

Chapter 174 of the laws of 1968

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§ 1. Short title. This act shall be known and may be cited as the "New York state urban development corporation act".

§ 2. Statement of legislative findings and purposes. It is hereby found and declared that there exists in urban areas of this state a condition of substantial and persistent unemployment and underemployment which causes hardship to many individuals and families, wastes vital human resources, increases the public assistance burdens of the state

and municipalities, impairs the security of family life, contributes to the growth of crime and delinquency, prevents many of our youth from finishing their educations, impedes the economic and physical development of municipalities and adversely affects the welfare and prosperity of all the people of the state. Many existing industrial, manufacturing and commercial facilities in such urban areas are obsolete and inefficient, dilapidated, and without adequate mass transportation facilities and public services. Many of such facilities are underutilized or in the process of being vacated, creating additional unemployment. Technological advances and the provision of modern, efficient facilities in other states will speed the obsolescence and abandonment of existing facilities causing serious injury to the economy of the state. Many existing and planned industrial, manufacturing and commercial facilities are, moreover, far from or not easily accessible to the places of residence of substantial numbers of unemployed persons. As a result, problems of chronic unemployment are not being alleviated but are aggravated. New industrial, manufacturing and commercial facilities are required to attract and house new industries and thereby to reduce the hazards of unemployment. The unaided efforts of private enterprise have not met and cannot meet the needs of providing such facilities due to problems encountered in assembling suitable building sites, lack of adequate public services, the unavailability of private capital for development in such urban areas, and the inability of private enterprise alone to plan, finance and coordinate industrial and commercial development with residential developments for persons and families of low income and with public services and mass transportation facilities.

It is further found and declared that there exist in many municipalities within this state residential, nonresidential, commercial, industrial or vacant areas, and combinations thereof, which are slum or blighted, or which are becoming slum or blighted areas because of substandard, insanitary, deteriorated or deteriorating conditions, including obsolete and dilapidated buildings and structures, defective construction, outmoded design, lack of proper sanitary facilities or adequate fire or safety protection, excessive land coverage, insufficient light and ventilation, excessive population

density, illegal uses and conversions, inadequate maintenance, buildings abandoned or not utilized in whole or substantial part, obsolete systems of utilities, poorly or improperly designed street patterns and intersections, inadequate access to areas, traffic congestion hazardous to the public safety, lack of suitable off-street parking, inadequate loading and unloading facilities, impractical street widths, sizes and shapes, blocks and lots of irregular form, shape or insufficient size, width or depth, unsuitable topography, subsoil or other physical conditions, all of which hamper or impede proper and economic development of such areas and which impair or arrest the sound growth of the area, community or municipality, and the state as a whole.

It is further found and declared that there is a serious need throughout the state for adequate educational, recreational, cultural and other community facilities, the lack of which threatens and adversely affects the health, safety, morals and welfare of the people of the state.

It is further found and declared that there continues to exist throughout the state a seriously inadequate supply of safe and sanitary dwelling accommodations for persons and families of low income. This condition is contrary to the public interest and threatens the health, safety, welfare, comfort and security of the people of the state. The ordinary operations of private enterprise cannot provide an adequate supply of safe and sanitary dwelling accommodations at rentals which persons and families of low income can afford.

It is hereby declared to be the policy of the state to promote a vigorous and growing economy, to prevent economic stagnation and to encourage the creation of new job opportunities in order to protect against the hazards of unemployment, reduce the level of public assistance to now indigent individuals and families, increase revenues to the state and to its municipalities and to achieve stable and diversified local economies. In furtherance of these goals, it is the policy of the state to retain existing industries and to attract new industries through the acquisition, construction, reconstruction and rehabilitation of industrial and manufacturing plants and commercial

facilities, and to develop sites for new industrial and commercial building. It is further declared to be the policy of the state to promote the development of such plants and facilities, reasonably accessible to residential facilities, in those areas where substantial unemployment or underemployment exists, to the end that the industrial and commercial development of our urban areas will proceed in sound fashion and in coordination with development of housing, mass transportation and public services, and that job opportunities will be available in those areas where people lack jobs.

It is further declared to be the policy of the state to promote the safety, health, morals and welfare of the people of the state and to promote the sound growth and development of our municipalities through the correction of such substandard, insanitary, blighted, deteriorated or deteriorating conditions, factors and characteristics by the clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration or conservation of such areas, and of areas reasonably accessible thereto the undertaking of public and private improvement programs related thereto, including the provision of educational, recreational and cultural facilities, and the encouragement of participation in these programs by private enterprise.

It is further declared to be the policy of the state to promote the safety, health, morals and welfare of the people of the state through the provision of adequate, safe and sanitary dwelling accommodations and facilities incidental or appurtenant thereto for persons and families of low income.

For these purposes, there should be created a corporate governmental agency to be known as the "New York state urban development corporation" which, through issuance of bonds and notes to the private, investing public, by encouraging maximum participation by the private sector of the economy, including the sale or lease of the corporation's interest in projects at the earliest time deemed feasible, and through participation in programs undertaken by the state, its agencies and subdivisions, and by municipalities and the federal government, may provide or obtain the capital resources necessary to acquire, construct,

reconstruct, rehabilitate or improve such industrial, manufacturing, commercial, educational, recreational and cultural facilities, and housing accommodations for persons and families of low income, and facilities incidental or appurtenant thereto, and to carry out the clearance, replanning, reconstruction and rehabilitation of such substandard and insanitary areas.

It is further declared to be the policy of New York state to encourage the development of research and development facilities and high technology industrial incubator space at institutions of higher education located in this state and authorized to confer degrees by law or by the board of regents, or on lands in reasonable proximity to such institutions provided that (i) in the case of research and development facilities such facilities are for the cooperative use of one or more such institutions and one or more business corporations, research consortia or other industrial organizations involved in research, development, demonstration, or other technologically oriented industrial activities; and (ii) in the case of high technology industrial incubator space, such space shall be for rental to business concerns which are in their formative stages and which are involved in high technology activities, including but not limited to business concerns initiated by students, employees of such institution, including faculty members and other persons or firms academically associated with such institution.

It is hereby declared that the acquisition, construction, reconstruction, rehabilitation or improvement of such industrial, manufacturing and commercial facilities, and of such cultural, educational and recreational facilities including but not limited to facilities identified as projects and called for to implement a state designated heritage area management plan as provided in title G of the parks, recreation and historic preservation law; the clearance, replanning, reconstruction and rehabilitation of such substandard and insanitary areas; and the provision of adequate, safe and sanitary housing accommodations for persons and families of low income and such facilities as may be incidental or appurtenant thereto are public uses and public purposes for which public money may be loaned and private property may be acquired and tax exemption granted, and that the powers

and duties of the New York state urban development corporation as hereinafter prescribed are necessary and proper for the purpose of achieving the ends here recited.

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

(1) "Bonds" and "notes". The bonds and notes respectively issued by the corporation pursuant to this act.

(2) "Comptroller". The comptroller of the state.

(3) "Corporation". The corporate governmental agency created by section four of this act.

(4) "Housing Company". A company organized pursuant to the provisions of either article two, four, five or eleven of the private housing finance law.

(5) "Local Development Corporation". A corporation incorporated or reincorporated pursuant to the provisions of article fourteen of the not-for-profit corporation law.

(6) PROJECT: A specific work or improvement including lands, buildings, improvements, real and personal properties or any interest therein, acquired, owned, constructed, reconstructed, rehabilitated or improved by the corporation or any subsidiary thereof, whether or not still owned or financed by the corporation or any subsidiary thereof, including a residential project, an industrial project, a land use improvement project, a civic project, an industrial effectiveness project, a small and medium-sized business assistance project, a fruit growing, fruit processing, or winery business project, or an economic development project, all as defined herein, or any combination thereof, which combination shall hereinafter be called and known as a "multi-purpose project". The term "project" as used herein shall include projects, or any portion of a project.

(a) "Residential project". A project or that portion of a multi-purpose project designed and intended for the purpose of providing housing accommodations for persons or families of low income and such facilities as may be incidental or appurtenant thereto.

(b) "Industrial project". A project or that portion of a multi-purpose

project designed and intended for the purpose of providing facilities for manufacturing, warehousing, research, business or other industrial or commercial purposes, including but not limited to machinery and equipment deemed necessary for the operation thereof (excluding raw material, work in process or stock in trade).

(c) "Land Use Improvement project". A plan or undertaking for the clearance, replanning, reconstruction and rehabilitation or a combination of these and other methods, of a substandard and insanitary area, and for recreational or other facilities incidental or appurtenant thereto, pursuant to and in accordance with article eighteen of the constitution and this act. The terms "clearance, replanning, reconstruction and rehabilitation" shall include renewal, redevelopment, conservation, restoration or improvement or any combination thereof as well as the testing and reporting of methods and techniques for the arrest, prevention and elimination of slums and blight.

(d) "Civic project". A project or that portion of a multi-purpose project designed and intended for the purpose of providing facilities for educational, cultural, recreational, community, municipal, public service or other civic purposes.

