

S. 243

A. 330

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2009

IN SENATE -- Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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

AN ACT to amend the tax law, in relation to providing a re-entry employment incentive tax credit; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Section 210 of the tax law is amended by adding a new
2 subdivision 41 to read as follows:
3 41. RE-ENTRY EMPLOYMENT INCENTIVE TAX CREDIT. (A) A TAXPAYER SHALL BE
4 ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE
5 TAX IMPOSED BY THIS ARTICLE IN THE AMOUNT PRESCRIBED BY THIS SUBDIVISION
6 WHERE SUCH TAXPAYER EMPLOYS ONE OR MORE QUALIFYING INDIVIDUALS DESIGNATED PURSUANT TO SUBDIVISION (A) OF SECTION FOUR OF THE CHAPTER OF THE
7 LAWS OF TWO THOUSAND NINE THAT ADDED THIS SUBDIVISION.
8 (B) THE AMOUNT OF THE CREDIT SHALL BE AS FOLLOWS FOR EACH QUALIFYING
9 INDIVIDUAL EMPLOYED BY THE TAXPAYER:
10 (I) FIFTY PERCENT OF THE QUALIFIED WAGES IN THE FIRST YEAR OF EMPLOYMENT;
11 MENT;
12 MENT;
13 (II) FORTY PERCENT OF QUALIFIED WAGES IN THE SECOND YEAR OF EMPLOYMENT;
14 MENT; AND
15 (III) THIRTY PERCENT OF QUALIFIED WAGES IN THE THIRD YEAR OF EMPLOYMENT.
16 MENT.
17 (C) FOR THE PURPOSES OF THIS SUBDIVISION, "QUALIFYING INDIVIDUAL"
18 SHALL MEAN AN INDIVIDUAL HIRED BY A TAXPAYER ON OR AFTER JANUARY FIRST,
19 TWO THOUSAND TEN WHO:

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

LBD00071-01-9

(I) HAS BEEN CONVICTED OF A FELONY IN THIS STATE IN THE LAST FIVE YEARS, HAS BEEN RELEASED FROM A CORRECTIONAL FACILITY AS DEFINED IN SUBDIVISION FOUR OF SECTION TWO OF THE CORRECTION LAW IN THE LAST FIVE YEARS OR IS SERVING A PERIOD OF POST-RELEASE SUPERVISION, PAROLE OR PROBATION FOR THE CONVICTION OF A FELONY, PROVIDED THAT AN INDIVIDUAL SHALL BE CONSIDERED A QUALIFIED INDIVIDUAL FOR EACH OF THE FIRST FOUR YEARS OF EMPLOYMENT IF HIRED BY THE TAXPAYER WITHIN THE TIME PERIOD SPECIFIED IN THIS SUBPARAGRAPH;

(II) RESIDES IN THIS STATE;

(III) RECEIVES WAGES WHICH ARE AT LEAST ONE HUNDRED FORTY PERCENT OF THE NEW YORK STATE MINIMUM WAGE; AND

(IV) RECEIVES QUALIFIED WAGES FOR AT LEAST THREE CONTINUOUS MONTHS FROM THE TAXPAYER DURING THE TAXABLE YEAR.

(D) FOR THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED WAGES" SHALL MEAN WAGES PAID OR INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR TO THE QUALIFIED INDIVIDUAL, PROVIDED THAT THE AMOUNT OF QUALIFIED WAGES WHICH MAY BE TAKEN INTO ACCOUNT WHEN CALCULATING THE CREDIT PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED TEN THOUSAND DOLLARS PER YEAR.

(E) NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY, THE CREDIT AND CARRYOVER OF SUCH CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEARS SHALL NOT, IN THE AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION, ANY AMOUNT OF CREDIT OR CARRYOVER OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS. IN ADDITION, THE AMOUNT OF SUCH CREDIT, AND CARRYOVERS OF SUCH CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE MAY NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER SECTION TWO HUNDRED NINE OF THIS ARTICLE COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED BY THIS SECTION.

