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

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:

Section 1. Short title. This act shall be known and may be cited as the "Jobs for New York State (JOBS4NY) Act".

S 2. Legislative intent. The legislature hereby determined that it is necessary to foster economic growth throughout New York state, particularly given the current economic challenges facing the state and nation. It is the public policy of the state to offer incentives that will promote the development of new businesses and the expansion of existing businesses and stimulate private investment, private business development and the creation of good paying jobs in all areas of the state, and particularly in economically distressed areas.

The legislature further recognizes the need to foster the development and growth of emerging technology industries, by increasing the availability 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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entrepreneurs. In addition, the legislature recognizes the need to attract private venture capital to New York. The legislature hereby determines that a New York state new technology seed fund should be established and that existing tax credits designed to support the expansion of emerging technology-based businesses be expanded.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PAL CORPORATION OR A PUBLIC BENEFIT CORPORATION PURSUANT TO A WRITTEN AGREEMENT ENTERED INTO BETWEEN THE QUALIFIED BUSINESS AND THE STATE, MUNICIPAL CORPORATION, OR PUBLIC BENEFIT CORPORATION. PROVIDED, HOWEVER, A PAYMENT IN LIEU OF TAXES MADE BY THE QUALIFIED BUSINESS PURSUANT TO A WRITTEN AGREEMENT EXECUTED OR AMENDED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL NOT CONSTITUTE ELIGIBLE REAL PROPERTY TAXES IN ANY TAXABLE YEAR TO THE EXTENT THAT SUCH PAYMENT EXCEEDS THE PRODUCT OF (A) THE GREATER OF (I) THE BASIS FOR FEDERAL INCOME TAX PURPOSES, CALCULATED WITHOUT REGARD TO DEPRECIATION, DETERMINED AS OF THE EFFECTIVE DATE OF THIS SECTION OF REAL PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, THAT COMPRISES THE QUALIFIED BUSINESS FACILITY, AND PROVIDED THAT IF SUCH BASIS IS FURTHER ADJUSTED OR REDUCED PURSUANT TO ANY PROVISION OF THE INTERNAL REVENUE CODE, THE QUALIFIED BUSINESS MAY PETITION THE DEPARTMENT, THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE OFFICE OF REAL PROPERTY SERVICES TO DISREGARD SUCH REDUCTION OR ADJUSTMENT FOR THE PURPOSE OF THIS SUBDIVISION OR (II) THE BASIS FOR FEDERAL INCOME TAX PURPOSES OF SUCH REAL PROPERTY DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH, CALCULATED WITHOUT REGARD TO DEPRECIATION, ON THE LAST DAY OF THE TAXABLE YEAR, AND PROVIDED THAT IF SUCH BASIS IS FURTHER ADJUSTED OR REDUCED PURSUANT TO ANY PROVISION OF THE INTERNAL REVENUE CODE, THE QUALIFIED BUSINESS MAY PETITION THE DEPARTMENT, THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE OFFICE OF REAL PROPERTY SERVICES TO DISREGARD SUCH REDUCTION OR ADJUSTMENT FOR THE PURPOSE OF THIS SUBDIVISION; AND (B) THE ESTIMATED EFFECTIVE FULL VALUE TAX RATE WITHIN THE COUNTY IN WHICH SUCH PROPERTY IS LOCATED, AS MOST RECENTLY REPORTED TO THE COMMISSIONER BY THE SECRETARY OF THE STATE BOARD OF REAL PROPERTY SERVICES, OR HIS OR HER DESIGNEE. THE STATE BOARD SHALL ANNUALLY CALCULATE ESTIMATED EFFECTIVE FULL VALUE TAX RATES WITHIN EACH COUNTY FOR THIS PURPOSE BASED UPON THE MOST CURRENT INFORMATION AVAILABLE TO IT IN RELATION TO COUNTY, CITY, TOWN, VILLAGE AND SCHOOL DISTRICT TAXES.

