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

565

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

Introduced by Sen. LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the environmental conservation law, the tax law and the general municipal law, in relation to eligibility for participation in the brownfield cleanup program, and assignment of the brownfield redevelopment tax credits; to amend part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, in relation to tax credits for certain sites; to amend the public authorities law and the environmental conservation law, in relation to the environmental restoration program; and making an appropriation therefor

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

Section 1. The opening paragraph and paragraph (a) of subdivision 2 of section 27-1405 of the environmental conservation law, as amended by section 2 of part A of chapter 577 of the laws of 2004, are amended and two new subdivisions 29 and 30 are added to read as follows:

"Brownfield site" or "site" shall mean any real property[, the redevelopment or reuse of which may be complicated by the presence or potential presence of] WHERE a contaminant IS PRESENT AT LEVELS EXCEEDING THE SOIL CLEANUP OBJECTIVES THAT ARE APPLICABLE BASED ON THE REASONABLY ANTICIPATED USE OF THE PROPERTY. Such term shall not include real property:

(a) listed in the registry of inactive hazardous waste disposal sites under section 27-1305 of this article at the time of application to this program and given a classification as described in subparagraph one or two of paragraph b of subdivision two of section 27-1305 of this article; provided, however [except until July first, two thousand five],

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

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real property listed in the registry of inactive hazardous waste disposal sites under subparagraph two of paragraph b of subdivision two of section 27-1305 of this article [prior to the effective date of this article], where such real property is owned by a volunteer shall not be deemed ineligible to participate and further provided that the status of any such site as listed in the registry shall not be altered prior to the issuance of a certificate of completion pursuant to section 27-1419 of this title. THE DEPARTMENT'S ASSESSMENT OF ELIGIBILITY UNDER THIS PARAGRAPH SHALL NOT CONSTITUTE A FINDING CONCERNING LIABILITY WITH RESPECT TO THE PROPERTY;

29. "UNDERUTILIZED" SHALL MEAN THE BROWNFIELD SITE AND ANY IMPROVEMENTS:

(A) ON WHICH A BUILDING OR BUILDINGS CONTAINING NO MORE THAN FIFTY PERCENT OF THE PERMISSIBLE FLOOR AREA UNDER APPLICABLE ZONING IS BEING UTILIZED; OR

(B) HAS A VALUE OF EQUAL TO OR LESS THAN SEVENTY PERCENT OF THE AVERAGE VALUATION OF LAND IN THE COUNTY OR CITY IN WHICH THE LAND IS LOCATED, EXCEPT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS WHERE THE AVERAGE VALUATION SHALL BE BASED ON THE COUNTY IN WHICH THE LAND IS LOCATED; OR

(C) HAS BEEN CERTIFIED BY THE MUNICIPALITY IN WHICH THE SITE IS LOCATED AS UNDERUTILIZED PURSUANT TO THE CRITERIA IN THIS SUBDIVISION.

30. "FUNCTIONALLY OBSOLESCENT" SHALL MEAN THE BROWNFIELD SITE AND ANY IMPROVEMENTS THEREON THAT:

(A) CAN NO LONGER BE FUNCTIONALLY OR ECONOMICALLY UTILIZED IN THE CAPACITY IN WHICH IT WAS FORMERLY UTILIZED BECAUSE OF:

(I) THE CONFIGURATION OF THE BUILDING; OR

(II) SUBSTANTIAL STRUCTURAL DEFECTS NOT BROUGHT ABOUT BY DEFERRED MAINTENANCE PRACTICES OR INTENTIONAL CONDUCT; OR

(B) THE ENTIRE SITE OR A SIGNIFICANT PORTION THEREOF, WITH OR WITHOUT IMPROVEMENTS IS USED IRREGULARLY OR INTERMITTENTLY; OR

(C) THE FUNCTIONALITY OF THE EQUIPMENT INSIDE THE BUILDING OR BUILDINGS IS OBSOLETE FOR A MODERN DAY APPLICATION.