S 2. Section 606 of the tax law is amended by adding a new subsection (k-1) to read as follows:

(K-1) RE-ENTRY EMPLOYMENT INCENTIVE TAX CREDIT. (A) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE IN THE AMOUNT PRESCRIBED BY THIS SUBSECTION WHERE SUCH TAXPAYER EMPLOYS ONE OR MORE QUALIFYING INDIVIDUALS DESIGNATED PURSUANT TO SUBDIVISION (A) OF SECTION FOUR OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS SUBSECTION.

(B) THE AMOUNT OF THE CREDIT SHALL BE AS FOLLOWS FOR EACH QUALIFYING INDIVIDUAL EMPLOYED BY THE TAXPAYER:

(I) FIFTY PERCENT OF THE QUALIFIED WAGES IN THE FIRST YEAR OF EMPLOYMENT;

(II) FORTY PERCENT OF QUALIFIED WAGES IN THE SECOND YEAR OF EMPLOYMENT; AND

(III) THIRTY PERCENT OF QUALIFIED WAGES IN THE THIRD YEAR OF EMPLOYMENT.

(C) FOR THE PURPOSES OF THIS SUBSECTION, "QUALIFYING INDIVIDUAL" SHALL MEAN AN INDIVIDUAL HIRED BY A TAXPAYER ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN WHO:

(I) HAS BEEN CONVICTED OF A FELONY IN THIS STATE IN THE LAST FIVE YEARS, HAS BEEN RELEASED FROM A CORRECTIONAL FACILITY AS DEFINED IN SUBDIVISION FOUR OF SECTION TWO OF THE CORRECTION LAW IN THE LAST FIVE YEARS OR IS SERVING A PERIOD OF POST-RELEASE SUPERVISION, PAROLE OR PROBATION FOR THE CONVICTION OF A FELONY, PROVIDED THAT AN INDIVIDUAL SHALL BE CONSIDERED A QUALIFIED INDIVIDUAL FOR EACH OF THE FIRST FOUR

1 YEARS OF EMPLOYMENT IF HIRED BY THE TAXPAYER WITHIN THE TIME PERIOD
2 SPECIFIED IN THIS SUBPARAGRAPH;
3 (II) RESIDES IN THIS STATE;
4 (III) RECEIVES WAGES WHICH ARE AT LEAST ONE HUNDRED FORTY PERCENT OF
5 THE NEW YORK STATE MINIMUM WAGE; AND
6 (IV) RECEIVES QUALIFIED WAGES FOR AT LEAST THREE CONTINUOUS MONTHS
7 FROM THE TAXPAYER DURING THE TAXABLE YEAR.
8 (D) FOR THE PURPOSES OF THIS SUBSECTION, "QUALIFIED WAGES" SHALL MEAN
9 WAGES PAID OR INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR TO THE
10 QUALIFIED INDIVIDUAL, PROVIDED THAT THE AMOUNT OF QUALIFIED WAGES WHICH
11 MAY BE TAKEN INTO ACCOUNT WHEN CALCULATING THE CREDIT PURSUANT TO THIS
12 SUBSECTION SHALL NOT EXCEED TEN THOUSAND DOLLARS PER YEAR.
13 (E) NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY, IF THE AMOUNT OF
14 THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS SUBSECTION
15 FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, ANY
16 AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN
17 SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND
18 MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS. IN ADDITION, THE
19 AMOUNT OF SUCH CREDIT, AND CARRYOVERS OF SUCH CREDIT TO THE TAXABLE
20 YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE MAY NOT, IN THE AGGREGATE,
21 EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER SECTION SIX HUNDRED ONE OF
22 THIS PART COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED FOR BY THIS
23 SECTION.
24 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
25 of the tax law, as amended by section 2 of part ZZ-1 of chapter 57 of
26 the laws of 2008, is amended to read as follows:
27 (B) shall be treated as the owner of a new business with respect to
28 such share if the corporation qualifies as a new business pursuant to
29 paragraph (j) of subdivision twelve of section two hundred ten of this
30 chapter.

