappointment of any member
47 appointed or reappointed by it. Members shall receive no compensation
48 for their services but shall be entitled to reimbursement of the neces-
49 sary expenses, including traveling expenses, incurred in the discharge
50 of their duties. No action shall be taken by an authority except pursu-
51 ant to the favorable vote of a majority of the members then in office.
52 Any one or more of the members of an authority may be an official or an
53 employee of such municipality. In the event that an official or an
54 employee of such municipality shall be appointed as a member of the
55 agency, acceptance or retention of such appointment shall not be deemed
56 a forfeiture of his OR HER municipal office or employment, or incompat-

1 ible therewith or affect his OR HER tenure or compensation in any way.
2 The term of office of a member of an authority who is an official or an
3 employee of such municipality when appointed as a member thereof by
4 special act of the legislature creating the authority shall terminate at
5 the expiration of the term of his OR HER municipal office. Upon THE
6 creation of an authority, from time to time the [governing] LEGISLATIVE
7 body of a municipality OR A SCHOOL DISTRICT, may, by resolution, appro-
8 priate sums of money to defray the expenses of the authority.

9 (iii) Unless otherwise provided by this subdivision or by the special
10 act of the legislature establishing a municipal redevelopment authority
11 or empowering an existing public corporation to carry out the purposes
12 and provisions of this article, such authority or public corporation
13 shall have the powers, duties and responsibilities granted a municipi-
14 pality AND SCHOOL DISTRICT and its legislative body pursuant to sections
15 nine hundred [sixty-d] SEVENTY-D through nine hundred [sixty-m] SEVEN-
16 TY-M of this article, as well as the authority to receive the taxes of
17 each municipality AND SCHOOL DISTRICT allocated and paid pursuant to
18 section nine hundred [sixty-p] SEVENTY-P of this article. Such authority
19 or public corporation shall have the power to designate survey areas and
20 select project areas as provided by sections nine hundred [sixty-d]
21 SEVENTY-D and nine hundred [sixty-e] SEVENTY-E of this article. Such
22 authority or public corporation shall obtain the report and recommenda-
23 tion of the planning agency of each municipality OR SCHOOL DISTRICT on
24 the redevelopment plan and its conformity to the master plan of each
25 municipality AND SCHOOL DISTRICT before presenting the redevelopment
26 plan to the legislative body of each municipality OR SCHOOL DISTRICT.
27 In order for a preliminary plan to be adopted or for a redevelopment
28 plan to be adopted or amended approval must be obtained by resolution of
29 the legislative body of each municipality AND SCHOOL DISTRICT acting
30 separately.

31 (1) An authority or public corporation shall have the powers and
32 duties granted municipalities pursuant to section nine hundred [sixty-o]
33 SEVENTY-O of this article to issue tax increment bonds and tax increment
34 bond anticipation notes. Such bonds and notes shall be bonds and notes
35 of the authority or public corporation and neither the state nor any
36 municipality shall be liable on such bonds and notes and such bonds and
37 notes shall not be a debt of the state or of any municipality.

38 S 34. Subdivisions (a), (b), (g) and (i) of section 970-o of the
39 general municipal law, as added by chapter 916 of the laws of 1984 and
40 such section as renumbered by chapter 686 of the laws of 1986, are
41 amended and a new subdivision (j) is added to read as follows:

42 (a) For the purpose of carrying out or administering a redevelopment
43 plan adopted by the legislative body, a municipality is hereby author-
44 ized, without limiting its authority under other provisions of law, to
45 issue by resolution of its legislative body tax increment bonds or tax
46 increment bond anticipation notes of the municipality which are payable
47 from and secured by real property taxes, in whole or in part, allocated
48 to and paid pursuant to the provisions of section nine hundred [sixty-p]
49 SEVENTY-P of this article. The pledge of such real property taxes allo-
50 cated and paid shall constitute a first lien on the revenues derived
51 therefrom and tax increment bonds or tax increment bond anticipation
52 notes, the repayment of which is secured by such revenues shall not be
53 subordinate to any other indebtedness of the municipality with respect
54 to the pledge of such revenues. The municipality shall have the power to
55 issue renewal notes, to issue bonds to pay notes and whenever it deems
56 refunding expedient, to refund any bonds by the issuance of new bonds,

1 whether the bonds to be refunded have or have not matured, and to issue
2 bonds partly to refund bonds then outstanding and partly for any other
3 purposes.