S 2. Section 27-1407 of the environmental conservation law is amended by adding a new subdivision 1-a to read as follows:

1-A. FOR THOSE SITES FOR WHICH THE APPLICANT HAS SUBMITTED AN APPLICATION ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN, IF THE PERSON IS ALSO SEEKING TO RECEIVE THE TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW SUCH PERSON SHALL SUBMIT INFORMATION SUFFICIENT TO DEMONSTRATE THAT THE SITE: (1) (I) HAS BEEN A VACANT LOT FOR FOUR OR MORE YEARS, OR (II) CONSISTS OF A BUILDING OR BUILDINGS THAT HAVE BEEN VACANT FOR TWO OR MORE YEARS, OR (III) IS A UNDERUTILIZED OR FUNCTIONALLY OBSOLESCENT; AND (2) THE PROJECTED COST OF THE INVESTIGATION AND REMEDIATION WHICH IS PROTECTIVE FOR THE ANTICIPATED USE OF THE SITE EXCEEDS THIRTY PERCENT OF THE CERTIFIED APPRAISED VALUE OF THE PROPERTY ABSENT CONTAMINATION.

SITES ARE NOT ELIGIBLE FOR TANGIBLE PROPERTY TAX CREDITS IF (1) THE CONTAMINATION IS SOLELY EMANATING FROM PROPERTY OTHER THAN THE SITE SUBJECT TO THE PRESENT APPLICATION; OR (2) THE DEPARTMENT HAS DETERMINED THAT THE PROPERTY HAS PREVIOUSLY BEEN REMEDIATED SUCH THAT IT MAY BE DEVELOPED FOR ITS THEN INTENDED USE.

S 3. Subdivision 6 of section 27-1407 of the environmental conservation law, as added by section 1 of part A of chapter 1 of the laws of 2003, is amended to read as follows:

6. The department shall use all best efforts to expeditiously notify the applicant within forty-five days after receiving their request for participation that such request is either accepted or rejected, AND, FOR ANY APPLICANT SEEKING TO RECEIVE THE TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW, WHETHER THE CRITERIA FOR RECEIVING SUCH COMPONENT AS SET FORTH IN SUBDIVISION ONE OF THIS SECTION HAVE BEEN MET.

S 4. Subdivision 9 of section 27-1407 of the environmental conservation law is amended by adding a new paragraph (g) to read as follows:

(G) THE PERSON'S PARTICIPATION IN ANY REMEDIAL PROGRAM UNDER THE DEPARTMENT'S OVERSIGHT WAS TERMINATED BY THE DEPARTMENT OR BY A COURT FOR FAILURE TO SUBSTANTIALLY COMPLY WITH AN AGREEMENT OR ORDER.

S 5. The opening paragraph of subdivision 3 of section 27-1419 of the environmental conservation law, as amended by chapter 390 of the laws of 2008, is amended to read as follows:

Upon receipt of the final engineering report, the department shall review such report and the data submitted pursuant to the brownfield site cleanup agreement as well as any other relevant information regarding the brownfield site. Upon satisfaction of the commissioner that the remediation requirements set forth in this title have been or will be achieved in accordance with the timeframes, if any, established in the remedial work plan, the commissioner shall issue a written certificate of completion[, such]. THE certificate shall include such information as determined by the department of taxation and finance, including but not limited to the brownfield site boundaries included in the final engineering report, the date of the brownfield site CLEANUP agreement pursuant to section 27-1409 of this title, and the applicable percentages available for that site for purposes of section twenty-one of the tax law[, with such percentages to be determined as follows with respect to such qualified site]. FOR THOSE SITES FOR WHICH AN APPLICANT HAS SUBMITTED AN APPLICATION TO PARTICIPATE IN THIS PROGRAM ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN, THE TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW SHALL ONLY BE AVAILABLE TO THE TAXPAYER IF THE DEPARTMENT'S NOTICE INCLUDES A DETERMINATION THAT THE CRITERIA FOR RECEIVING SUCH TAX COMPONENT HAVE BEEN MET. FOR THOSE SITES for which the department has issued a notice to the taxpayer after June twenty-third, two thousand eight that its request for participation has been accepted under subdivision six of section 27-1407 of this title:

S 6. Subdivision 5 of section 27-1419 of the environmental conservation law, as amended by section 9 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

5. A certificate of completion issued pursuant to this section may be transferred to the applicant's successors or assigns upon transfer or sale of the brownfield site. Further, a certificate of completion may be modified or revoked by the commissioner upon a finding that:

(a) Either the applicant, or the applicant's successors or assigns, has failed to comply with the terms and conditions of the brownfield site cleanup agreement;

(b) The applicant made a misrepresentation of a material fact tending to demonstrate that (I) it was qualified as a volunteer OR (II) MET THE CRITERIA SET FORTH IN SUBDIVISION ONE-A OF SECTION 27-1407 OF THIS TITLE FOR THE PURPOSE OF RECEIVING THE TANGIBLE PROPERTY CREDIT COMPONENT OF

THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW;

(c) Either the applicant, or the applicant's successors or assigns, made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the brownfield site cleanup agreement were reached; [or]

(d) THE ENVIRONMENTAL EASEMENT CREATED AND RECORDED PURSUANT TO TITLE THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THIS CHAPTER NO LONGER PROVIDES AN EFFECTIVE OR ENFORCEABLE MEANS OF ENSURING THE PERFORMANCE OF MAINTENANCE, MONITORING OR OPERATING REQUIREMENTS, OR THE RESTRICTIONS ON FUTURE USES, INCLUDING RESTRICTIONS ON DRILLING FOR OR WITHDRAWING GROUNDWATER; OR

(E) There is good cause for such modification or revocation.

S 7. Subdivision 1 of section 27-1431 of the environmental conservation law is amended by adding a new paragraph c to read as follows:

C. TO INSPECT FOR COMPLIANCE WITH THE SITE MANAGEMENT PLAN APPROVED BY THE DEPARTMENT, INCLUDING (I) INSPECTION OF THE PERFORMANCE OF MAINTENANCE, MONITORING AND OPERATIONAL ACTIVITIES REQUIRED AS PART OF THE REMEDIAL PROGRAM FOR THE SITE, AND (II) TAKING SAMPLES IN ACCORDANCE WITH PARAGRAPH A OF THIS SUBDIVISION.

S 8. The environmental conservation law is amended by adding a new section 27-1437 to read as follows:

S 27-1437. BCP LIABILITY ONLY WAIVER PROGRAM.

THE APPLICANT MAY WAIVE ANY CLAIM FOR TAX CREDITS PURSUANT TO SECTION TWENTY-ONE OF THE TAX LAW. ANY SUCH WAIVER SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT.

S 9. Paragraph 3 of subdivision (a) of section 21 of the tax law, as amended by chapter 390 of the laws of 2008, is amended to read as follows:

(3) Tangible property credit component. The tangible property credit component shall be equal to the applicable percentage 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, which constitute qualified tangible property; provided, however, that in determining the cost or other basis of such property, the taxpayer shall exclude the acquisition cost of any item of property with respect to which a credit under this section was allowable to another taxpayer. WITH RESPECT TO ANY QUALIFIED SITE THAT IS ELIGIBLE FOR THE FIVE PERCENT AFFORDABLE HOUSING TANGIBLE PROPERTY CREDIT COMPONENT PURSUANT TO CLAUSE (III) OF SUBPARAGRAPH (A) OF PARAGRAPH FIVE OF THIS SUBDIVISION, THAT PORTION OF THE TANGIBLE PROPERTY CREDIT COMPONENT WILL BE DETERMINED BY MULTIPLYING THE TOTAL COSTS QUALIFIED FOR THE TANGIBLE PROPERTY CREDIT COMPONENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE SQUARE FOOTAGE OF SPACE OF THE AFFORDABLE HOUSING UNITS DEDICATED TO RESIDENTIAL OCCUPANCY AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL SQUARE FOOTAGE OF THE BUILDING. The credit component amount so determined shall be allowed for the taxable year in which such qualified tangible property is placed in service on a qualified site with respect to which a certificate of completion has been issued to the taxpayer for up to ten taxable years after the date of the issuance of such certificate of completion. The tangible property credit component shall be allowed with respect to property leased to a second party only if such second party is either (i) not a party responsible for the disposal of hazardous waste or the discharge of petroleum at the site according to applicable principles of statutory or common law liability, or (ii) a party responsible according to applicable principles of statutory or