(e) "Industrial effectiveness project". A project or that portion of a multi-purpose project designed and intended for the purpose of (i) improving the productivity and competitiveness of an industrial firm or group of industrial firms through such means as, but not limited to, the redesign of production facilities, the introduction of new production processes and management systems, the expansion or diversification of product lines, the development of new markets, and labor and management cooperative efforts to enhance productivity; (ii) implementing a corporate restructuring or turnaround plan for an industrial firm; (iii) effecting the transfer of the ownership and control of a viable industrial firm to its employees, managers or other investors resident in the state; or (iv) enhancing the opportunity for an industrial firm to create or retain jobs, thereby promoting fuller employment and economic development in the state.

(f) "Small and medium-sized business assistance project". A project designed and intended for the purpose of providing assistance to industrial firms that employ five hundred or fewer employees within the state on a full-time basis.

(g) Economic development project. The acquisition, construction, reconstruction, rehabilitation, or improvement of a project financed pursuant to the empire state economic development fund which will achieve the purposes of facilitating the creation or retention of jobs or increasing business activity within a municipality or region of the state.

(h) "fruit growing, fruit processing, or winery business project". A project or that portion of a multi-purpose project designed and intended for the purpose of establishing, maintaining, or expanding fruit growing acreage or operations, or for providing facilities for the production, manufacture, processing, warehousing, research, or distribution and sale of fresh fruits or the processing of such fruits into juices, wines, or other food products. As specified in paragraph (b-1) of subdivision 6 of section 16-1 of this act, such project costs may include, but not be limited to, the cost of buildings, machinery, equipment, New York raw fruits, New York unprocessed or partially processed fruits, root stock, other personal property, materials, working capital, or stock in trade required to establish such project.

* (6) "Project". A specific work or improvement including lands, buildings, improvements, real and personal properties or any interest therein, acquired, owned, constructed, reconstructed, rehabilitated or improved by the corporation or any subsidiary thereof, whether or not still owned or financed by the corporation or any subsidiary thereof, including a residential project, an industrial project, a land use improvement project, a civic project, an industrial effectiveness project, a small and medium-sized business assistance project, or an infrastructure project, all as defined herein, or any combination thereof, which combination shall hereinafter be called and known as a "multi-purpose project". The term "project" as used herein shall include projects, or any portion of a project.

(a) "Residential project". A project or that portion of a multi-purpose project designed and intended for the purpose of providing housing accommodations for persons or families of low income and such facilities as may be incidental or appurtenant thereto.

(b) "Industrial project". A project or that portion of a multi-purpose project designed and intended for the purpose of providing facilities for manufacturing, warehousing, research, business or other industrial

or commercial purposes, including but not limited to machinery and equipment deemed necessary for the operation thereof (excluding raw material, work in process or stock in trade).

(c) "Land Use Improvement project". A plan or undertaking for the clearance, replanning, reconstruction and rehabilitation or a combination of these and other methods, of a substandard and insanitary area, and for recreational or other facilities incidental or appurtenant thereto, pursuant to and in accordance with article eighteen of the constitution and this act. The terms "clearance, replanning, reconstruction and rehabilitation" shall include renewal, redevelopment, conservation, restoration or improvement or any combination thereof as well as the testing and reporting of methods and techniques for the arrest, prevention and elimination of slums and blight.

(d) "Civic project". A project or that portion of a multi-purpose project designed and intended for the purpose of providing facilities for educational, cultural, recreational, community, municipal, public service or other civic purposes.

(e) "Industrial effectiveness project". A project or that portion of a multi-purpose project designed and intended for the purpose of (i) improving the productivity and competitiveness of an industrial firm or a group of industrial firms through such means as, but not limited to, the redesign of production facilities, the introduction of new production processes and management systems, the expansion or diversification of product lines, the development of new markets, and labor and management cooperative efforts to enhance productivity; (ii) implementing a corporate restructuring or turnaround plan for an industrial firm; (iii) effecting the transfer of the ownership and control of a viable industrial firm to its employees, managers or other investors resident in the state; or (iv) enhancing the opportunity for an industrial firm to create or retain jobs, thereby promoting fuller employment and economic development in the state.

(f) "Small and medium-sized business assistance project". A project designed and intended for the purpose of providing assistance to industrial firms that employ five hundred or fewer employees within the state on a full-time basis.

(g) "Infrastructure project". Capital improvements to publicly-owned real property under the jobs for the new, New York bond act pursuant to

article fifteen of the economic development law involving site clearance or preparation or the demolition, construction or reconstruction of basic utilities, systems or facilities, which, while not used directly for the production of goods or services, are required as the foundation for or to promote, stimulate or support economic activity resulting in the retention or creation of permanent private-sector jobs.

* NB Not implemented due to defeat of the Jobs for the new, New York bond act in November, 1992

(7) "Project cost". The sum total of all costs incurred by the corporation in carrying out all works and undertakings which the corporation deems reasonable and necessary for the development of a project. These shall include but are not necessarily limited to the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of land and any buildings thereon, site preparation and development, construction, reconstruction, rehabilitation, improvement and the acquisition of such machinery and equipment as may be deemed necessary in connection therewith (other than raw materials, work in process or stock in trade); the necessary expenses incurred in connection with the initial occupancy of the project; an allocable portion of the administrative and operating expenses of the corporation; the cost of financing the project, including interest on bonds and notes issued by the corporation to finance the project from the date thereof to the date when the corporation shall determine that the project be deemed substantially occupied; and the cost of such other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositories and paying agents for the bonds and notes issued by the corporation; and relocation costs, all as the corporation shall deem necessary.

(8) "Real property". Lands, structures, franchises and interests in land, including lands under water and riparian rights, space rights and air rights and any and all other things and rights usually included within said term. Real property shall also mean and include any and all interests in such property less than full title, such as easements, incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages for

such real estate.

(9) "State". The state of New York.

(10) "State agency". Any officer, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state.

(11) "Subsidiary". A corporation created in accordance with section twelve of this act.

(12) "Substandard or insanitary area". The term "substandard or insanitary area" shall mean and be interchangeable with a slum, blighted, deteriorated or deteriorating area, or an area which has a blighting influence on the surrounding area, whether residential, non-residential, commercial, industrial, vacant or land in highways, waterways, railway and subway tracks and yards, bridge and tunnel approaches and entrances, or other similar facilities, over which air rights and easements or other rights of user necessary for the use and development of such air rights, to be developed as air rights sites for the elimination of the blighting influence, or any combination thereof and may include land, buildings or improvements, or air rights and concomitant easements or other rights of user necessary for the use and development of such air rights not in themselves substandard or insanitary.

(13) "Municipality." Any county, city, town or village.

(14) "Local governing body". The board of supervisors, county legislature, board of aldermen, common council, commission, or other elective governing board or body now or hereafter vested by state statute, charter or other law with jurisdiction to initiate and adopt local law whether or not such local laws or ordinances require the approval of the elective chief executive officer or other official or body to become effective, and except that with respect to a city having a population of one million or more the term "local governing body" shall mean the board of estimate.

(15) "Public corporation". A municipal corporation, district corporation, or public benefit corporation, as all such terms are defined in section three of the general corporation law, or any agency or instrumentality of the foregoing.

(16) "New community." A plan or undertaking for the development of housing together with such civic, industrial and commercial facilities

and other ancillary facilities as the corporation may determine necessary, including the implementation thereof through one or more projects of the corporation and through such participation by private enterprise as may be necessary or desirable to carry out the development of such new community.

(17) "Eligible business". For purposes of section sixteen-a of this act, a business that is resident in this state, and employs one hundred or less persons on a full-time basis.

(18) "Regional corporation". For purposes of section sixteen-a of this act, a not-for-profit or public benefit corporation or consortium of such entities that has formed a not-for-profit corporation, that has jurisdiction within at least two entire contiguous counties.

(19) "Minority business enterprise". A business enterprise which is at least fifty-one percent owned, or in the case of a publicly-owned business at least fifty-one percent of the common stock or other voting interests of which is owned, by one or more minority persons and such ownership interest is real, substantial and continuing. The minority ownership must have and exercise the authority to independently control the day-to-day business decisions of the entity. Minority persons shall mean persons who are:

(a) Black;

(b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race;

(c) Asian and Pacific Islander persons having origins in the Far East, Southeast Asia, the Indian sub-continent or the Pacific Islands; or

(d) American Indian or Alaskan Native persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

(20) "Women business enterprise". A business enterprise which is at least fifty-one percent owned, or in the case of a publicly-owned business at least fifty-one percent of the common stock or other voting interests of which is owned, by United States citizens or permanent resident noncitizens who are women, regardless of race or ethnicity, and such ownership interest is real, substantial and continuing and such women have and exercise the authority to independently control the day

to day business decisions of the enterprises.

(21) "Industrial firm". A manufacturing firm involved with extracting, smelting, recovering, developing, preparing, compounding, converting, assembling or producing in any manner minerals, raw materials, products or substances of any kind or nature, and shall include facilities related thereto for storage, warehousing or distribution, for research and development or for the discovery of new, and the refinement of known, substances, processes and products.

(22) "Eligible reservist". A member of a reserve component of the armed forces ordered to active duty during a period of military conflict.

(23) "Owner, manager or key employee". A person who:

(a) has at least a twenty percent ownership interest in the small or medium-sized business; or

(b) is a manager responsible for the day-to-day operations of such small or medium-sized business concern; or

(c) is an employee of such small or medium-sized business concern with a significant responsibility whose duties cannot be assumed by another person without substantial impairment to the economic health of the business, as determined by the corporation.