(2) "QUALIFYING BUSINESS PROJECT" MEANS:

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

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

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

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

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

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

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

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

(4) "MANUFACTURER" MEANS A TAXPAYER WHICH DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING INCLUDING FOOD PROCESSING, ASSEMBLING, REFINING, OR A TAXPAYER WHICH IS DEFINED AS A QUALIFIED EMERGING TECHNOLOGY COMPANY UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW. HOWEVER, THE GENERATION AND DISTRIBUTION OF ELECTRICITY, THE DISTRIBUTION OF NATURAL GAS, AND THE PRODUCTION OF STEAM ASSOCIATED WITH THE GENERATION OF ELECTRICITY SHALL NOT BE QUALIFYING ACTIVITIES FOR A MANUFACTURER UNDER THIS SUBPARAGRAPH. MOREOVER, THE COMBINED GROUP SHALL BE CONSIDERED A "MANUFACTURER" FOR PURPOSES OF THIS SUBPARAGRAPH ONLY IF THE COMBINED GROUP DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS PARAGRAPH, OR ANY COMBINATION THEREOF. A TAXPAYER OR A COMBINED GROUP SHALL BE "PRINCIPALLY ENGAGED" IN ACTIVITIES DESCRIBED ABOVE IF, DURING THE TAXABLE YEAR, MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR COMBINED GROUP, RESPECTIVELY, ARE DERIVED FROM RECEIPTS FROM THE SALE OF GOODS PRODUCED BY SUCH ACTIVITIES. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTERCORPORATE RECEIPTS SHALL BE ELIMINATED.

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

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

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

(1) ARTICLE 9: SECTION 187-O.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S 11. Section 1511 of the tax law is amended by adding a new subdivision (y) to read as follows:

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

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

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

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

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

(1) THE BENEFIT PERIOD FACTOR;

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

(3) THE ZONE ALLOCATION FACTOR; AND

(4) THE TAX FACTOR.

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

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

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

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

PERCENT INCREASE:	EMPLOYMENT INCREASE FACTOR:
25 TO 50	0.5
50 TO 75	0.75
76 AND ABOVE	1.0

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

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

(2) ASCERTAINING THE PERCENTAGE OF THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF EMPLOYEES, EXCEPT GENERAL EXECUTIVE OFFICERS, AT THE SITE WHICH QUALIFIES AS A QUALIFYING BUSINESS PROJECT TO THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD, OF ALL THE TAXPAYER'S EMPLOYEES WITHIN THE STATE, EXCEPT GENERAL EXECUTIVE OFFICERS; AND

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

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

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

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

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

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

(II) FOR PURPOSES OF DETERMINING THE AMOUNT OF CREDIT TO BE CLAIMED BY A TAXPAYER PURSUANT TO THIS SECTION AGAINST THE TAXES DUE UNDER ARTICLE NINE, NINE-A, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER, THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO, ENTERING INTO ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION, ALLOCATED WITHIN THE STATE. FOR PURPOSES OF DETERMINING THE AMOUNT OF CREDIT TO BE CLAIMED BY A TAXPAYER PURSUANT TO THIS SECTION AGAINST THE TAXES DUE UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS NEW YORK ADJUSTED GROSS INCOME.

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

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

THIRTY-THREE OF THIS CHAPTER, THE TAXPAYER'S TAX FACTOR SHALL BE THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE QUALIFIED BUSINESS PROJECT. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE QUALIFIED BUSINESS PROJECT INCOME ALLOCATED WITHIN THE STATE TO THE COMBINED GROUP'S INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE PORTION OF THE COMBINED GROUP'S TAX ATTRIBUTABLE TO THE INCOME OF THE QUALIFIED BUSINESS PROJECT. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

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

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

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

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

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

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

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

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

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

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

ALS INTO WARES SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR NEW COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH SOME ARTIFICIAL PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND OTHER SIMILAR EQUIPMENT. PROPERTY USED IN THE PRODUCTION OF GOODS SHALL INCLUDE MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY WHICH IS PRINCIPALLY USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION OF GOODS AND SHALL INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERATION, INCLUDING STORAGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE PRODUCTS THAT ARE PRODUCED. FOR PURPOSES OF THIS PARAGRAPH, THE TERMS "RESEARCH AND DEVELOPMENT PROPERTY" SHALL HAVE THE MEANINGS ASCRIBED THERETO BY CLAUSE (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER, AND THE PROVISIONS OF SUBPARAGRAPH (III) OF SUCH PARAGRAPH (B) SHALL APPLY.