common law liability if such party's liability arises solely from operation of the site subsequent to the disposal of hazardous waste or the discharge of petroleum, and is so certified by the commissioner of environmental conservation at the request of the taxpayer, pursuant to section 27-1419 of the environmental conservation law. Notwithstanding any other provision of law to the contrary, in the case of allowance of credit under this section to such a lessor, the commissioner shall have the authority to reveal to such lessor any information, with respect to the issue of qualified use of property by the lessee, which is the basis for the denial in whole or in part, or for the recapture, of the credit claimed by such lessor. For purposes of the tangible property credit component allowed under this section the taxpayer to whom the certificate of completion is issued, as provided for under subdivision five of section 27-1419 of the environmental conservation law, may transfer the benefits and burdens of the certificate of completion, which run with the land and to the applicant's successors or assigns upon transfer or sale of all or any portion of an interest or estate in the qualified site. However, the taxpayer to whom certificate's benefits and burdens are transferred shall not include the cost of acquiring all or any portion of an interest or estate in the site and the amounts included in the cost or other basis for federal income tax purposes of qualified tangible property already claimed by the previous taxpayer pursuant to this section.

S 10. Paragraph 5 of subdivision (a) of section 21 of the tax law is amended by adding two new subparagraphs (A) and (B) to read as follows:

(A) WITH RESPECT TO SUCH QUALIFIED SITE FOR WHICH THE TAXPAYER HAS SUBMITTED AN APPLICATION TO PARTICIPATE IN THE BROWNFIELD CLEANUP PROGRAM ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN, THE APPLICABLE PERCENTAGE FOR THE TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF THIS SUBDIVISION SHALL BE THE SUM OF TEN PERCENT AND THE FOLLOWING ADDITIONAL PERCENTAGES, PROVIDED THAT THE TOTAL PERCENTAGE OF THE TANGIBLE PROPERTY CREDIT COMPONENT SHALL NOT EXCEED THIRTY PERCENT AND IS OTHERWISE SUBJECT TO THE LIMITATIONS SET FORTH IN PARAGRAPHS THREE AND THREE-A OF THIS SUBDIVISION:

(I) FIVE PERCENT FOR SITES REMEDIATED TO TRACK 1 AS THAT TERM IS DEFINED IN SUBDIVISION FOUR OF SECTION 27-1415 OF THE ENVIRONMENTAL CONSERVATION LAW;

(II) FIVE PERCENT FOR A SITE LOCATED WITHIN A DESIGNATED BROWNFIELD OPPORTUNITY AREA IF THE PROPOSED DEVELOPMENT OF THE SITE IS CERTIFIED TO BE IN CONFORMANCE WITH THE GOALS AND PRIORITIES ESTABLISHED FOR SUCH BROWNFIELD OPPORTUNITY AREA PLAN PURSUANT TO SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW;

(III) FIVE PERCENT FOR SITES DEVELOPED AS AFFORDABLE HOUSING, DEFINED AS HAVING AT LEAST TWENTY PERCENT OF ITS RESIDENTIAL UNITS AVAILABLE TO HOUSEHOLDS WHOSE ANNUAL INCOME AT THE TIME OF ADMISSION DOES NOT EXCEED EIGHTY PERCENT OF THE MEDIAN INCOME ADJUSTED FOR FAMILY SIZE, EITHER FOR THE METROPOLITAN STATISTICAL AREA IF THE SITE IS LOCATED WITHIN SUCH AN AREA OR THE COUNTY IF IT IS NOT, AS MOST RECENTLY DETERMINED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. DURING THE TIME OF OCCUPANCY IF A HOUSEHOLD'S ANNUAL INCOME EXCEEDS ONE HUNDRED TWENTY PERCENT OF THE MEDIAN INCOME AND SUCH HOUSEHOLD IS RESIDING IN AN AFFORDABLE HOUSING UNIT SUCH UNIT SHALL NO LONGER BE COUNTED TOWARDS THE TWENTY PERCENT REQUIREMENT IN THIS CLAUSE. IF THE TWENTY PERCENT REQUIREMENT IS NO LONGER BEING MET DUE TO INCREASED HOUSEHOLD INCOME, THE OWNER OF THE SITE OR AGENT THEREOF SHALL MAKE ANY CURRENT OR FUTURE