(24) "Period of military conflict". A period:

(a) of war declared by the Congress; or

(b) of national emergency declared by the Congress or by the President; or

(c) in which a member of a reserve component of the armed forces is ordered to active duty pursuant to section 673b of title 10 of the United States Code.

(25) "Upstate Empire State Development Corporation" shall be defined for purposes of sections sixteen-q and sixteen-s of this act, as a subsidiary of the urban development corporation established under section twelve of this act.

(26) "Upstate Chairman" shall be defined for purposes of sections sixteen-q and sixteen-s of this act, as the chairman of the upstate empire state development corporation, a subsidiary of the urban development corporation established under section twelve of this act.

(27) "Downstate" shall be defined by the chairman subject to approval by the board of directors of the urban development corporation.

(28) "Upstate" shall be defined by the chairman, in consultation with the chairman of the upstate empire state development corporation, subject to approval by the board of directors of the urban development corporation.

(29) "Upstate Agricultural Economic Development Project." For purposes of section sixteen-s of this act, a project or that portion of a multi-purpose project shall be designed and intended for the purpose of establishing, maintaining, or expanding agricultural acreage or operations, or for providing facilities and/or markets for the production, manufacturing, processing, warehousing, laboratory diagnostics, research, or distribution and sale of crops, livestock and livestock products as defined in subdivision 2 of section 301 of the agriculture and markets law. Such project costs may include, but not be limited to, the cost of land, buildings, machinery, equipment, processed or partially processed agricultural commodities, root stock, livestock, other personal property, materials, working capital, or stock in trade required to establish such project.

(30) "Energy conservation and efficiency projects." A project or that portion of a multi-purpose project designed and intended for the purpose of reducing energy consumption and improving energy efficiency of building envelopes, building systems or manufacturing or industrial systems by retrofitting or modernizing manufacturing, industrial or commercial facilities. Energy conservation and efficiency projects may include, but not be limited to: (a) energy audits performed by an energy auditor approved by the New York state energy research and development authority as defined in section eighteen hundred fifty-one of the public authorities law; (b) insulation of the building structure or systems within the building; (c) windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area or other window and door system modifications that reduce energy consumption; (d) automated or computerized energy control systems; (e) heating, ventilating or air conditioning system modifications or replacements; (f) replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable

state or local building code or nationally accepted standards for the lighting system after the proposed modifications are made; (g) energy recovery systems; (h) solar energy generating or heating and cooling systems or other renewable energy systems; (i) cogeneration or combined heat and power systems that produce steam, chilled water or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings; (j) energy conservation measures that provide long-term operating cost reductions; and (k) maintenance and operation of mechanical systems that provide long-term operating cost reductions.

§ 4. New York state urban development corporation. (1) There is hereby created the New York state urban development corporation. The corporation shall be a corporate governmental agency of the state, constituting a political subdivision and public benefit corporation. Its membership shall consist of nine directors as follows: the superintendent of financial services, the chairman of the New York state science and technology foundation, and seven directors to be appointed by the governor with the advice and consent of the senate. From the seven directors appointed by him, the governor shall designate the chairman of the corporation and two others who shall all serve at the pleasure of the governor. Of the four remaining directors, one of such directors first appointed by the governor after the effective date of this subdivision as amended shall serve for a term ending January first next succeeding his appointment, one of such directors shall serve for a term ending one year from such date, one of such directors shall serve for a term ending two years from such date, and one of such directors shall serve for a term ending three years from such date. Their successors shall serve for terms of four years each. Directors shall continue in office until their successors have been appointed and qualified. In the event of a vacancy occurring in the office of a director by death, resignation or otherwise, the governor shall appoint a successor with the advice and consent of the senate to serve for the balance of the unexpired term. The governor shall appoint the president of the corporation, with the advice and consent of the senate, who shall be the chief executive officer of the corporation and who shall serve at

the pleasure of the governor. Such president may be one of the directors appointed by the governor.

(1-a) The superintendent of financial services and the chairman of the New York state science and technology foundation each may designate a person from his department to represent him at all meetings of the corporation from which such director may be absent. Any representative so designated shall have the power to attend and to vote at any meeting of the corporation from which the director so designating him is absent, with the same force and effect as if the director designating him were present and voting. Such designation shall be by written notice filed with the chairman of the corporation by the director making the designation. The designation of each such person shall continue until revoked at any time by written notice to the chairman by the director making the designation. Such designation shall not limit the power of the director making the designation to attend and vote in person at any meeting of the corporation.

(2) The directors, other than the chairman, shall serve without salary or other compensation, but each director, including the chairman, shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties. Anything to the contrary contained herein notwithstanding, the president of the corporation, whether or not he or she is a director, and the chairman if he or she is not the president shall be entitled to receive such salary as the directors may determine for their services as chief executive officer and chairman respectively.

(3) Such directors other than the superintendent of financial services, the chairman of the New York state science and technology foundation, and any director who serves as president of the corporation may engage in private employment, or in a profession or business. The corporation, its directors, officers and employees shall be subject to the provisions of sections seventy-three and seventy-four of the public officers law.

(3-a) The state shall save harmless and indemnify any person who shall have served as a director, officer or employee of the corporation against financial loss or litigation expense arising in connection with any claim, demand, suit or judgment, or the defense thereof, based on a cause of action, whenever accrued, involving allegations that pecuniary

harm was sustained by any person as a result of any transaction of the corporation taking place on or after the effective date of the New York state project finance agency act. In the event any such claim, demand, suit or judgment shall occur, a director, officer or employee of the corporation shall be saved harmless and indemnified by the state under this subdivision unless such individual is found by a final judicial determination not to have acted in good faith, for a purpose which he reasonably believed to be in the best interests of the corporation or not to have had reasonable cause to believe that his conduct was lawful. In any suit described in the first sentence of this subdivision, any director, officer or employee made a party defendant to such suit shall be entitled to be represented by private counsel of his choice; provided, however, that the attorney general is authorized, as a condition to indemnification of the fees and expenses of such representation, to require that appropriate groups of such individuals be represented by the same counsel; and provided further, that with the approval of the attorney general or of a court (obtained by application substantially as provided in section seven hundred twenty-five of the business corporation law), indemnification for such fees and expenses shall be paid from time to time during the pendency of such suit. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon directors, officers and employees of the corporation by section seventeen of the public officers law, by action of the corporation, or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of the corporation, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

(4) The directors of the corporation shall serve ex officio as directors of the corporation for urban development and research of New York, created by the New York state urban development and research corporation act, and of the urban development guarantee fund of New York, created by the urban development guarantee fund of New York act. The chairman of the corporation shall serve as chairman of the corporation for urban development and research of New York and of the urban development guarantee fund of New York.

(5) Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the corporation created by this section; provided, however, a director who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this act, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

(6) The governor shall appoint a business advisory council for urban development, to advise and make recommendations to the corporation with respect to development policies and programs and to encourage maximum participation in projects of the corporation by the private sector of the economy, including members of the council and firms and corporations with which they are affiliated. Such council shall consist of not more than twenty-five members, who shall serve at the pleasure of the governor, and who shall be broadly representative of commerce and industry, the financial community and the construction and housing industries. Such members shall serve without salary, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their duties.

(7) The corporation shall establish one or more community advisory committees to consider and advise the corporation upon matters submitted to them by the corporation concerning the development of any area or any project, and may establish rules and regulations with respect to such committees. The corporation or its successor shall publish and maintain a list of all community advisory committee members, and community advisory committee meeting agendas, materials, and minutes on its website. Meeting agendas and materials shall be posted on such website at least one business day in advance of community advisory committee meetings. All upcoming meeting times and locations shall be posted on such website at least one week in advance. Community advisory committee meetings shall be accessible for the public to view and attend live. The members of such community advisory committees shall serve, at the pleasure of the corporation, without salary, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their duties. Notwithstanding any inconsistent provision

of law, general, special or local, no officer or employee of the state or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of membership on such community advisory committee.

(8) The governor may remove any director appointed by him or her for inefficiency, neglect of duty or misconduct in office after giving him or her a copy of the charges against him or her, and an opportunity to be heard, in person or by counsel, in his or her defense, upon not less than ten days' notice. If any such director shall be removed, the governor shall file in the office of the department of state a complete statement of charges made against such director and his or her findings thereon, together with a complete record of the proceeding. The foregoing provisions shall not apply in the case of the chairperson and any other director who serves at the pleasure of the governor.

(9) The corporation and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the corporation shall have bonds, notes and other obligations outstanding, unless adequate provision has been made for the payment thereof in the documents securing the same. Upon termination of the existence of the corporation, all its rights and properties shall pass to and be vested in the state.

(10) A majority of the directors of the corporation then in office shall constitute a quorum for the transaction of any business or the exercise of any power or function of the corporation, except as otherwise provided in section sixteen, subdivision two, hereof. The corporation may delegate to one or more of its directors, or its officers, agents and employees, such powers and duties as it may deem proper.

(11) The corporation shall take affirmative action in working with construction firms, contractors and subcontractors, labor unions and manufacturing and industrial firms, to the end that residents of areas in which projects are to be located shall be afforded participation in the construction work on projects of the corporation, and in the business operations of tenants and occupants of industrial projects undertaken by the corporation.