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

4. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, MAY ELECT, ON ITS REPORT FOR ITS TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS ALLOWED, TO TREAT FIFTY PERCENT OF THE AMOUNT OF SUCH CARRYOVER AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, SUCH OWNER SHALL BE ALLOWED SUCH REFUND FOR A MAXIMUM OF TEN TAXABLE YEARS WITH RESPECT TO SUCH QUALIFIED INVESTMENT PROJECT AND EACH SIGNIFICANT CAPITAL INVESTMENT PROJECT, STARTING WITH THE FIRST TAXABLE YEAR IN WHICH PROPERTY COMPRISING SUCH PROJECT IS PLACED IN SERVICE. PROVIDED, FURTHER, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

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

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

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

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

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

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

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

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

2. AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR FIFTEEN PER CENTUM OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF RESEARCH AND DEVELOPMENT PROPERTY AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER THAT IS ACQUIRED BY THE TAXPAYER BY PURCHASE AS DEFINED IN SECTION 179(D) OF THE INTERNAL REVENUE CODE AND PLACED IN SERVICE DURING THE TAXABLE YEAR. PROVIDED, HOWEVER, FOR THE PURPOSES OF THIS SUBDIVISION ONLY, AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR SUCH PERCENTAGE OF THE (A) COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES FOR PROPERTY USED IN THE TESTING OR INSPECTION OF MATERIALS AND PRODUCTS, (B) THE COSTS OR EXPENSES ASSOCIATED WITH QUALITY CONTROL OF THE RESEARCH AND DEVELOPMENT, (C) FEES FOR USE OF SOPHISTICATED TECHNOLOGY FACILITIES AND PROCESSES, (D) FEES FOR THE PRODUCTION OR EVENTUAL COMMERCIAL DISTRIBUTION OF MATERIALS AND PRODUCTS RESULTING FROM THE ACTIVITIES OF AN ELIGIBLE TAXPAYER AS LONG AS SUCH ACTIVITIES FALL UNDER THE ACTIVITIES LISTED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW. THE COSTS, EXPENSES AND OTHER AMOUNTS FOR WHICH A CREDIT IS ALLOWED AND CLAIMED UNDER THIS SUBDIVISION SHALL NOT BE USED IN THE CALCULATION OF ANY OTHER CREDIT ALLOWED UNDER THIS ARTICLE.

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

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

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

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

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

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

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

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

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

SUCH NOTICE TO THE AFFECTED TAX JURISDICTIONS SHALL BE GIVEN TO THE CHIEF EXECUTIVE OFFICER OF EACH AFFECTED TAX JURISDICTION AT LEAST THIRTY DAYS PRIOR TO THE MEETING OF THE AGENCY AT WHICH THE AGENCY SHALL CONSIDER WHETHER TO APPROVE SUCH PROPOSED DEVIATION. PRIOR TO TAKING FINAL ACTION AT SAID MEETING, THE AGENCY SHALL REVIEW AND RESPOND TO ANY CORRESPONDENCE RECEIVED FROM ANY AFFECTED TAX JURISDICTION REGARDING SUCH PROPOSED DEVIATION. THE AGENCY SHALL ALLOW ANY REPRESENTATIVE OF AN AFFECTED TAX JURISDICTION PRESENT AT SUCH MEETING TO ADDRESS THE AGENCY REGARDING SUCH PROPOSED DEVIATION.

