§ 960. Designation of empire zones. (a) The empire zones designation board is hereby created. Such board shall consist of the commissioner of taxation and finance, the director of the budget, the commissioner of labor and two members to be appointed by the governor; one member to be appointed by the temporary president of the senate; one member to be appointed by the speaker of the assembly; and two non-voting members, one of whom shall be appointed by the minority leader of the senate and one of whom shall be appointed by the minority leader of the assembly. The governor shall designate from among the voting members the chairman of the board. Each member of the board shall be entitled to designate a representative to attend meetings of the board in his or her place, and to vote or otherwise act on his or her behalf in his or her absence. Notice of such designation shall be furnished in writing to the board by the designating member. A representative shall serve at the pleasure of the designating member. A representative shall not be authorized to delegate any of his or her duties or functions to any other person.

(a-1) The empire zones designation board may consider designating empire zone acreage for the following categories of regionally significant projects as set forth in section nine hundred fifty-seven of this article: 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. Such consideration shall be upon application submitted by the commissioner. Such application shall be made after a public hearing in accordance with section nine hundred sixty-nine of this article and in accordance with findings which shall consider factors including but not limited to: the creation and retention of a regionally significant number of skilled or otherwise quality jobs; substantial capital investment; or the export of a substantial amount of goods or services beyond the immediate region; and further findings as to why such project cannot be accommodated within the distinct and separate contiguous areas pursuant to section nine hundred fifty-seven of this article. Such findings shall be published once a week for four successive weeks, in two newspapers of the county of which the project is to be located or if no newspaper is published therein, in the newspaper nearest thereto. Proof of such publication shall be submitted

to the board. The board shall not act on such project or projects until thirty days of the final publication of such findings.

(a-2) The empire zones designation board may consider designating empire zone acreage for other regionally significant projects in accordance with section nine hundred fifty-seven of this article, upon application submitted by the commissioner. Such application shall be made after a public hearing in accordance with section nine hundred sixty-nine of this article and in accordance with findings which shall consider factors including, but not limited to: the creation and retention of a regionally significant number of skilled or otherwise quality jobs; substantial capital investment; or the export of a substantial amount of goods or services beyond the immediate region; and further findings as to why such project cannot be accommodated within the distinct and separate contiguous areas pursuant to section nine hundred fifty-seven of this article. Such findings shall be published once a week for four successive weeks, in two newspapers of the county of which the project is to be located or if no newspaper is published therein, in the newspaper nearest thereto. Proof of such publication shall be submitted to the board. The board shall not act on such project or projects until thirty days of the final publication of such findings. Provided, however, that the commissioner shall promulgate rules and regulations for the implementation of this subdivision after approval by the empire zones designation board. Provided further, approval of such projects and related regulations requires an affirmative vote by at least five voting members of such board.

(a-3) The empire zones designation board shall approve the initial distinct and separate contiguous areas as required by section nine hundred fifty-seven of this article. Provided, however, such approval shall be by unanimous vote.

(b) The empire zones designation board shall designate from the recommendations made by the commissioner:

(i) Within eighteen months after the effective date of this article, not more than ten empire zones;

(ii) In the period commencing eighteen months and ending three years after the effective date of this article, not more than nine additional empire zones until a maximum of nineteen empire zones have been established statewide;

(iii) In the period commencing three years and ending eight years after the effective date of this article, not more than fifteen additional empire zones;

(iv) In the period commencing five years and ending nine years and six months after the effective date of this article, not more than six additional empire zones;

(v) In the period commencing nine years and six months after the effective date of this article, not more than twelve additional empire zones each which shall contain a defense or military base or facility which has been designated for closure or realignment or a site currently or formerly owned or operated by either the (1) United States military or (2) a defense contractor whose employment in New York state was adversely affected by a reduction in military spending;

(vi) In the period commencing thirteen years after the effective date of this article, not more than fourteen additional empire zones, not less than three of which shall be designated pursuant to the criteria set forth in subdivision (d) of section nine hundred fifty-eight of this article;

(vii) In the period commencing fifteen years after the effective date of this article, not more than four additional empire zones, all of which shall be designated pursuant to the criteria set forth in subdivisions (a), (b), (c) and (d) of section nine hundred fifty-eight of this article;

(viii) In the period commencing fifteen years after the effective date of this article, not more than two additional empire zones, all of which shall be designated pursuant to the criteria set forth in subdivisions (a), (b), (c) and (d) of section nine hundred fifty-eight of this article.

(ix) In the period commencing nineteen years after the effective date of this article, not more than three additional empire zones, as determined pursuant to a memorandum of understanding to be executed by the governor, the temporary president of the senate and the speaker of the assembly, each of which shall be designated from among the counties identified in subdivision (f) of section nine hundred fifty-eight of this article.

(x) In the period commencing twenty years after the effective date of this article, not more than six additional empire zones, as determined

pursuant to a memorandum of understanding to be executed by the governor, the temporary president of the senate and the speaker of the assembly, all of which shall be designated from among the counties identified in subdivision (f) of section nine hundred fifty-eight of this article. Provided, however, said designation does not include counties designated pursuant to paragraph (ix) of this subdivision.

(xi) In the period commencing twenty-one years after the effective date of this article, not more than three additional empire zones, as determined pursuant to a memorandum of understanding to be executed by the governor, the temporary president of the senate and the speaker of the assembly, all of which shall be designated from among the counties identified in subdivision (f) of section nine hundred fifty-eight of this article. Provided, however, said designation does not include counties designated pursuant to paragraphs (ix) and (x) of this subdivision.

(xiii) Within six months after the effective date of this paragraph, the Oneida-Herkimer empire zone may be designated as two separate two square mile empire zones as designated pursuant to a memorandum of understanding to be executed by the governor, the temporary president of the senate and the speaker of the assembly.

(c) In reviewing applications for designation of an area as an empire zone, the board shall consider the level of local participation including, but not limited to, local tax incentives and the provision of local services.

(d) Notwithstanding any other provision of this article, such zones designated, shall be, as far as practicable, equally distributed between urban, suburban and rural areas. In addition, zone designation, as far as practicable, shall be based upon a priority system of economic need.

(e) (i) The department of audit and control, the department of taxation and finance and the department of economic development shall prepare reports on the management and the economic and fiscal impact of empire zones. The analysis of the fiscal and economic impact of the empire zones shall include, but not be limited to, a review of the cost of providing the tax benefits referred to in section nine hundred sixty-six of this article and the amount of real property tax increments segregated for infrastructure improvements as authorized by section nine hundred sixty-seven of this article. Such reports shall be transmitted

to the governor and the legislature by September first, two thousand six and every year thereafter.

(ii) (1) whether quantifiable benefits attributable to the program justify its direct costs to the state and participating localities;

(2) whether the program has contributed to the economic revitalization of the zones by stimulating (A) the creation and retention of permanent, full-time, quality private sector jobs; (B) the creation, location and expansion of businesses in the zones; (C) capital and human resource investments by zone businesses and new business development; and (D) public and private investments in zone businesses and economic and community development activities important for economic revitalization;

(3) whether the program has created employment and business development opportunities for residents of the zones and job training opportunities for residents and employees of zone businesses;

(4) whether the program has (A) resulted in new and improved local administrative capacity within the zones to plan for and capture economic opportunities and deliver and coordinate economic, community and human resource development services, and (B) increased commitments of local resources to zone revitalization, including support from the business community;

(5) whether the program has stimulated assistance from state, federal and other economic, community and human resource development programs relative to other areas and improved the delivery and coordination of state services to the zones; and

(6) whether the program is being managed and evaluated effectively at state and local levels.