§ 5. Powers of the corporation. Except as otherwise limited by this act, the corporation shall have power:

(1) To sue and be sued;

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

(3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this act;

(4) To make and alter by-laws for its organization and internal management and, subject to agreements with noteholders or bondholders, to make rules and regulations with respect to its projects, operations, properties and facilities, which rules and regulations shall be filed with the department of state in the manner provided by section one hundred two of the executive law;

(5) To acquire, hold and dispose of personal property for its corporate purposes;

(6) To appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;

(7) To acquire or contract to acquire from any person, firm, corporation, municipality, federal or state agency, by grant, purchase, condemnation or otherwise, leaseholds, real, personal or mixed property or any interest therein; to own, hold, clear, improve and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber the same;

(8) To create subsidiaries, as provided in section twelve of this act.

(9) To acquire, construct, reconstruct, rehabilitate, improve, alter or repair or provide for the construction, reconstruction, improvement, alteration or repair of any project.

(10) To arrange or contract with a municipality for the planning, replanning, opening, grading or closing of streets, roads, roadways, alleys or other places, or for the furnishing of facilities or for the acquisition by a municipality of property or property rights or for the furnishing of property or services in connection with a project.

(11) To sell, lease, assign, transfer, convey, exchange, mortgage, or otherwise dispose of or encumber any project, and in the case of the sale of any project, to accept a purchase money mortgage in connection therewith; and to lease, repurchase or otherwise acquire and hold any project which the corporation has theretofore sold, leased or otherwise

conveyed, transferred or disposed of.

(12) To grant options to purchase any project or to renew any leases entered into by it in connection with any of its projects, on such terms and conditions as it may deem advisable.

(13) To prepare or cause to be prepared plans, specifications, designs and estimates of cost for the construction, reconstruction, rehabilitation, improvement, alteration or repair of any project, and from time to time to modify such plans, specifications, designs or estimates.

(14) To manage any project, whether then owned or leased by the corporation, and to enter into agreements with the state or any municipality or any agency or instrumentality thereof, or with any person, firm, partnership or corporation, either public or private, for the purpose of causing any project to be managed.

(15) To provide advisory, consultative, training and educational services, technical assistance and advice to any person, firm, partnership or corporation, either public or private, in order to carry out the purposes of this act.

(16) To lend or donate monies, whether secured or unsecured, to any subsidiary corporation, and to purchase, sell or pledge the shares, bonds or other obligations or securities thereof, on such terms and conditions as the corporation may deem advisable.

(17) To make mortgage loans, secured by a first mortgage lien, including temporary loans or advances, to any subsidiary corporation which is a housing company, and to undertake commitments therefor. Any such commitment, mortgage or bonds or notes secured thereby may contain such terms and conditions not inconsistent with the provisions of this act as the corporation may deem necessary or desirable to secure repayment of its loan, the interest, if any, thereon and other charges in connection therewith.

(18) Subject to the provisions of any contract with noteholders or bondholders to consent to the modification, with respect to rate of interest, time of payments of any installment of principal or interest, security, or any other term, of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the corporation is a party.

(19) In connection with any property on which it has made a mortgage

loan, to foreclose on any such property or commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; and in such event the corporation may complete, administer, pay the principal of and interest on any obligations incurred in connection with such property, dispose of, and otherwise deal with such property, in such manner as may be necessary or desirable to protect the interests of the corporation therein.

(20) To borrow money and to issue its negotiable bonds and notes and to provide for the rights of the holders thereof.

(21) As security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, to mortgage and pledge any or all of its projects, whether then owned or thereafter acquired, and to pledge the revenues and receipts therefrom or from any thereof, and to assign or pledge the lease or leases on any portion or all of said projects and to assign or pledge the income received by virtue of said lease or leases.

(22) To invest any funds of the corporation including funds held in reserve or sinking funds, or any monies (including proceeds from the sale of any bonds or notes of the corporation) not required for immediate use or disbursement, at the discretion of the corporation, in (a) obligations of the state or of the United States government, (b) obligations the principal and interest of which are guaranteed by the state or the United States government, (c) obligations of agencies and instrumentalities of the state or of the United States, or (d) certificates of deposit of banks or trust companies in this state, secured by obligations described in clauses (a), (b) or (c) of this subdivision.

(23) To procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable.

(24) To engage the services of consultants on a contract basis for rendering professional and technical assistance and advice.

(25) To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state

or any agency or instrumentality thereof, or from any other source and to comply, subject to the provisions of this act, with the terms and conditions thereof.

* (26) To make loans, whether secured or unsecured, in connection with the corporation's participation in a project (as defined in this act), to any person or entity, whether public or private, and to issue commitments for such loans, provided that such loans and commitments are made or issued in compliance with guidelines established by the board of directors of the corporation; to provide for the repayment of such loans on terms and conditions that the directors of the corporation deem advisable and to receive and hold real property or personal property as security for the repayment of such loans.

* NB Repealed July 1, 2027

(27) To use a portion of appropriated funds generally designated as high risk targeted investment funds to establish a loan fund to be used to make loans to business enterprises located within empire zones designated pursuant to article eighteen-B of the general municipal law.

(28) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this act.

(29) Subject to any agreement with noteholders or bondholders, to enter into agreements to pay annual sums in lieu of taxes to any municipality or political subdivision of the state, in respect of any real property which is owned by the corporation or any subsidiary thereof and is located in such municipality or political subdivision.

(30) To provide priority assistance to projects involving industry clusters. The term "industry cluster" shall mean a geographic concentration of competitive firms or establishments in the same industry that either have close buy-sell relationships with other industries in the region, use common technologies, or share a specialized labor pool that provides firms with a competitive advantage over the same industry in other places.

§ 6. Sale or lease of land use improvement projects. (1) The corporation may sell or lease for a term not exceeding ninety-nine years all or any portion of the real or personal property constituting a land use improvement project to any person, firm, partnership or corporation,

either public or private, upon such terms and conditions as may be approved by the corporation, whenever the corporation shall find that such sale or lease is in conformity with a plan or undertaking for the clearance, replanning, reconstruction or rehabilitation of sub-standard and insanitary areas in the municipality in which the project is located. Such sale or lease may be made:

(a) to any housing company, without public bidding, public sale or public notice;

(b) to any local development corporation, without public bidding, public sale or public notice;

(c) to any other person, firm, partnership or corporation, without public bidding or public sale, provided there is published in at least one newspaper of general circulation in the municipality in which the project is located a notice which shall include a statement of the identity of the proposed purchaser or lessee and of his proposed use or reuse of the land use improvement project area or applicable portion thereof, the price or rental to be paid by such purchaser or lessee, all other essential conditions of such sale or lease, and a statement that a public hearing upon such sale or lease will be held before the corporation at a specified time and place on a date not less than ten days after such publication, and provided further that such public hearing is held in accordance with such notice.

*** § 6-a. Sale or lease of infrastructure projects.** (1) Notwithstanding the provisions of any general, special or local law, subject to any agreement with noteholders or bondholders, the corporation may sell or lease any infrastructure project, without public bidding or public sale, for such price or rental and upon such terms as may be agreed upon between the corporation and such purchaser or lessee, either prior to, at the date of, or subsequent to the completion of the project by the corporation, provided, however, that in the case of a lease, the term thereof shall not exceed ninety-nine years. Where such contract for sale or lease is entered into after the commencement of construction and prior to the physical completion of the improvement to be conveyed or leased, the corporation may complete the construction and development of such improvement prior to the actual conveyance or lease.

(2) Except with respect to projects sold or leased to the state or any agency or instrumentality thereof, to any municipality or agency or instrumentality thereof, or to any public corporation, before any sale or lease of all or a substantial part of a project as authorized by subdivision one of this section is consummated, there shall be published in at least one newspaper of general circulation in the municipality in which the project is located a notice which shall include a statement of the identity of the proposed purchaser or lessee, the price or rental to be paid, all other essential conditions of such sale or lease, and a statement that a public hearing upon such sale or lease will be held before the corporation at a specified time and place on a date not less than ten days after such publication, and such hearing shall be held in accordance with such notice.

(3) The responsibilities of the corporation in connection with the implementation of this section may include requesting and receiving title to real property from the commissioner of general services pursuant to section thirteen-a of this act. Such transfers shall be on such terms as the commissioner of general services and the chairman of the corporation shall determine, and shall, subject to any agreement with noteholders and bondholders, include a reversionary interest to the state and the terms on which the property may subsequently be transferred.

* NB Not implemented due to defeat of the Jobs for the new, New York bond act in November, 1992

§ 7. Sale or lease of residential projects. (1) The corporation may sell or lease for a term not exceeding ninety-nine years a residential project only to a housing company or to a municipality or housing authority. It may enter into a contract for such sale or lease either prior to, at the date of, or subsequent to the completion of the project by the corporation. Where such contract for sale or lease is entered into after the commencement of construction and prior to the physical completion of the improvement to be conveyed or leased, the corporation may complete the construction and development of such improvement prior to the actual conveyance or lease.

(2) Any such sale or lease pursuant to subdivision one of this section

may be made without public bidding, public sale or public notice, pursuant to such negotiated contract, agreement or lease and containing such provisions, limitations, requirements, terms and conditions, as the corporation, within its discretion, may determine to be necessary or desirable.

