§ 957. Definitions. As used in this article, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

(a) "Applicant" shall mean the county, city, town or village submitting an application in the manner authorized by local law for designation of an area as an empire zone.

(b) "Commissioner" shall mean the commissioner of economic development.

(c) "Minority-owned business enterprise" shall have the same meaning as provided in section three hundred ten of the executive law.

(d) "Empire zone" shall mean an area within the state that has been designated as an empire zone pursuant to this article and:

(i) all empire zones designated under paragraph (i) of subdivision (a) and subdivision (d) of section nine hundred fifty-eight of this article shall be referred to as "investment zones" and shall be wholly contained within up to three distinct and separate contiguous areas; provided, however, that empire zones designated prior to the enactment of this paragraph shall identify up to three distinct and separate contiguous areas, which shall equal up to their total allotted acreage at the time of designation by January first, two thousand six. Provided however, the existing zone must include as much designated acreage into the distinct and separate contiguous areas as possible. Provided, however, notwithstanding the provisions of paragraphs (i) and (ii) of subdivision (a) of section nine hundred fifty-eight and subdivision (d) of section nine hundred fifty-nine of this article a regionally significant project may be located outside of the investment zone's distinct and separate contiguous areas, provided such significant project is located within the zone applicant's municipal boundaries. Provided further however, if the investment zone is located in a county that does not have a development zone such significant project may be located within the county's boundaries. For the purpose of this article a "regionally significant project" shall mean: a manufacturer projecting the creation of fifty or more jobs; or an agri-business or high tech or biotech business making a capital investment of ten million dollars and creating twenty or more jobs; or a financial or insurance services or distribution center creating three hundred or more jobs; or a clean energy research and development enterprise shall be eligible as a

regionally significant project as determined by the local zone administrative board and commissioner. Other projects may be considered by the zone designation board;

(ii) all empire zones designated under subdivisions (b) and (c) of section nine hundred fifty-eight of this article shall be referred to as "development zones" and shall be wholly contained within up to six distinct and separate contiguous areas. However, an empire zone located in more than one county at the time of designation shall be wholly contained in up to twelve distinct and separate contiguous areas. Provided, however, that empire zones designated prior to the enactment of this paragraph shall identify up to six distinct and separate contiguous areas, which shall equal up to their total allotted acreage at the time of designation, by January first, two thousand six or in the case of an empire zone located in more than one county, at the time of designation shall identify twelve distinct and separate contiguous areas. Provided however, the existing zone must include as much designated acreage into the distinct and separate contiguous areas as possible. Provided, however, a regionally significant project may be located outside of the development zone's distinct and separate contiguous areas. For the purpose of this article a "regionally significant project" shall mean: a manufacturer projecting the creation of fifty or more jobs; or an agri-business or high tech or biotech business making a capital investment of ten million dollars and creating twenty or more jobs; or a financial or insurance services or distribution center creating three hundred or more jobs; or a clean energy research and development enterprise shall be eligible as a regionally significant project as determined by the local zone administrative board and the commissioner. Other projects may be considered by the zone designation board;

(iii) provided, however, a zone may apply to add one additional distinct and separate contiguous area, pursuant to paragraphs (i) and (ii) of this subdivision, to such zone upon the demonstration of need, provided, however, such additional distinct and separate contiguous area shall not result in an empire zone that exceeds the maximum allotted acreage;

(iv) a "development zone", pursuant to paragraph (ii) of this subdivision, shall apply, pursuant to subdivisions (a) and (d) of

section nine hundred fifty-eight of this article, to have up to three distinct and separate contiguous areas defined as "investment zones", pursuant to this subdivision;

(v) any certified businesses located outside of the empire zone's distinct and separate contiguous areas, pursuant to this section, shall be allowed the empire zone benefits until they are decertified; and

(vi) the boundaries that comprise the distinct and separate contiguous areas in this subdivision must include at least the real property on one side of a public thoroughfare when such street is used as a boundary. No boundary shall be constructed as to connect one tax parcel to another tax parcel by using a thoroughfare's center line, sidewalk or other similar means of connecting a non-contiguous area to the zone's distinct and separate contiguous areas.

(e) "Local empire zone administrative board" shall mean the entity designated by the applicant that is responsible for recommending business enterprises for certification pursuant to paragraph (iii) of subdivision (a) of section nine hundred fifty-nine of this article and for monitoring, evaluating and coordinating all empire zone benefits on behalf of the applicant. Such entity shall consist of at least six members, and shall be representative of local businesses, organized labor, community organizations, financial institutions, local educational institutions and residents of the empire zone.

(f) "Women-owned business enterprise" shall have the same meaning as provided in section three hundred ten of the executive law.

(g) "Locally owned business enterprise" shall mean (i) a business firm in which the total ownership interest held by individuals who are full time bona fide residents of such zone is more than eighty percent, whose business activities are conducted in a manner whereby at least fifty percent of the assets of such firm are located and utilized in such zone, and at least forty percent of such firm's employees are principally employed in such zone; or (ii) an agricultural cooperative established pursuant to section one hundred eleven of the cooperative corporations law; provided however, for business firms located within zones designated in a city such individuals shall reside within a community planning board or within traditional neighborhood boundaries and provided further however for business firms located within zones outside of a city such individuals may reside in the county in which the

zone is designated.