4 (b) In contracting indebtedness pursuant to subdivision (a) of this
5 section NEITHER a municipality NOR A SCHOOL DISTRICT shall [not] pledge
6 its faith and credit or the faith and credit of the state to the payment
7 of THE principal thereof and the interest thereon. INDEBTEDNESS REFERRED
8 TO IN SECTION SIX OF ARTICLE XVI OF THE STATE CONSTITUTION SHALL NOT
9 APPLY TO A SCHOOL DISTRICT.

10 (g) The amount of any indebtedness contracted under this section shall
11 be excluded in ascertaining the power of the municipality OR SCHOOL
12 DISTRICT to contract indebtedness within the provisions of the state
13 constitution or the local finance law relating thereto.

14 (i) The municipality may [only] contract indebtedness pursuant to this
15 section for the following objects [and] OR purposes, EACH OF WHICH SHALL
16 BE A PUBLIC USE AND A PUBLIC PURPOSE:

17 (i) acquisition AND ASSEMBLAGE of land INCLUDING ENVIRONMENTAL REMEDI-
18 ATION AND BROWNFIELD REDEVELOPMENT AUTHORIZED IN THE ENVIRONMENTAL
19 CONSERVATION LAW;

20 (ii) demolition and removal of buildings, structures and improvements
21 and site preparation;

22 (iii) installation, construction or reconstruction of streets, walk-
23 ways, docks, drainage, parking facilities, flood control facilities,
24 water and sewer systems and other [public] utilities, parks and play-
25 grounds;

26 (iv) other public improvements or services integral to the redevelop-
27 ment plan authorized by or for which a period of probable usefulness has
28 been established by section 11.00 of the local finance law. [Such
29 objects] OBJECTS and purposes REFERRED TO IN THIS SUBDIVISION shall be
30 deemed to have the period of probable usefulness as provided GENERALLY
31 for such objects and purposes by such section.

32 (J) IN ADDITION TO THE ALLOCATION OF TAXES AUTHORIZED IN SECTION NINE
33 HUNDRED SEVENTY-P OF THIS ARTICLE, INDEBTEDNESS AUTHORIZED PURSUANT TO
34 THIS SECTION MAY BE SECURED BY A MUNICIPALITY AS FOLLOWS:

35 (I) PURSUANT TO SECTION ONE HUNDRED NINETEEN-O OF THIS CHAPTER, A
36 MUNICIPALITY MAY BY RESOLUTION OF ITS GOVERNING BOARD, PLEDGE A PORTION
37 OF THE SALES TAX RECEIVED IN ANY FISCAL YEAR PURSUANT TO SECTION TWELVE
38 HUNDRED SIXTY-ONE OF THE TAX LAW FROM BUSINESSES OPERATING IN THE
39 PROJECT AREA AND BENEFITTING FROM THE REDEVELOPMENT PLAN TO THE PAYMENT
40 OF THE PRINCIPAL OF AND INTEREST ON SUCH INDEBTEDNESS;

41 (II) A MUNICIPALITY MAY ESTABLISH AN ASSESSMENT AREA, PURSUANT TO THE
42 PROCEDURES IN SECTION 22-2200 OF THE VILLAGE LAW TO ACCESS PARCELS IN
43 THE PROJECT AREA AS BENEFITED PROPERTIES IN THE AMOUNTS AND IN THE YEARS
44 EQUAL TO THE ALLOCATION OF TAXES PROJECTED TO BE COLLECTED AS DETERMINED
45 UNDER SECTION NINE HUNDRED SEVENTY-P OF THIS ARTICLE.

46 S 35. Paragraph (i) of subdivision (d) of section 970-o of the general
47 municipal law, as added by chapter 916 of the laws of 1984 and such
48 section as renumbered by chapter 686 of the laws of 1986, is amended to
49 read as follows:

50 (i) pledging all or a part of the taxes allocated pursuant to section
51 nine hundred [sixty-p] SEVENTY-P of this article or the proceeds from
52 the sale of property acquired with the proceeds of such notes or bonds
53 to secure the payment of such notes or bonds or of any issue thereof,
54 subject to such agreements with bondholders or noteholders as may exist;

1 S 36. Section 970-p of the general municipal law, as added by chapter
2 916 of the laws of 1984 and as renumbered by chapter 686 of the laws of
3 1986, is amended to read as follows:

4 S 970-p. Allocation of taxes. (a) Any redevelopment plan may contain a
5 provision that real property taxes levied upon taxable real property in
6 the project area each year by or for the benefit of the municipality or
7 municipalities AND SCHOOL DISTRICTS after the effective date of the
8 resolution approving the redevelopment plan, shall be divided as
9 follows:

10 (i) that portion of the real property taxes not in excess of the
11 amount which would be produced by applying the rate upon which the tax
12 is levied each year by or for each municipality AND SCHOOL DISTRICT to
13 the total sum of the assessed value of the taxable real property in the
14 project area as shown upon the assessment roll used in connection with
15 the taxation of such property by such municipality AND SCHOOL DISTRICT,
16 last adopted prior to the effective date of the resolution approving
17 such plan, shall be allocated to and when collected shall be paid into
18 the funds of the respective municipalities AND SCHOOL DISTRICTS as real
19 property taxes collected by or for said municipalities AND SCHOOL
20 DISTRICTS adopting the redevelopment plan;

21 (ii) that portion of the real property taxes levied each year in
22 excess of the portion allocated and paid pursuant to paragraph (i) of
23 this subdivision shall be allocated to and when collected shall be paid
24 into the fund or funds established for such purposes to pay the princi-
25 pal and interest on indebtedness incurred by such municipality OR SCHOOL
26 DISTRICT pursuant to section nine hundred [sixty-o] SEVENTY-0 of this
27 article or, if the redevelopment plan so provides, the amount allocated
28 and paid in excess of interest and principal and necessary reserves may
29 be expended for amounts of money to be paid in lieu of taxes. Unless and
30 until the total assessed valuation of the taxable property in a project
31 area exceeds the total assessed value of the taxable real property in
32 such project area as shown by the last assessment roll referred to in
33 paragraph (i) of this subdivision, all of the real property taxes levied
34 and collected upon the taxable real property in such project area shall
35 be paid into the funds of the respective municipalities AND SCHOOL
36 DISTRICTS. When such indebtedness, if any and interest thereon, have
37 been paid, all moneys thereafter received from real property taxes upon
38 the taxable real property in such project area shall be paid into the
39 funds of the respective municipalities AND SCHOOL DISTRICTS as real
40 property taxes on all other real property are paid;

41 (iii) whenever the total amount of real property taxes allocated
42 pursuant to paragraph (ii) of this subdivision exceeds the amounts allo-
43 cated and paid for interest and principal and necessary reserves, and
44 for amounts to be paid in lieu of taxes, the amount of taxes in excess
45 of such amounts shall be paid into the funds of the respective munici-
46 palities as taxes on all other real property are paid;

47 (iv) the allocation of taxes authorized by this section (1) shall
48 apply to taxable years beginning after the effective date of the resol-
49 ution approving the redevelopment plan, AND

50 (2) SHALL BE ESTIMATED BY THE APPROPRIATE REAL PROPERTY ASSESSMENT
51 OFFICER PRIOR TO THE ISSUANCE OF SUCH INDEBTEDNESS FOR EACH YEAR THE
52 INDEBTEDNESS TO BE INCURRED BY SUCH MUNICIPALITY PURSUANT TO SECTION
53 NINE HUNDRED SEVENTY-0 OF THIS ARTICLE IS SCHEDULED TO BE OUTSTANDING IN
54 AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON SUCH
55 INDEBTEDNESS IN EACH YEAR REAL PROPERTY TAXES OF THE MUNICIPALITY OR THE
56 SCHOOL DISTRICT LEVIED UPON TAXABLE PROPERTY IN THE PROJECT AREA IS

1 DIVIDED PURSUANT TO THIS SECTION. DURING THE PERIOD SUCH INDEBTEDNESS IS
2 OUTSTANDING, THE APPROPRIATE REAL PROPERTY ASSESSMENT OFFICER SHALL
3 ENDEAVOR IN GOOD FAITH TO DETERMINE ASSESSED VALUES ON PARCELS IN THE
4 PROJECT AREA TO ACHIEVE SUCH ESTIMATE IN EACH SUCH YEAR. UPON REQUEST BY
5 A MUNICIPALITY OR SCHOOL DISTRICT, THE OFFICE OF REAL PROPERTY SERVICES
6 SHALL PROVIDE GUIDANCE ON METHODOLOGIES FOR ASSESSMENTS AND/OR REVIEW
7 SUCH ESTIMATES.

8 (b) [Whenever real property in any redevelopment project has been
9 redeveloped and thereafter is leased by the municipality to any person
10 or persons or whenever the agency leases real property in any redevelop-
11 ment project to any person or persons for redevelopment, the property
12 shall be assessed and taxed in the same manner as privately owned real
13 property and the lease or contract shall provide that the lessee shall
14 pay real property taxes upon the assessed value of the entire real prop-
15 erty and not merely the assessed value of his or her leasehold interest.