§ 8. Sale or lease of industrial projects. (1) Notwithstanding the provisions of any general, special or local law, subject to any agreement with noteholders or bondholders, the corporation may sell or lease any industrial project, without public bidding or public sale, for such price or rental and upon such terms as may be agreed upon between the corporation and such purchaser or lessee, either prior to, at the date of, or subsequent to the completion of the project by the corporation, provided, however, that in the case of a lease, the term thereof shall not exceed ninety-nine years. Where such contract for sale or lease is entered into after the commencement of construction and prior to the physical completion of the improvement to be conveyed or leased, the corporation may complete the construction and development of such improvement prior to the actual conveyance or lease.

(2) Before any sale or lease of all or a substantial part of a project as authorized by subdivision one of this section is consummated, there shall be published in at least one newspaper of general circulation in the municipality in which the project is located a notice which shall include a statement of the identity of the proposed purchaser or lessee, the price or rental to be paid, all other essential conditions of such sale or lease, and a statement that a public hearing upon such sale or lease will be held before the corporation at a specified time and place on a date not less than ten days after such publication, and such hearing shall be held in accordance with such notice; provided, however, that if the corporation determines that trade secrets or other confidential information about the prospective purchaser's or lessee's business operations, products, processes or designs would otherwise be revealed by such public notice and public hearing, the requirements of this subdivision may be waived by unanimous vote of the directors of the corporation.

§ 9. Sale or lease of civic projects. (1) Subject to any agreement with noteholders or bondholders, the corporation may sell or lease for a term not exceeding ninety-nine years any civic project to the state or any agency or instrumentality thereof, to any municipality or agency or instrumentality thereof, to any public corporation, or to any other entity which is carrying out a community, municipal, public service or other civic purpose.

(2) Any such sale or lease pursuant to subdivision one of this section may be made without public bidding, public sale or public notice, upon such terms and conditions as the corporation, within its discretion, may determine to be necessary or desirable. The corporation may enter into a contract for a sale or lease as authorized by subdivision one of this section either prior to, at the date of, or subsequent to the completion of the project by the corporation. Where such contract for sale or lease is entered into after the commencement of construction and prior to the physical completion of the improvement to be sold or leased, the corporation may complete the construction and development of such improvement prior to the actual conveyance or lease.

§ 9-a. Financial assistance for small and medium-sized business assistance projects. The corporation may provide loans for small and medium-sized business assistance projects for costs associated with:

(1) The renovation or rehabilitation of industrial plants that are economically inefficient due to the need for changes in design, construction, technology or production processes; the renovation or rehabilitation of existing facilities for reuse as an industrial facility; the acquisition of real property and related improvements; new construction; working capital; and the acquisition of modern production technology, including machinery, equipment and computerized design and control systems, required to improve production processes, expand existing or enter new markets, or to otherwise remain competitive. The corporation shall determine the terms and interest rates of such loans, except that no loan shall exceed fifty percent of project costs, or seven hundred fifty thousand dollars, whichever is less, no loan shall have an interest rate lower than three percent, and no loan shall have a

term that exceeds the estimated useful life of the asset;

(2) Site acquisition, construction, renovation or acquisition of permanently installed equipment necessary to establish or expand a child day care facility located on the work site of the industrial firm sponsoring the child day care facility or at a proximate site where a consortia of industrial firms are sponsoring the child day care facility. Such loans shall be made upon a determination by the corporation that such facility is necessary to improve or maintain the productivity of the company or companies. Such loans shall only be made for child day care facilities: (a) that will be used primarily by the children of employees of the company or companies sponsoring the facility; (b) that will not be operated for profit; (c) that demonstrate an ability to obtain, from the appropriate governmental agencies, all necessary approvals and licenses required to operate the facility; and (d) that demonstrate an ability to prevent access by children to any equipment in facilities which could be injurious to their health or safety. The corporation shall determine the terms and interest rates of such loans, except that no loan shall exceed sixty percent of project costs, or two hundred fifty thousand dollars, whichever is less, no loan shall have an interest rate lower than three percent, and no loan shall have a term longer than ten years.

§ 9-b. For any positions opened as a result of assistance provided pursuant to section nine-a of this act, industrial firms so assisted shall first consider persons eligible to participate in federal job training partnership act (P.L. 97-300) programs who shall be referred to the industrial firm by administrative entities of service delivery areas created pursuant to such act or by the job service division of the department of labor.

§ 9-c. Rules and regulations. The corporation shall, assisted by the commissioner of economic development and in consultation with the department of economic development, promulgate rules and regulations in accordance with the state administrative procedure act. Such rules and regulations shall be consistent with the program plan required by

subdivision nineteen of section one hundred of the economic development law.

§ 9-d. Reports and evaluation. (1) Reporting. The corporation shall, on or before October 1, 1988 and on or before each October first thereafter, submit a report to the governor and the legislature on the operations and accomplishments of the small and medium-sized business assistance program. The report to be submitted on October 1, 2005 and on or before each October first thereafter shall be consolidated with the annual program report of the corporation required under the provisions of subdivision (b) of section thirty of this act, as amended.

(2) Evaluation. (a) The corporation shall submit to the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee an evaluation of the small and medium-sized business assistance program prepared by an entity independent of the corporation. Such an evaluation shall be submitted by September 1, 2005 and by September first every four years thereafter.

(b) Between evaluation due dates, the corporation shall maintain the necessary records and data required to satisfy such evaluation requirements and to satisfy information requests received from the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee between such evaluation due dates.

§ 9-e. Creating a Puerto Rican and Latino business development center. The corporation shall provide, with the assistance of the commissioner of economic development and in consultation with such commissioner, a Puerto Rican and Latino business development center for the purposes of rendering technical assistance and market information to not-for-profit service providers and the private businesses servicing Puerto Rican and Latino communities.

§ 9-f. Special assistance for small and medium-sized businesses which

are adversely affected by the absence of eligible reservists ordered to active duty with the armed forces. (1) In addition to loans for small and medium-sized business assistance projects authorized by this act, the corporation is hereby authorized to make loans to assist a small or medium-sized business concern which is likely to suffer economic injury as the result of the owner, manager or key employee of such small or medium-sized business concern who is an eligible reservist being ordered to active military duty during a period of military conflict. The corporation shall determine the term and interest rate of such loans except that no loan shall exceed one hundred fifty thousand dollars, no loan shall have an interest rate greater than five percent and no loan shall have a term that exceeds a number of years which in the opinion of the corporation is necessary for the small or medium-sized business concern to recover financially from the absence of such eligible reservist. Any such loan shall be secured by a security agreement chattel paper, loan agreement or such other instruments or documents deemed necessary or convenient by the corporation to secure the loan. In determining the economic need for a loan authorized by this section, the corporation shall consider the decline in income or gross receipts of the business during the period of active military duty of the eligible reservist. Such loans shall be made in an expeditious manner to enable the small or medium-sized business concern to recover forthwith from such absence. Loans made pursuant to this section shall be used for working capital by the small or medium-sized business concern. The corporation shall render such other assistance and services as it deems advisable and proper in connection with such loans and the purpose therefor.

(2)(a) With respect to any loan granted to a small or medium-sized business concern pursuant to this act, the corporation may temporarily suspend the repayment obligation of any small or medium-sized business concern if any person liable thereon is or if any owner, manager or key employee is an eligible reservist called to active duty in the military service subsequent to the disbursement of the proceeds of such loan and such business concern has suffered or is likely to suffer economic injury as a result of such order. The suspension, if approved, shall be effective on the date the corporation is notified that the eligible reservist has commenced active duty status or, at the election of the

corporation it shall be made effective at any time subsequent to the date such eligible reservist entered active duty status, and shall continue for ninety days after such person is discharged or released from active duty.

(b) Within thirty days after the return to non-active duty status of any person to whom this subdivision may apply, the corporation shall arrange a meeting with the affected small or medium-sized business to arrange repayment of the loan. The corporation is authorized to extend the terms of any loan or to set a repayment schedule for such loans made for a period of up to one year for each sixty days of active duty, but not to exceed five years.

(c) If the corporation determines that such small or medium-sized business concern meets the criteria of this subdivision, it may, in its discretion, reduce or eliminate the assistance provided herein if it determines such business has the financial ability to meet the terms and conditions of the obligation without substantially disrupting business operations. Any such determination shall be made only after affording the applicant the opportunity to present information in person or through others in support of the request for assistance.

(3) Nothing in this section shall preclude a small or medium-sized business concern which is ineligible for assistance pursuant to the provisions of this section from qualifying for any other assistance pursuant to article 13 of the military law or the Federal Soldiers' and Sailors' Civil Relief Act of 1940, as amended.

(4) The corporation is directed to liberally construe the provisions of this section to benefit eligible small and medium-sized business concerns in recovering from any demonstrated economic loss caused by the active military service of the eligible reservist.

§ 10. Findings of the corporation. Notwithstanding any other provision of this act, the corporation shall not be empowered to undertake the acquisition, construction, reconstruction, rehabilitation or improvement of a project unless the corporation finds:

(a) in the case of a residential project:

(1) That there exists, in the area in which the project is to be located, or in an area reasonably accessible to such area, a need for

safe and sanitary housing accommodations for persons or families of low income, which the operations of private enterprise cannot provide;

(2) That the project has been approved as a project of a housing company pursuant to the provisions of the private housing finance law.