31		The corporation's credit base under
32		section two hundred ten or section
33	With respect to the following	fourteen hundred fifty-six of this
34	credit under this section:	chapter is:
35	Investment tax credit	Investment credit base
36	under subsection (a)	or qualified
37		rehabilitation
38		expenditures under
39		subdivision twelve of
40		section two hundred ten
41	Empire zone	Cost or other basis
42	investment tax credit	under subdivision
43	under subsection (j)	twelve-B
44		of section two hundred
45		ten
46	Empire zone	Eligible wages under
47	wage tax credit	subdivision nineteen of
48	under subsection (k)	section two hundred ten
49		or subsection (e) of
50		section fourteen hundred
51		fifty-six

1	Empire zone	Qualified investments
2	capital tax credit	and contributions under
3	under subsection (l)	subdivision twenty of
4		section two hundred ten
5		or subsection (d) of
6		section fourteen hundred
7		fifty-six
8	Agricultural property tax	Allowable school
9	credit under subsection (n)	district property taxes under
10		subdivision twenty-two of
11		section two hundred ten
12	Credit for employment	Qualified first-year wages or
13	of persons with dis-	qualified second-year wages
14	abilities under	under subdivision
15	subsection (o)	twenty-three of section
16		two hundred ten
17		or subsection (f)
18		of section fourteen
19		hundred fifty-six
20	Employment incentive	Applicable investment credit
21	credit under subsec-	base under subdivision
22	tion (a-1)	twelve-D of section two
23		hundred ten
24	Empire zone	Applicable investment
25	employment	credit under sub-
26	incentive credit under	division twelve-C
27	subsection (j-1)	of section two hundred ten
28	Alternative fuels credit	Cost under subdivision
29	under subsection (p)	twenty-four of section two
30		hundred ten
31	Qualified emerging	Applicable credit base
32	technology company	under subdivision twelve-E
33	employment credit	of section two hundred ten
34	under subsection (q)	
35	Qualified emerging	Qualified investments under
36	technology company	subdivision twelve-F of
37	capital tax credit	section two hundred ten
38	under subsection (r)	
39	Credit for purchase of an	Cost of an automated
40	automated external defibrillator	external defibrillator under
41	under subsection (s)	subdivision twenty-five of
42		section two hundred ten
43		or subsection (j) of section
44		fourteen hundred fifty-six
45	Low-income housing	Credit amount under
46	credit under subsection (x)	subdivision thirty
47		of section two hundred ten or

1		subsection (l) of section
2		fourteen hundred fifty-six
3	Credit for transportation	Amount of credit under sub-
4	improvement contributions	division thirty-two of section
5	under subsection (z)	two hundred ten or subsection
6		(n) of section fourteen
7		hundred fifty-six
8	QEZE credit for real property	Amount of credit under
9	taxes under subsection (bb)	subdivision twenty-seven of
10		section two hundred ten or
11		subsection (o) of section
12		fourteen hundred fifty-six
13	QEZE tax reduction credit	Amount of benefit period
14	under subsection (cc)	factor, employment increase factor
15		and zone allocation
16		factor (without regard
17		to pro ration) under
18		subdivision twenty-eight of
19		section two hundred ten or
20		subsection (p) of section
21		fourteen hundred fifty-six
22		and amount of tax factor
23		as determined under
24		subdivision (f) of section sixteen
25	Green building credit	Amount of green building credit
26	under subsection (y)	under subdivision thirty-one
27		of section two hundred ten
28		or subsection (m) of section
29		fourteen hundred fifty-six
30	Credit for long-term	Qualified costs under
31	care insurance premiums	subdivision twenty-five-a of
32	under subsection (aa)	section two hundred ten
33		or subsection (k) of section
34		fourteen hundred fifty-six
35	Brownfield redevelopment	Amount of credit
36	credit under subsection	under subdivision
37	(dd)	thirty-three of section
38		two hundred ten
39		or subsection (q) of
40		section fourteen hundred
41		fifty-six
42	Remediated brownfield	Amount of credit under
43	credit for real property	subdivision thirty-four
44	taxes for qualified	of section two hundred
45	sites under subsection	ten or subsection (r) of
46	(ee)	section fourteen hundred
47		fifty-six