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

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

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

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

(13) "CIVIC FACILITY" - SHALL MEAN ANY FACILITY WHICH SHALL BE OWNED OR OCCUPIED BY A NOT-FOR-PROFIT CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THIS STATE OR AUTHORIZED TO CONDUCT ACTIVITIES IN THIS STATE. SUCH FACILITIES SHALL NOT INCLUDE CONVENTION CENTERS, HOUSING FACILITIES, DORMITORIES FOR EDUCATIONAL INSTITUTIONS OR ROADS, BUILDINGS, WATER SYSTEMS, SEWER SYSTEMS, OR ANY PUBLIC FACILITY FOR USE BY A MUNICIPALITY IN THE PERFORMANCE OF ITS GOVERNMENTAL FUNCTIONS OR MEDICAL FACILITIES WHICH ARE PREDOMINANTLY USED FOR THE DELIVERY OF MEDICAL SERVICES, EXCEPT THAT SUCH FACILITIES SHALL INCLUDE REHABILITATION CENTERS AND HOSPICES. NOTWITHSTANDING THE LIMITATIONS CONTAINED IN THE PRECEDING SENTENCE, A CIVIC FACILITY PROJECT MAY INCLUDE: (A) DORMITORIES FOR EDUCATIONAL INSTITUTIONS; (B) FACILITIES AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW; AND (C) HOUSING FACILITIES PRIMARILY DESIGNED TO BE OCCUPIED BY INDIVIDUALS SIXTY YEARS OF AGE OR OLDER. NOTHING IN THIS ARTICLE SHALL BE DEEMED TO WAIVE ANY APPLICABLE REQUIREMENT FOR AN OPERATING FACILITY CERTIFICATE, CONSENT OR ANY OTHER APPROVAL AS PROVIDED BY LAW.

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

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

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

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

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

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

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

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

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

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

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

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

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

NO FUNDS OF THE AUTHORITY SHALL BE USED FOR THE PURPOSE OF PREVENTING THE ESTABLISHMENT OF AN INDUSTRIAL OR MANUFACTURING PLANT, NOR SHALL ANY FINANCIAL ASSISTANCE OF THE AUTHORITY BE GIVEN TO ANY GROUP OR ORGANIZATION WHICH IS ATTEMPTING TO PREVENT THE ESTABLISHMENT OF AN INDUSTRIAL OR MANUFACTURING PLANT WITHIN THIS STATE NOR SHALL SUCH FINANCIAL ASSISTANCE BY USED FOR ADVERTISING OR PROMOTIONAL MATERIALS WHICH DEPICT ELECTED OR APPOINTED GOVERNMENTAL OFFICIALS IN EITHER PRINT OR ELECTRONIC MEDIA. To carry out said purpose, the authority shall have power:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To acquire, hold and dispose of personal property for its corporate purpose;

4. To acquire by purchase, grant, lease, gift, condemnation, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the authority shall determine. With respect to real property conveyed to it by the city, however, such power of disposition shall be limited as hereinafter provided in section twenty-three hundred ten of this title;

5. To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of the project.

6. With the consent of the city, to use agents, employees and facilities of the city, paying the city its agreed proportion of the compensation or costs.

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the authority, subject, however, to the provisions of the civil service law hereinafter provided in section twenty-three hundred eight of this title;

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

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

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

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

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

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

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

15. To establish and reestablish its fiscal year; and

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

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

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

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

S 21. 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, as amended by chapter 381 of the laws of 2007, is amended to read as follows:

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

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

ARTICLE 11-B

HIGH TECH MARKETING PROGRAM

SECTION 239-A. DEFINITIONS.
239-B. APPLICATION.
239-C. USE OF FUNDS.
239-D. ADVISORY COMMITTEE.
239-E. REPORTING REQUIREMENTS.

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

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

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

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

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

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

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

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

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

(C) DEVELOPMENT OF TARGETED INDUSTRY COLLATERAL MATERIAL.

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

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

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

(G) ADVERTISING IN INFLUENTIAL TRADE AND OTHER PUBLICATIONS.