(b) in the case of an industrial project:

(1) That the area in which the project is to be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area, wherein there exists a condition of substantial and persistent unemployment or underemployment;

(2) That the acquisition or construction and operation of such project will prevent, eliminate or reduce unemployment or underemployment in such area;

(3) That such project shall consist of a building or buildings which are suitable for manufacturing, warehousing or research or other industrial, business or commercial purposes.

(4) That adequate provision has been, or will be made for the payment of the cost of the acquisition, construction, operation, maintenance and upkeep of such project.

(5) That the acquisition and construction, proposed leasing, operation and use of such project will aid in the development, growth and prosperity of the state and the area in which such project is located;

(6) That the plans and specifications assure adequate light, air, sanitation and fire protection.

(c) in the case of a land use improvement project:

(1) That the area in which the project is to be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area and tends to impair or arrest the sound growth and development of the municipality;

(2) That the project consists of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such area and for recreational and other facilities incidental or appurtenant thereto;

(3) That the plan or undertaking affords maximum opportunity for participation by private enterprise, consistent with the sound needs of the municipality as a whole.

(d) in the case of a civic project:

(1) That there exists in the area in which the project is to be

located, a need for the educational, cultural, recreational, community, municipal, public service or other civic facility to be included in the project;

(2) That the project shall consist of a building or buildings or other facilities which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purposes;

(3) That such project will be leased to or owned by the state or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and that adequate provision has been, or will be, made for the payment of the cost of acquisition, construction, operation, maintenance and upkeep of the project;

(4) That the plans and specifications assure or will assure adequate light, air, sanitation and fire protection.

(e) in the case of an industrial effectiveness project:

(1) That a feasibility study or productivity assessment exists demonstrating the potential for future profitability of the firm requesting financial assistance and such study or assessment has been reviewed and approved by the commissioner of economic development;

(2) That for loans to implement a corporate restructuring or turnaround plan, the management of the industrial firm requesting assistance is capable and the firm has a sound business development plan that includes measures to ensure labor and management cooperation and to effect changes required to continue as a successful business;

(3) That the requested financial assistance is not available from other public or private financing sources; and

(4) That the area in which the project is to be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area, wherein there exists a condition of substantial and persistent unemployment or underemployment.

(f) in the case of a small and medium-sized business assistance project:

(1) That the area in which the project will be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area, wherein there exists a condition of substantial and persistent unemployment or underemployment;

(2) That the project demonstrates market, management and financial feasibility and has a clear likelihood of success;

(3) That the industrial firm provides at least a ten percent equity contribution and such contribution is not derived from other governmental sources;

(4) That the requested financial assistance is not available from other public or private financing sources on terms compatible with the successful completion of the project;

(5) That the project will not result in the relocation of any industrial firm from one municipality within the state to another municipality, except under one of the following conditions: (i) when an industrial firm is relocating within a municipality with a population of at least one million where the governing body of such municipality approves such relocation; or (ii) the corporation notifies each municipality from which such industrial firm will be relocated and each municipality agrees to such relocation; and

(6) That the project is not for the purpose of refinancing any portion of the total project cost or other existing loans or debts of the project sponsor or owner.

(g) in the case of all projects, that there is a feasible method for the relocation of families and individuals displaced from the project area into decent, safe and sanitary dwellings, which are or will be provided in the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities, at rents or prices within the financial means of such families or individuals, and reasonably accessible to their places of employment. Insofar as is feasible, the corporation shall offer housing accommodations to such families and individuals in residential projects of the corporation. The corporation may render to business and commercial tenants and to families or other persons displaced from the project area, such assistance as it may deem necessary to enable them to relocate.

(h) in the case of all projects, the corporation shall state the basis for its findings.

§ 11. Construction contracts. (1) Construction contracts let by the

corporation shall be in conformity with the applicable provisions of section one hundred thirty-five of the state finance law, provided, however, that construction contracts let by subsidiaries of the corporation which are housing companies shall be governed by the applicable provisions of the private housing finance law; provided further, however, that in the case of industrial projects, whenever the corporation determines that trade secrets or other confidential information about the prospective project occupant's business operations, products, processes or designs would be revealed by public bidding, the requirements of section one hundred thirty-five of the state finance law with respect to public bidding may be waived. In such event, separate specifications shall be prepared for, and separate and independent contracts shall be entered into, for the following three subdivisions of work to be performed: (a) plumbing and gas fitting; (b) steam heating, hot water heating, ventilating and air conditioning apparatus; and (c) electric wiring and standard illuminating fixtures.

(2) The corporation may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the corporation receives bids. Any construction contract awarded by the corporation shall contain such other terms and conditions as the corporation may deem desirable. The corporation shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The corporation may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The corporation may reject any bid if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.

§ 12. Subsidiaries: how created. (1) The corporation shall have the right to exercise and perform its powers and functions through one or more subsidiary corporations. The corporation by resolution may direct any of its directors, officers or employees to organize a subsidiary corporation pursuant to either the business corporation law, the

not-for-profit corporation law or articles two, four or eleven of the private housing finance law. Such resolution shall prescribe the purposes for which such subsidiary corporation is to be formed.

Such corporation shall be deemed a subsidiary corporation whenever and so long as (i) more than half of any voting shares of such subsidiary are owned or held by the corporation, or (ii) a majority of the directors, trustees or members of such subsidiary are designees of the corporation.

(2) The corporation may transfer to any subsidiary corporation any moneys, real or personal or mixed property or any project in order to carry out the purposes of this act. Each such subsidiary corporation shall have all the privileges, immunities, tax exemptions and other exemptions of the corporation to the extent the same are not inconsistent with the statute or statutes pursuant to which such subsidiary was incorporated.

(3) Notwithstanding any provision of this act to the contrary, the superintendent of financial services and the chairman of the New York state science and technology foundation shall not serve as a director, trustee or member of any such subsidiary corporation.

(4) No officer or director of the corporation shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of his duties, by reason of his serving as a member, director, or trustee of any subsidiary corporation.

§ 13. Acquisition of real property. The corporation, upon making a finding that it is necessary or convenient to acquire any real property for its immediate or future use, may acquire such property in any lawful manner, pursuant to the provisions of the eminent domain procedure law, notwithstanding that such property may already be devoted to a public use, nor shall such property thereafter be taken for any other public use without the consent of the corporation.

Prior to the commencement of condemnation proceedings, the corporation shall cause a survey and map to be made of the property to be condemned

and file the same in its office. There shall be annexed thereto a certificate, executed by such officer or employee as the corporation may designate, stating that the property described in such survey and map is necessary for corporate purposes.

§ 13-a. Conveyance of state lands. The commissioner of general services shall have power, in his discretion, from time to time to grant and convey to the corporation, upon such terms and conditions including consideration as the commissioner of general services may fix and determine, unappropriated state lands, lands under water, abandoned canal lands and salt springs lands which the corporation shall certify to be necessary or convenient for its corporate purposes. Certification shall be evidenced by a formal request from the President of the corporation.

§ 14. Acquisition of real property from a municipality or an urban renewal agency. (1) Notwithstanding anything to the contrary contained in article fifteen or article fifteen-A of the general municipal law or in any general, special or local law applicable to the sale of real property by a municipality or an urban renewal agency, a municipality or an urban renewal agency may, in addition to employing any other lawful method of utilizing or disposing of any real property and appurtenances thereto or any interest therein owned by such municipality or urban renewal agency or acquired by such municipality or urban renewal agency pursuant to article fifteen of article fifteen-A of the general municipal law, sell, lease for a term not exceeding ninety-nine years, or otherwise dispose of any such real property and appurtenances thereto or any interest therein to the corporation for the effectuation of any of the purposes of an urban renewal program, without public auction, or sealed bids or public notice.

(2) Notwithstanding the provisions of any general, special or local law or charter, any municipality, by resolution of its local governing body, is hereby empowered without referendum, public auction, sealed bids or public notice, to sell, lease for a term not exceeding ninety-nine years, grant or convey to the corporation any real property

owned by it which the corporation shall certify to be necessary or convenient for its corporate purposes. Any such sale, lease, grant or conveyance shall be made with or without consideration and upon such terms and conditions as may be agreed upon by such municipality and the corporation. Certification shall be evidenced by a formal request from the president of the corporation. Before any such sale, lease, grant or conveyance may be made to the corporation, a public hearing shall be held by the local governing body to consider the same. Notice of such hearing shall be published at least ten days before the date set for the hearing in such publication and in such manner as may be designated by the local governing body.

§ 15. Special provisions relating to residential projects. (1)

Notwithstanding any provision of law to the contrary, whenever a residential project is owned by or leased to a subsidiary which is a limited profit housing company, or is sold or leased to a limited profit housing company, such project shall be deemed to be a state-aided project, as defined in section two of the private housing finance law, unless such project is aided by a municipal mortgage loan, in which event such project shall be deemed to be a municipally-aided project.

(2) Notwithstanding any provision of law to the contrary, but subject to any agreement with noteholders or bondholders, any city, town or village and any housing authority is hereby authorized to purchase or lease for a term not exceeding ninety-nine years a residential project.

(3) Notwithstanding any other provision of this act, projects of a subsidiary organized pursuant to articles two, four or eleven of the private housing finance law shall be exempt from real property taxes to the extent and in the manner provided by applicable law.