VACANT UNITS THAT ARE COMPARABLE IN NATURE AVAILABLE TO HOUSEHOLDS WHOSE INCOME DOES NOT EXCEED EIGHTY PERCENT OF THE MEDIAN INCOME UNTIL THE TWENTY PERCENT REQUIREMENT IS MET. UNLESS AFFORDABLE UNITS ARE DEVELOPED UNDER A FEDERAL, STATE OR MUNICIPAL PROGRAM HAVING CONTRARY REQUIREMENTS ALL AFFORDABLE UNITS MUST HAVE A COMPARABLE NUMBER OF BEDROOMS AS THE MARKET RATE UNITS, OR AT LEAST FIFTY PERCENT OF THE AFFORDABLE HOUSING MUST HAVE TWO OR MORE BEDROOMS AND NO MORE THAN TWENTY-FIVE PERCENT OF THE AFFORDABLE HOUSING CAN BE SMALLER THAN ONE BEDROOM. RENT FOR SUCH AFFORDABLE HOUSING SHALL NOT EXCEED THIRTY PERCENT OF THE HOUSEHOLD'S NET INCOME; AND

(IV) FIVE PERCENT FOR A SITE WITHIN AN ENVIRONMENTAL ZONE.

(B) THE TAXPAYER SHALL SUBMIT, IN THE MANNER PRESCRIBED BY THE COMMISSIONER, INFORMATION SUFFICIENT TO DEMONSTRATE THAT THE SITE QUALIFIES FOR ANY CREDIT COMPONENTS AVAILABLE UNDER CLAUSES (I) THROUGH (IV) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH.

S 11. Section 171-r of the tax law is amended by adding a new subdivision (e) to read as follows:

(E) THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, SHALL PUBLISH BY JANUARY THIRTY-FIRST, TWO THOUSAND SIXTEEN A SUPPLEMENTAL BROWNFIELD CREDIT REPORT CONTAINING THE INFORMATION REQUIRED BY THIS SECTION ABOUT THE CREDITS CLAIMED FOR THE YEARS TWO THOUSAND FIVE, TWO THOUSAND SIX, AND TWO THOUSAND SEVEN.

S 12. Section 970-r of the general municipal law is amended by adding a new subdivision 10 to read as follows:

10. THE SECRETARY SHALL REVIEW REQUESTS FOR TAX CREDITS PURSUANT TO CLAUSE (II) OF SUBPARAGRAPH (A) OF PARAGRAPH FIVE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW FOR BROWNFIELD OPPORTUNITY AREA CONFORMANCE. IN ESTABLISHING CRITERIA, THE SECRETARY SHALL CONSIDER HOW THE PROPOSED USE AND DEVELOPMENT ADVANCES THE GOALS AND PRIORITIES ESTABLISHED FOR THAT APPLICABLE BROWNFIELD OPPORTUNITY AREA AS DESIGNATED PURSUANT TO THIS SECTION.

S 13. Section 31 of part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, as amended by chapter 474 of the laws of 2012, is amended to read as follows:

S 31. The tax credits allowed under section 21, 22 or 23 of the tax law and the corresponding provisions in articles 9, 9-A, 22, 32 and 33 of the tax law, as added by the provisions of sections one through twenty-nine of this act, shall not be applicable if the [remediation] certificate OF COMPLETION required to qualify for any of such credits is issued after December 31, [2015] 2026.

S 14. Subdivisions 1 and 3 of section 1285-q of the public authorities law, as added by section 6 of part I of chapter 1 of the laws of 2003, are amended to read as follows:

1. Subject to chapter fifty-nine of the laws of two thousand, but notwithstanding any other provisions of law to the contrary, in order to assist the corporation in undertaking the administration and the financing of hazardous waste site remediation projects for payment of the state's share of the costs of the remediation of hazardous waste sites, in accordance with title thirteen of article twenty-seven of the environmental conservation law and section ninety-seven-b of the state finance law, and for payment of state costs associated with the remediation of offsite contamination at significant threat sites as provided in section 27-1411 of the environmental conservation law, AND BEGINNING IN STATE FISCAL YEAR TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN, FOR