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

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

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

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

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

(I) THE CORPORATION EXISTS IN LEGAL FORM.

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

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

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

(I) NO SUCH MATCHING FUNDS SHALL EXCEED THE SUM OF FIVE HUNDRED THOUSAND DOLLARS;

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

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

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

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

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

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

S 239-E. REPORTING REQUIREMENTS. 1. EACH REGIONAL BUSINESS MARKETING CORPORATION SHALL PROVIDE AN ANNUAL FINANCIAL STATEMENT PREPARED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES TO THE WINNING APPLICANT, THE COMMISSIONER, THE SPEAKER OF THE ASSEMBLY, AND THE TEMPORARY PRESIDENT OF THE SENATE.

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

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

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

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

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

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

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

4. FUNDING FROM THE NEW TECHNOLOGY SEED FUND MAY BE MADE AVAILABLE TO THE APPLICANT FOR APPLICATION TO ELIGIBLE COSTS INCURRED, OR TO BE INCURRED, BY THE BENEFICIARY COMPANY WITH RESPECT TO APPLICABLE OPERATIONS IN THE STATE, INCLUDING THE COST OF PURCHASING EQUIPMENT, SUPPLIES, COSTS RELATED TO THE USE OF LABORATORIES OR CLEAN ROOMS, PROTOTYPE DESIGN COSTS, MANUFACTURING COSTS, WAGES AND RELATED EMPLOYEE COSTS WITH RESPECT TO EMPLOYEES INVOLVED IN RESEARCH AND DEVELOPMENT AND SUCH OTHER COSTS DEEMED APPROPRIATE BY THE CORPORATION. ELIGIBLE COSTS SHALL NOT INCLUDE GENERAL OVERHEAD COSTS OF THE APPLICANT OR BENEFICIARY COMPANY, LEGAL COSTS OR OTHER COSTS DEEMED INAPPROPRIATE BY THE CORPORATION.

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

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

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

8. THE CORPORATION SHALL SUBMIT A REPORT TO THE DIRECTOR OF THE BUDGET, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY CONSISTENT WITH SECTION TWENTY-NINE HUNDRED TWENTY-FIVE OF THE PUBLIC AUTHORITIES LAW.

9. THE CORPORATION IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT AS ARE NECESSARY TO FULFILL THE PURPOSES OF THIS SECTION.

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

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

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

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

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

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

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

(iii) fees for use of sophisticated technology facilities and processes,

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

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

(d) An eligible taxpayer shall be allowed a credit for [nine] FIFTEEN per centum of "qualified research expenses" paid or incurred by the taxpayer in the taxable year. "Qualified research expenses" shall mean expenses associated with in-house research and processes, and costs associated with the dissemination of the results of the products that directly result from such research and development activities; provided, however, that such costs shall not include advertising or promotion through media. In addition, costs associated with the preparation of patent applications, patent application filing fees, patent research fees, patent examinations fees, patent post allowance fees, patent maintenance fees, and grant application expenses and fees shall be eligible for such credit. In no case shall the credit allowed under this paragraph apply to expenses for litigation or the challenge of another entity's intellectual property rights, or for contract expenses involving outside paid consultants.

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

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

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

(iii) Qualified high-technology training expenditures shall include expenses for tuition and mandatory fees, software required by the institution, fees for textbooks or other literature required by the institution offering the course or courses, minus applicable scholarships and tuition or fee waivers not granted by the taxpayer or any affiliates of the taxpayer, that are paid or reimbursed by the taxpayer. Qualified high-technology expenditures do not include room and board, computer hardware or software not specifically assigned for such course or courses, late-charges, fines or membership dues and similar expenses. Such qualified expenditures shall not be eligible for the credit provided by