(4) In order to increase the availability of housing accommodations for persons and families of low income, the corporation shall undertake to utilize the state capital grant low rent assistance program, pursuant to section forty-four-a of the private housing finance law, in residential projects of the corporation.

(5) Notwithstanding any inconsistent provision of this act or of any general or special law, no plan for a proposed residential project in a town or incorporated village which has not been affirmed by the

corporation prior to May first, nineteen hundred seventy-three, shall be affirmed if, within thirty days after the public hearing held pursuant to subdivision two of section sixteen of this act or within thirty days after June first, nineteen hundred seventy-three, whichever date is later, the local governing body of such town or village submits in writing to the corporation formal objections to the proposed residential project, unless and until such objections are withdrawn and subject to the following conditions and limitations:

(a) The foregoing shall not apply to residential projects initiated after June first, nineteen hundred seventy-three, if such local governing body has, prior to submission, either approved such plan or executed any agreement with the corporation relating to such plan upon which the corporation has relied in authorizing expenditures of funds or contracts, unless such town or village reimburses the corporation for all of its expenditures and indemnifies the corporation for liabilities ensuing from cancellation of any contract, net of the proceeds of any resale of property acquired by the corporation for such project.

(b) The corporation may affirm, in any event, plans for residential projects in the new community known as Audubon, in the town of Amherst, county of Erie or in the new community known as Lysander New Community, in the town of Lysander, county of Onondaga, and the provisions of this first paragraph of this subdivision shall not be applicable to any of such projects.

§ 16. Cooperation with municipalities. (1) In effectuating the purposes of this act, the corporation and community advisory committees created pursuant to section four of this act shall work closely, consult and cooperate with local elected officials and community leaders at the earliest practicable time. The corporation shall give primary consideration to local needs and desires and shall foster local initiative and participation in connection with the planning and development of its projects. Wherever possible, activities of the corporation shall be coordinated with local urban renewal and other community projects, and the corporation shall assist localities in carrying out such projects. Consideration shall also be given to local and regional goals and policies as expressed in urban renewal, community

renewal and local comprehensive land use plans and regional plans.

(2) Except with respect to a project consisting in whole or in part of real property acquired by the corporation pursuant to section fourteen of this act, before commencing the acquisition, construction, reconstruction, rehabilitation, alteration or improvement of any project: (a) upon adoption of the general project plan, the corporation shall file a copy of such plan, including the findings required pursuant to section ten of this act, in its corporate offices and in the office of the clerk of any municipality in which the project is to be located. Upon request, any other person shall be furnished with a digest of such plan; (b) pursuant to authorization from the chief executive officer of the corporation, which authorization may be given prior to the adoption of such plan by the corporation, the corporation shall: (i) publish in one newspaper of general circulation within the municipality, (ii) provide to the chief executive officer of the municipality within which the project is located, and (iii) in any city having a population of one million or more, provide to any community board in which the project will be located, a notice that such plan will be filed upon its adoption by the corporation and that digests thereof will be available, which notice shall also state that a public hearing will be held to consider the plan at a specified time and place on a date not less than ten days after such publication; (c) the corporation shall conduct a public hearing pursuant to such notice, provided that such public hearing shall not take place before the adoption or the filing of such plan by the corporation; (d) upon a written finding of the chief executive officer of the corporation that no substantive negative testimony or comment has been received at such public hearing, such plan shall be effective at the conclusion of such hearing; provided, however, that if any substantive negative testimony or comment is received at such public hearing, the corporation may, after due consideration of such testimony and comment, affirm, modify or withdraw the plan in the manner provided for the initial filing of such plan in paragraph (a) of this subdivision.

(3) After consultation with local officials, as provided in subdivision one of this section, the corporation and any subsidiary thereof shall, in constructing, reconstructing, rehabilitating, altering or improving any project, comply with the requirements of local laws,

ordinances, codes, charters or regulations applicable to such construction, reconstruction, rehabilitation, alteration or improvement, provided however, that when, in the discretion of the corporation, such compliance is not feasible or practicable, the corporation and any subsidiary thereof shall comply with the requirements of the state building construction code, formulated by the state building code council pursuant to article eighteen of the executive law, applicable to such construction, reconstruction, rehabilitation, alteration or improvement. In those circumstances where, in the discretion of the corporation, such compliance with local laws, ordinances, codes, charters or regulations is not feasible or practicable, and in the case of any project where the corporation intends to acquire real property pursuant to section thirteen of this act, the requirements of subdivision two of this section shall be complied with; provided, however, that (a) the corporation shall provide a copy of the plan to the chief executive officer of any municipality within which the project is to be located, the chairman of the planning board or commission of any such municipality, or if there is no planning board or commission, to the presiding officer of the local governing body and in any city having a population of one million or more, to any community board in which the project is located, and the public hearing to consider the plan required pursuant thereto shall be held on thirty days notice following adoption of the plan by the corporation; (b) any person shall have the opportunity to present written comments on the plan within thirty days after the public hearing; (c) any municipality within which the project is to be located, by majority vote of its planning board or commission, or in the event there is no planning board or commission, by majority vote of its local governing body, may recommend approval, disapproval or modification of the plan, which recommendation shall be submitted in writing to the corporation within thirty days after such hearing; and (d) after due consideration of such testimony and comments and municipal recommendations, if any, the corporation may affirm, modify or withdraw the plan in the manner provided for the initial filing of such plan in paragraph (a) of subdivision two of this section, provided, however that in the event any such municipality has recommended disapproval or modification of the plan, as provided herein, the corporation may affirm the plan only by a vote of two-thirds of the

directors thereof then in office. No municipality shall have power to modify or change the drawings, plans or specifications for the construction, reconstruction, rehabilitation, alteration or improvement of any project of the corporation or of any subsidiary thereof, or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform any such work in any other or different manner than that provided by such plans and specifications, nor to require that any such person, firm or corporation obtain any other or additional authority, approval, permit or certificate from such municipality in relation to the work being done, and the doing of any such work by any person, firm or corporation in accordance with the terms of such drawings, plans, specifications or contracts shall not subject said person, firm or corporation to any liability or penalty, civil or criminal, other than as may be stated in such contracts or incidental to the proper enforcement thereof; nor shall any municipality have power to require the corporation or any subsidiary thereof, or lessee therefrom or successor in interest thereto, to obtain any other or additional authority, approval, permit, certificate or certificate of occupancy from such municipality as a condition of owning, using, maintaining, operating or occupying any project acquired, constructed, reconstructed, rehabilitated, altered or improved by the corporation or by any subsidiary thereof. The foregoing provisions shall not preclude any municipality from exercising the right of inspection for the purpose of requiring compliance by any such project with local requirements for operation and maintenance, affecting the health, safety and welfare of the occupants thereof, provided, however, that such compliance does not require changes, modifications or additions to the original construction of such project.

(4) Each municipality or political subdivision, including but not limited to a county, city, town, village or district, in which any project of the corporation or of any subsidiary thereof is located, shall provide for such project, whether then owned by the corporation, any subsidiary thereof or any successor in interest thereto, police, fire, sanitation, health protection and other municipal services of the same character and to the same extent as those provided for other residents of such municipality or political subdivision.

(5) Notwithstanding the provisions of any general, special or local law or charter, any municipality or any public corporation is hereby empowered to purchase or lease for a term not exceeding ninety-nine years a civic project, upon such terms and conditions as may be agreed upon by such municipality or such public corporation and the corporation. No agreement for such purchase or lease shall be deemed to be a contract for public work or purchase within the meaning of the general municipal law. Nothing contained in this subdivision shall be deemed to amend or supersede any other provision of law requiring a vote of the qualified voters of any school district upon a proposed expenditure of funds or incurring of indebtedness by such school district.

(6) In carrying out any project, the corporation and its subsidiaries shall be empowered to enter into contractual agreements with municipalities and public corporations with respect to the furnishing of any community, municipal or public facilities or services necessary or desirable for such project, and any municipality or public corporation is hereby authorized and empowered, notwithstanding any other law, to enter into such contractual agreements with the corporation and its subsidiaries and to do all things necessary to carry out its obligations under the same.

§ 16-a. Regional revolving loan program. (1) The corporation shall establish a fund to be known as the "regional revolving loan trust fund" and shall pay into such fund any monies made available to the corporation for such fund from any source. The monies held in or credited to the fund shall be expended solely for the purposes set forth in this section. The corporation shall not commingle the monies of such fund with any other monies of the corporation or any monies held in trust by the corporation.

(2) The corporation shall allocate any monies made available for such fund for the purpose of making grants to regional corporations. The grants shall be allocated as follows:

(a) fifty percent divided equally among the regions;

(b) fifty percent according to a formula weighted in favor of those regions with the greatest levels of economic distress as determined by

poverty rates, number of persons receiving public assistance, unemployment rates, rate of employment decline and such other indicators of economic distress as the corporation deems appropriate; and

(c) in the event a regional corporation advises the corporation that it does not require all or a portion of the funds to be distributed pursuant to this subdivision, such funds shall be re-distributed by the corporation equally among the other regional corporations.