ENVIRONMENTAL RESTORATION PROJECTS PURSUANT TO TITLE FIVE OF ARTICLE FIFTY-SIX OF THE ENVIRONMENTAL CONSERVATION LAW PROVIDED THAT FUNDING FOR SUCH PROJECT SHALL NOT EXCEED TEN PERCENT OF THE FUNDING APPROPRIATED FOR THE PURPOSES OF FINANCING HAZARDOUS WASTE SITE REMEDIATION PROJECTS, PURSUANT TO TITLE THIRTEEN OF ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW, IN ANY STATE FISCAL YEAR pursuant to capital appropriations made to the department of environmental conservation, the director of the division of budget and the corporation are each authorized to enter into one or more service contracts, none of which shall exceed twenty years in duration, upon such terms and conditions as the director and the corporation may agree, so as to annually provide to the corporation in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for any bonds and notes authorized pursuant to section twelve hundred ninety of this title. Any service contract entered into pursuant to this section shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available for such purposes, subject to annual appropriation by the legislature. Any such service contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes, as authorized pursuant to section twelve hundred ninety of this title.

3. The maximum amount of bonds that may be issued for the purpose of financing hazardous waste site remediation projects AND ENVIRONMENTAL RESTORATION PROJECTS authorized by this section shall not exceed [one] TWO billion two hundred million dollars and shall not exceed one hundred twenty million dollars for appropriations enacted for any state fiscal year, provided that the bonds not issued for such appropriations may be issued pursuant to reappropriation in subsequent fiscal years. No bonds shall be issued for the repayment of any new appropriation enacted after [March] DECEMBER thirty-first, two thousand [thirteen] TWENTY-FIVE for hazardous waste site remediation projects authorized by this section. Amounts authorized to be issued by this section shall be exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by this state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

S 15. Section 56-0501 of the environmental conservation law, as added by chapter 413 of the laws of 1996, is amended to read as follows:

S 56-0501. Allocation of moneys.

1. Of the moneys received by the state from the sale of bonds pursuant to the Clean Water/Clean Air Bond Act of 1996, two hundred million dollars ($200,000,000) shall be available for disbursements for environmental restoration projects.

2. BEGINNING IN STATE FISCAL YEAR TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN ENVIRONMENTAL RESTORATION PROJECTS MAY BE FUNDED USING THE PROCEEDS OF BONDS ISSUED PURSUANT TO SECTION TWELVE HUNDRED EIGHTY-FIVE-Q OF THE PUBLIC AUTHORITIES LAW PROVIDED THAT FUNDING FOR SUCH PROJECTS SHALL CONFORM TO THE LIMITATIONS PROVIDED IN SUBDIVISION ONE OF SUCH SECTION.

S 16. Subparagraph (B) and the closing paragraph of paragraph 6 of subdivision (b) of section 21 of the tax law, as amended by section 1 of part G of chapter 62 of the laws of 2006, is amended to read as follows:

(B) areas that have a poverty rate of at least two times the poverty rate for the county in which the areas are located for the year to which the data relate [provided, however, that a qualified site shall only be deemed to be located in an environmental zone under this subparagraph (B) if such site was the subject of a brownfield site cleanup agreement pursuant to section 27-1409 of the environmental conservation law that was entered into prior to September first, two thousand ten].

Such designation shall be made and a list of all such environmental zones shall be established by the commissioner of economic development no later than December thirty-first, two thousand four [provided, however, that a qualified site shall only be deemed to be located in an environmental zone under subparagraph (B) of this paragraph if such site was the subject of a brownfield site cleanup agreement pursuant to section 27-1409 of the environmental conservation law that was entered into prior to September first, two thousand ten].

S 17. The sum of one hundred million dollars ($100,000,000) is hereby appropriated to the department of environmental conservation out of any moneys in the state treasury in the capital fund to the credit of the hazardous waste cleanup account, not otherwise appropriated, and made immediately available, for the purpose of carrying out the provisions of this act. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved by the commissioner of environmental conservation in the manner prescribed by law.

S 18. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 19. This act shall take effect immediately; provided that sections fourteen, fifteen and seventeen of this act shall be deemed to have been in full force and effect on and after April 1, 2015; and provided, further that sections one, two, three, five, six, eight, nine, ten, twelve and sixteen of this act shall take effect January 1, 2017.