1	Environmental	Amount of credit under
2	remediation	subdivision thirty-five of
3	insurance credit under	section two hundred
4	subsection (ff)	ten or subsection
5		(s) of section
6		fourteen hundred
7		fifty-six
8	Empire state film production	Amount of credit for qualified
9	credit under subsection (gg)	production costs in production
10		of a qualified film under
11		subdivision thirty-six of
12		section two hundred ten
13	Qualified emerging	Qualifying expenditures and
14	technology company facilities,	development activities under
15	operations and training credit	subdivision twelve-G of section
16	under subsection (nn)	two hundred ten
17	Security training tax	Amount of credit
18	credit under	under subdivision thirty-seven
19	subsection (ii)	of section two hundred ten or
20		under subsection (t) of
21		section fourteen hundred fifty-six
22	Credit for qualified fuel	Amount of credit under
23	cell electric generating equipment	subdivision thirty-seven
24	expenditures under subsection (g-2)	of section two hundred ten
25		or subsection (t) of
26		section fourteen hundred
27		fifty-six
28	Empire state commercial production	Amount of credit for qualified
29	credit under subsection (jj)	production costs in production
30		of a qualified commercial under
31		subdivision thirty-eight of sec-
32		tion two hundred ten
33	Biofuel production	Amount of credit
34	tax credit under	under subdivision
35	subsection (jj)	thirty-eight of
36		section two hundred ten
37	RE-ENTRY EMPLOYMENT INCENTIVE	AMOUNT OF CREDIT
38	TAX CREDIT UNDER SUBSECTION	UNDER SUBDIVISION
39	(K-1)	FORTY-ONE OF SECTION
40		TWO HUNDRED TEN
41	Clean heating fuel credit	Amount of credit under
42	under subsection (mm)	subdivision thirty-nine of
43		section two hundred ten
44	Credit for rehabilitation	Amount of credit under
45	of historic properties	subdivision forty of
46	under subsection (oo)	subsection two hundred ten

1 Credit for companies who
2 provide transportation
3 to individuals
4 with disabilities
5 under subsection (oo)

Amount of credit under
subdivision forty of
section two hundred ten

6 S 4. Re-entry employment incentive tax credit pilot project. (a)
7 Notwithstanding any inconsistent provision of law, the commissioner of
8 labor, or his or her designee, shall, before January 1, 2010, consult
9 with The Fortune Society to identify and designate 100 formerly incar-
10 cerated qualified individuals, as such term is defined in paragraph (c)
11 of subdivision 41 of section 210 of the tax law, to participate in the
12 pilot project established by this section for a period of three years
13 beginning on January 1, 2010. A taxpayer that employs one or more such
14 designated qualified individuals on or after January 1, 2010 shall be
15 allowed a credit, against the tax imposed by article 9-A or article 22
16 of the tax law in the amount prescribed by subdivision 41 of section 210
17 of the tax law or subsection (k-1) of section 606 of the tax law as
18 applicable. The commissioner of labor and the commissioner of taxation
19 and finance shall promulgate all necessary rules and regulations to
20 implement the re-entry employment incentive tax credit pilot project
21 established by this section.

22 (b) Further, the commissioner of labor, in consultation with the
23 Center for NuLeadership on Urban Solutions at Medgar Evers College at
24 the City University of New York, shall produce a report on the effec-
25 tiveness of the pilot project established by this act in creating
26 employment opportunities for persons with criminal convictions. Such
27 report shall be submitted to the governor, temporary president of the
28 senate, speaker of the assembly and the chairpersons of the senate crime
29 victims, crime and correction committee, assembly correction committee,
30 senate codes committee, assembly codes committee, senate finance commit-
31 tee and assembly ways and means committee on or before March 31, 2013.

32 S 5. This act shall take effect immediately; provided, however, that
33 the credits established by sections one, two and three of this act shall
34 apply to the taxable years beginning on or after January 1, 2010 and
35 ending not later than December 31, 2012; provided further that sections
36 one, two and three of this act shall expire, and subdivision (a) of
37 section four of this act shall expire and be deemed repealed December
38 31, 2012, provided, further, that subdivision (b) of section four of
39 this act shall expire and be deemed repealed March 31, 2013; provided,
40 further, that the empire state film production credit under subsection
41 (gg), the empire state commercial production credit under subsection
42 (jj) and the credit for companies who provide transportation to individ-
43 uals with disabilities under subsection (oo) of section 606 of the tax
44 law contained in section three of this act shall expire on the same date
45 as provided in section 9 of part P of chapter 60 of the laws of 2004, as
46 amended, section 10 of part V of chapter 62 of the laws of 2006, as
47 amended and section 5 of chapter 522 of the laws of 2006, as amended,
48 respectively.