16 (c) [In any municipality OR SCHOOL DISTRICT subject to the allocation
17 of revenues pursuant to this section the assessed value of taxable real
18 property located in a project area shall be included on the taxable
19 portion of the assessment roll, provided, however, that notwithstanding
20 any provision of law to the contrary, the assessed value determined in
21 accordance with paragraph (ii) of subdivision (a) of this section shall
22 not be included in the taxable value of real property when determining
23 the tax rate for such municipality OR SCHOOL DISTRICT.

24 [(d)] (C) The rate of tax resulting from the levy of real property
25 taxes shall be applied to the assessed value of any real property
26 subject to the allocation provisions of this section as determined
27 pursuant to subdivision (a) of this section, however, the amount of tax
28 levied as a result of the application of the tax rate to the increase in
29 assessed value determined in accordance with paragraph (ii) of subdivi-
30 sion (a) of this section shall not be paid into the fund of the munici-
31 pality OR THE SCHOOL DISTRICT as real property taxes but shall be allo-
32 cated pursuant to that paragraph.

33 [(e)] (D) The official or officials responsible for the preparation of
34 the assessment roll or rolls specified in subdivision (a) of this
35 section shall provide to the municipality or municipalities AND SCHOOL
36 DISTRICTS, in addition to the assessment roll or rolls, such information
37 as is deemed necessary by the legislative bodies of the municipality or
38 municipalities AND SCHOOL DISTRICTS to effectuate the purpose of this
39 section.

40 [(f)] (E) The allocation of real property taxes authorized by this
41 section shall be permitted only with respect to municipalities AND
42 SCHOOL DISTRICTS which have adopted a redevelopment plan providing for
43 such allocation pursuant to section nine hundred [sixty-h] SEVENTY-H or
44 section nine hundred [sixty-n] SEVENTY-N of this article and such allo-
45 cation shall not apply to special ad valorem levies and special assess-
46 ments as defined by subdivisions fourteen and fifteen of section one
47 hundred two of the real property tax law, EXCEPT AS PROVIDED IN SUBDIVI-
48 SION (J) OF SECTION NINE HUNDRED SEVENTY-O OF THIS ARTICLE.

49 [(g)] (F) If, after adoption of a redevelopment plan, the official or
50 officials responsible for the preparation of the assessment roll or
51 rolls specified in subdivision (a) of this section undertake to revalue
52 real property for real property tax purposes by altering the standard of
53 assessment utilized to establish the value of real property for assess-
54 ment purposes, the assessment of real property within a project area as
55 provided by paragraph (i) of subdivision (a) of this section shall be
56 adjusted in such manner as if such new standard of assessment had been

1 utilized in the preparation of the assessment roll last adopted prior to
2 adoption of the redevelopment plan.

3 (G) WITH RESPECT TO A SCHOOL DISTRICT WHICH CONSENTS TO AN ALLOCATION
4 OF TAXES PRESCRIBED IN THIS SECTION, THE OBJECT OR PURPOSE OF WHICH SUCH
5 INDEBTEDNESS MAY BE INCURRED BY A MUNICIPALITY SHALL BE A SCHOOL BUILD-
6 ING. HOWEVER, THERE SHALL BE NO APPORTIONMENT OF PUBLIC MONEYS UNDER
7 SECTION THREE THOUSAND SIX HUNDRED ONE OF THE EDUCATION LAW WITH RESPECT
8 TO SUCH ALLOCATION OF TAXES LEVIED BY A SCHOOL DISTRICT.

9 (H) IN ESTABLISHING A UNIFORM TAX EXEMPTION POLICY PURSUANT TO SECTION
10 EIGHT HUNDRED SEVENTY-FOUR OF THIS CHAPTER, AN AGENCY SHALL NOT TAKE
11 INTO ACCOUNT THE PORTION OF REAL PROPERTY TAXES MEASURED UNDER PARAGRAPH
12 (II) OF SUBDIVISION (A) OF THIS SECTION IN COMPUTING A PAYMENT IN LIEU
13 OF TAXES AGREEMENT.

14 S 37. Section 2975-a of the public authorities law is REPEALED.

15 S 38. All monies paid by or on behalf of any industrial development
16 agency or authority to reimburse to New York state an allocable share of
17 state governmental costs attributable to the provisions of services to
18 the industrial development agencies as determined in former section
19 2975-a of the public authorities law shall be reimbursed to the paying
20 entity within ninety days of the effective date of this act.

21 S 39. This act shall take effect immediately.