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

(iv) If a taxpayer relocates from an academic business incubator facility partnered with an accredited post-secondary education institution located within New York state, which provides space and business support services to taxpayers, to another site, the credit provided in this section shall be allowed for all expenditures referenced in subparagraph (iii) of this paragraph paid or incurred in the two preceding taxable years that the taxpayer was located in such an incubator facility for employees of the taxpayer who also relocate from said incubator facility to such New York site and are employed and primarily located by the taxpayer in New York. Such expenditures in the two preceding years shall be added to the amounts otherwise qualifying for the credit provided by this subdivision that were paid or incurred in the taxable year that the taxpayer relocates from such a facility. Such expenditures shall include expenses paid for an eligible employee who is a full-time, full-year employee of said taxpayer during the taxable year that the taxpayer relocated from an incubator facility notwithstanding (i) that such employee was employed full or part-time as an officer, staff-person or paid intern of the taxpayer when such taxpayer was located at such incubator facility or (ii) that such employee was not continuously employed when such taxpayer was located at the incubator facility during the one hundred eighty day period referred to in subparagraph (iii) of this paragraph, provided such employee received wages or equivalent income for at least seven hundred fifty hours during any twenty-four month period when the taxpayer was located at the incubator facility. Such expenditures shall include payments made to such employee after the taxpayer has relocated from the incubator facility for qualified expenditures if such payments are made to reimburse an employee for expenditures paid by the employee during such two preceding years. The credit provided under this subparagraph shall be allowed in any taxable year that the taxpayer qualifies as an eligible taxpayer.

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

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

but not limited to, business planning, management assistance, financial-packaging, linkages to financing services, and coordinating with other sources of assistance.

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

(g) The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the higher of the amounts prescribed in paragraphs (c) and (d) of subdivision one of this section. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section ten hundred eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section ten hundred eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

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

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

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

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

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

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

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

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

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

(iii) fees for use of sophisticated technology facilities and processes, and

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

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

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

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

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

(b) Qualified high-technology training shall include a course or courses taken and satisfactorily completed by an employee of the taxpayer at an accredited, degree granting post-secondary college or university in New York state that

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

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

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

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

(d) If a taxpayer relocates from an academic business incubator facility partnered with an accredited post-secondary education institution located within New York state, which provides space and business support services to taxpayers, to another site, the credit provided in this subsection shall be allowed for all expenditures referenced in subparagraph (c) of this paragraph paid or incurred in the two preceding taxable years that the taxpayer was located in such an incubator facility for employees of the taxpayer who also relocate from said incubator facility to such New York site and are employed and primarily located by the taxpayer in New York. Such expenditures in the two preceding years shall be added to the amounts otherwise qualifying for the credit provided by this subsection that were paid or incurred in the taxable year that the taxpayer relocated from such a facility. Such expenditures shall include expenses paid or incurred for an eligible employee who is a full-time, full-year employee of said taxpayer during the taxable year that the taxpayer relocated from an incubator facility notwithstanding (i) that such employee was employed full or part-time as an officer, staff-person or paid intern of the taxpayer when such taxpayer was located at such incubator facility or (ii) that such employee was not continuously employed when such taxpayer was located at the incubator facility during the one hundred eighty day period referenced in subparagraph (c) of this paragraph, provided such employee received wages or equivalent income for at least seven hundred fifty hours during any twenty-four month period when the taxpayer was located at the incubator facility. Such expenditures shall include payments made to such an employee after the taxpayer has relocated from the incubator facility for qualified expenditures if such payments are made to reimburse such an employee for qualified expenditures paid by the employee during such two preceding years. The credit provided under this subparagraph shall be allowed, in any year that said taxpayer qualifies as an eligible taxpayer.