(h) "Chief executive" shall mean (i) a county executive or manager of a county; (ii) in a county not having a county executive or manager, the chairperson or other presiding officer of the county legislative body; (iii) a mayor of a city or village, except where a city or village has a manager, it shall mean such a manager; or (iv) a supervisor of a town, except where a town has a manager, it shall mean such manager.

(i) "Minority group member" shall have the same meaning as provided in section three hundred ten of the executive law.

(j) "Targeted employee" shall mean a New York resident who receives empire zone wages pursuant to subdivision nineteen of section two hundred ten of the tax law and who is (i) an eligible individual under the provision of the targeted jobs tax credit (section fifty-one of the internal revenue code), (ii) eligible for benefits under the provisions of the job training partnership act (P.L. 97-300, as amended), (iii) a recipient of public assistance benefits, or (iv) an individual whose income is below the most recently established poverty rate promulgated by the United States department of commerce, or a member of a family whose family income is below the most recently established poverty rate promulgated by the appropriate federal agency.

An individual who satisfies the criteria set forth in clause (i), (ii) or (iv) of this subdivision at the time of initial employment in the job with respect to which the credit is claimed, or who satisfies the criterion set forth in clause (iii) of this subdivision at such time or at any time within the previous two years, shall be a targeted employee so long as such individual continues to receive empire zone wages.

(k) "Single enterprise" means two or more related business enterprises characterized by an absence of arms length relationships found among enterprises that are not integrated. Factors to be considered, among other things, in determining the existence of a single enterprise are interrelation of operations, common management, centralized control of labor relations, common ownership and common financial control.

(l) "Zone administrative entity" shall mean a community-based local development corporation or entity contracting with the local empire zone board pursuant to paragraph (viii) of subdivision a of section nine hundred sixty-three of this article or the municipality in which the

zone is located in those instances where the municipality actively participates in the local administration of the zone program.

(m) "Human resource development" shall mean job preparation and placement, skills training and education for zone residents and employees of zone businesses, child and family care services and facilities, and activities to improve the health benefits and other benefits provided by zone businesses to their employees.

(n) "Community development projects" shall mean projects sponsored by not-for-profit organizations which have been approved by the zone board, which will advance the zone development plan. For purposes described in subdivision twenty of section two hundred ten, subsection (l) of section six hundred six, subsection (d) of section fourteen hundred fifty-six and subdivision (h) of section fifteen hundred eleven of the tax law, such projects shall be limited to child care programs serving zone residents and businesses; community development projects in direct support of economic development and business revitalization activities, such as commercial revitalization projects; and business development activities of local development corporations.

(o) "Zone equivalent area" shall mean an area designated as such pursuant to former subdivision (bb) of section nine hundred fifty-nine of this article.

(p) "Cost benefit analysis" shall mean, for purposes of paragraph (iii) of subdivision (a) of section nine hundred fifty-nine of this article, a method of determining whether to certify a business enterprise based on the business enterprise's projected job creation and/or investment in the zone versus the total amount of empire zone tax benefits the business enterprise will potentially be allowed to use and have refunded to it and shall be a ratio of at least 10:1 for manufacturing enterprises and 20:1 for all other business enterprises, the numerator of which is the sum of (i) the estimated value of all wages and benefits paid for the first three years of certification to all existing and projected employees of the business enterprise in the zone and (ii) the estimated value of capital investments for the first three years of certification in the zone, and the denominator of which is the estimated amount of total empire zone tax benefits that may be used and may be refunded for the first three years of certification.

(r) "Clean energy research and development enterprise" shall mean any

electric generating facility that used pulverized coal technology, circulating fluidized bed technology or integrated gasification combined cycle technology and that is capable of capturing carbon dioxide for sequestration or capable of being retrofitted to capture carbon dioxide for sequestration.

(s) "Qualified investment project" shall mean a project (i) located within an empire zone, (ii) at which five hundred or more jobs will be created, provided such jobs are new to the state and are in addition to any other jobs previously created by the owner of such project in the state, and (iii) which will consist of tangible personal property and other tangible property, including buildings and structural components of buildings, described in subparagraphs (i), (ii), (iii), (iv) and clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivision three of section two hundred ten-B of the tax law, the basis of which for federal income tax purposes will equal or exceed seven hundred fifty million dollars. Provided however, the owner of such project does not employ more than two hundred persons in the state at the time such project is commenced.

(t) "Significant capital investment project" shall mean a project (i) located within an empire zone, (ii) which will be either a newly constructed facility or a newly constructed addition to or expansion of a qualified investment project, consisting of tangible personal property and other tangible property, including buildings and structural components of buildings, described in subparagraphs (i), (ii), (iii), (iv) and clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivision three of section two hundred ten-B of the tax law, the basis of which for federal income tax purposes will equal or exceed seven hundred fifty million dollars, (iii) which is constructed after the basis for federal income tax purposes of the property comprising such qualified investment project equals or exceeds seven hundred fifty million dollars, and (iv) at which five hundred or more jobs will be created, provided such jobs are new to the state and are in addition to any other jobs previously created by the owner of such project in the state.