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

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

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

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

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

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

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

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

IT IS FURTHER FOUND AND DECLARED THAT SOUND DEVELOPMENT AND REDEVELOPMENT OF BLIGHTED AREAS INCREASES PUBLIC SCHOOL ENROLLMENT BY PROVIDING AFFORDABLE HOUSING AND EMPLOYMENT OPPORTUNITIES AND THE NEED FOR EXPANDED PUBLIC EDUCATION FACILITIES AND SERVICES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) A municipal redevelopment authority shall be a corporate governmental agency constituting a public benefit corporation. Except as otherwise provided by special act of the legislature, an authority shall consist of not less than five nor more than nine members. Membership shall be apportioned among the municipalities AND SCHOOL DISTRICTS, and the manner of selection of a chairman determined by an [intermunicipal] agreement approved by local law by each such municipality, AND BY RESOLUTION OF THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT. Members shall serve at the pleasure of the appointing authority, and each member shall continue to hold office until his successor is appointed and has qualified. The [governing] LEGISLATIVE body shall file with the secretary of state a certificate of appointment or reappointment of any member appointed or reappointed by it. Members shall receive no compensation for their services but shall be entitled to reimbursement of the necessary expenses, including traveling expenses, incurred in the discharge of their duties. No action shall be taken by an authority except pursuant to the favorable vote of a majority of the members then in office. Any one or more of the members of an authority may be an official or an employee of such municipality. In the event that an official or an employee of such municipality shall be appointed as a member of the agency, acceptance or retention of such appointment shall not be deemed a forfeiture of his OR HER municipal office or employment, or incompat-

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

(iii) Unless otherwise provided by this subdivision or by the special act of the legislature establishing a municipal redevelopment authority or empowering an existing public corporation to carry out the purposes and provisions of this article, such authority or public corporation shall have the powers, duties and responsibilities granted a municipality AND SCHOOL DISTRICT and its legislative body pursuant to sections nine hundred [sixty-d] SEVENTY-D through nine hundred [sixty-m] SEVENTY-M of this article, as well as the authority to receive the taxes of each municipality AND SCHOOL DISTRICT allocated and paid pursuant to section nine hundred [sixty-p] SEVENTY-P of this article. Such authority or public corporation shall have the power to designate survey areas and select project areas as provided by sections nine hundred [sixty-d] SEVENTY-D and nine hundred [sixty-e] SEVENTY-E of this article. Such authority or public corporation shall obtain the report and recommendation of the planning agency of each municipality OR SCHOOL DISTRICT on the redevelopment plan and its conformity to the master plan of each municipality AND SCHOOL DISTRICT before presenting the redevelopment plan to the legislative body of each municipality OR SCHOOL DISTRICT. In order for a preliminary plan to be adopted or for a redevelopment plan to be adopted or amended approval must be obtained by resolution of the legislative body of each municipality AND SCHOOL DISTRICT acting separately.

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

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

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

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

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

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

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

(i) acquisition AND ASSEMBLAGE of land INCLUDING ENVIRONMENTAL REMEDIATION AND BROWNFIELD REDEVELOPMENT AUTHORIZED IN THE ENVIRONMENTAL CONSERVATION LAW;

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

(iii) installation, construction or reconstruction of streets, walkways, docks, drainage, parking facilities, flood control facilities, water and sewer systems and other [public] utilities, parks and playgrounds;

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

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

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

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

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

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

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

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

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

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

(iii) whenever the total amount of real property taxes allocated pursuant to paragraph (ii) of this subdivision exceeds the amounts allocated and paid for interest and principal and necessary reserves, and for amounts to be paid in lieu of taxes, the amount of taxes in excess of such amounts shall be paid into the funds of the respective municipalities as taxes on all other real property are paid;

(iv) the allocation of taxes authorized by this section (1) shall apply to taxable years beginning after the effective date of the resolution approving the redevelopment plan, AND

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

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

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

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

[(d)] (C) The rate of tax resulting from the levy of real property taxes shall be applied to the assessed value of any real property subject to the allocation provisions of this section as determined pursuant to subdivision (a) of this section, however, the amount of tax levied as a result of the application of the tax rate to the increase in assessed value determined in accordance with paragraph (ii) of subdivision (a) of this section shall not be paid into the fund of the municipality OR THE SCHOOL DISTRICT as real property taxes but shall be allocated pursuant to that paragraph.

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

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

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

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

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

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

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

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

S 39. This act shall take effect immediately.