(3) In accordance with the rules and regulations of the corporation, each regional corporation shall establish two special accounts for monies received by the regional corporation pursuant to the provisions of this section. The grant monies received from the corporation, earnings on such monies, and any principal repayments shall be deposited in a loan fund account; any interest earned by the regional corporation on loans will be deposited in a separate interest repayment account. A regional corporation shall be authorized to provide financing assistance to eligible projects. Any interest earned from its loans may be used by a regional corporation for the cost of administering the programs authorized by this section.

(3-a) Notwithstanding subdivision three of this section, where applicable, the corporation is authorized to enter into agreements as may be necessary for the administration and reporting of funds repaid, received, expended or collected in a manner consistent with the provisions in section sixteen-t of this act. The use of such funds by the corporation shall be consistent with the terms, conditions and restrictions set forth in subdivision four of this section, to provide financial assistance to eligible regional corporations as defined in subdivision eighteen of section three of this act. Outstanding expenses, loans and other obligations executed prior to the effective date of this subdivision shall be subject to the terms and conditions of the original contract or contracts.

(4) Regional corporations shall be selected by the corporation from among eligible applicants to administer a regional revolving loan program. An eligible applicant shall:

(a) represent at least two entire contiguous counties;

(b) have available to it staff with sufficient expertise to analyze applications for financial assistance, to regularly monitor financial assistance to clients, and have made arrangements to provide management

or technical assistance to clients;

(c) have an effective plan to market its services to small businesses through such entities as chambers of commerce, industry trade associations, banks, local development corporations, community based organizations and industrial development agencies; and

(d) have established a loan committee composed of five or more persons experienced in commercial lending or in the operation of a for-profit business and a staff person of the regional office of the department of economic development. Such loan committee shall review every application to the regional corporation for financial assistance pursuant to this section, shall determine the feasibility of the transaction proposed in the application and shall recommend to the board of directors or other governing body of the regional corporation such action as the committee deems appropriate.

(5) Applications to the corporation for certification or recertification as a regional corporation shall:

(a) describe the applicant corporation, including its organization, membership, loan committee, staff, and sources of other funds, if any;

(b) identify the geographic region to be served;

(c) explain the methods and criteria to be used in determining firms eligible for financial assistance from the regional revolving loan program;

(d) describe the means for coordinating financial assistance available from the regional revolving loan program with financial assistance available from other public funding sources within the region and how such program will be used to leverage private financing for projects;

(e) at any time, the corporation may consider proposals to reconfigure geographic areas served by regional corporations; and

(f) contain such other information as the corporation deems appropriate.

(6) The corporation shall select, from among eligible applicants, regional corporations to administer revolving loan programs, on the basis of:

(a) the ability of the regional corporation to administer the financial assistance programs authorized under this section;

(b) the extent of coordination with other publicly supported financial assistance programs available within the region represented by the

regional corporation;

(c) the degree of public and private support within the region for the applicant regional corporation; and

(d) the ability of the regional corporation to provide financial and other assistance to businesses located in distressed areas within the region.

(6-a) The corporation shall, every five years, recertify that each regional corporation has complied with the terms and conditions of this section. In the event a regional corporation is not recertified, or its certification is withdrawn pursuant to subdivision nineteen of this section, then the corporation shall give written notice to such regional corporation which shall thereafter neither make new loans nor undertake new obligations except upon written approval of the corporation. The corporation may thereafter certify another regional corporation in the manner provided in this section for the selection of regional corporations. Upon the certification of a successor regional corporation, all remaining loan funds, records and accounts of the regional corporation not recertified shall be transferred to the corporation and the regional corporation not recertified shall cease to function pursuant to this section. The corporation shall transfer returned funds to a successor regional corporation, or in the event no successor regional corporation is formed, equally to other existing regional corporations.

(7) A regional corporation certified by the corporation shall use the funds received from the corporation, subject to the terms, conditions and restrictions set forth in this section, to provide financial assistance to eligible businesses as defined in subdivision seventeen of section three of this act, for projects that demonstrate a substantial likelihood of providing increases in net new permanent jobs or retaining jobs in businesses that need such financial assistance to remain viable.

(8) The decision to approve or reject an application for financial assistance pursuant to the provisions of this section shall be made by a majority of the directors of the regional corporation, and such decision shall be final. No member of the board or other governing body of a regional corporation shall participate in a decision on a project application when such member is a party to or has a financial interest in such project. Any member who cannot participate in a decision on a

project application for such reason shall not be counted as a member of the board or other governing body for purposes of determining the number of members required for a majority vote on such application.

(9) No employee or officer of any regional corporation shall be a party to or have any financial interest in any project that receives financial assistance pursuant to this section.

(10) A regional corporation, in approving applications for financial assistance, shall give priority to projects:

(a) that will provide increases in net new permanent jobs;

(b) located in economically distressed areas as defined by the corporation or employing persons who live in such areas;

(c) of minority or women-owned enterprises or enterprises owned by dislocated workers, such workers as defined in the Workforce Investment Act (P.L. 105-220); and

(d) of businesses in the early stages of development that have been denied access to credit.

(11) The funds allocated to each regional corporation pursuant to this section may be used to guarantee the repayment of a working capital loan provided by a banking organization to finance an eligible project. Guarantees may be provided for up to ninety percent of the required total project financing, provided that no more than one hundred thousand dollars may be guaranteed for any project. Guarantees may be made for the following types of financing: short and medium term loans for working capital, revolving lines of credit, and seasonal inventory and accounts receivable loans. Guarantees may be made for up to ninety percent of the required total financing up to a maximum of one hundred fifty thousand dollars for interim financing where another lender or guarantor will provide permanent financing within one hundred eighty days. In no event may a loan guarantee be for a term longer than five years. Any loan made by a banking organization that is guaranteed pursuant to this subdivision shall be secured by a security agreement, chattel paper, loan agreement, or such other instruments or documents deemed necessary or convenient by the regional corporation to secure the loan. Any guarantee made pursuant to this subdivision shall be backed by a minimum reserve within the account established by each regional corporation of at least twenty-five percent of the amount guaranteed that is outstanding.

(11-a) A regional corporation, in addition to receiving funds as provided in this section, may also apply for and accept funds from any other source for the purpose of furthering its goals and objectives. Such funds may be used in the same manner as funds received from the corporation to carry out the purposes of this section.

(12) The funds of each regional corporation derived pursuant to this section may be used to provide loans for working capital for eligible projects; provided that the amount of the loan does not exceed ninety percent of the total project cost, or one hundred thousand dollars, whichever is less. The interest rate and the terms on such loans shall be determined by the regional corporation, but in no event shall the interest rate be less than five percent. The term of any loan shall not exceed five years. All loans shall be secured by lien positions on collateral at the highest level of priority that can accommodate the borrower's ability to raise sufficient debt and equity capital for the project.

(13) A regional corporation shall not provide any financial assistance authorized by this section unless the following conditions are met:

(a) the applicant has demonstrated that there is little prospect of obtaining the project financing requested from other public sources of funding within the region, including local revolving loan funds, and that there is little prospect of obtaining adequate project financing from private sources of capital, or in the case of a loan guarantee, that there is little prospect of obtaining project financing without the guarantee; except that in the case of local revolving loan funds, financial assistance from the regional revolving loan fund account may be provided for a project in conjunction with financial assistance from a local revolving loan fund, provided that assistance from the regional revolving loan fund is no greater than that provided by the local revolving loan fund, and that a project qualifying for financial assistance available from a local revolving loan fund is not denied such assistance;

(b) the applicant has a minimum equity interest of at least ten percent in the business or project;

(c) there is a reasonable prospect of repayment;

(d) the project is located in the region represented by the regional corporation;

(e) the project will comply with any applicable environmental rules or regulations;

(f) the applicant has certified that it will not discriminate against any employee or any applicant for employment because of race, religion, color, national origin, sex, or age;

(g) a staff member or a representative of the regional corporation acting in an official capacity has personally visited the project site and/or the applicant's place of business; and

(h) financial commitments for the project have been obtained from other public and private sources.

(14) Grants made by the corporation pursuant to this section shall not be made available for:

(a) projects that would result in the relocation of any business operation from one municipality within the state to another, except under one of the following conditions: (i) when a business is relocating within a municipality with a population of at least one million where the governing body of such municipality approves such relocation; or (ii) the regional corporation notifies each municipality from which such business operation will be relocated and each municipality agrees to such relocation;

(b) projects of newspapers, broadcasting or other news media; medical facilities, libraries, community or civic centers; or public infrastructure improvements;

(c) refinancing any portion of the total project cost or other existing loans or debts of an applicant, except for the purpose of transferring to the employees or to other local interests ownership of a company that would otherwise depart from or cease or substantially reduce operations in the state;

(d) providing funds, directly or indirectly, for payment, distribution, or as a loan, to owners, partners or shareholders of the applicant enterprise, except as ordinary income for services rendered; and

(e) retail projects, except where the regional corporation finds there will be an increase in net new permanent jobs.

(15) A regional corporation may charge application, commitment and loan guarantee fees pursuant to a schedule of fees adopted by the regional corporation and approved by the corporation.

(16) The regional corporations shall submit annual reports for the previous fiscal year to the corporation describing the financial assistance provided pursuant to this section, including: the number of projects assisted; the amount and type of assistance provided; a description of the projects; the number of jobs created or retained; the status of outstanding loans, guarantees, earnings and account balances; and such other information as the corporation may require.

(17) The corporation shall, assisted by the commissioner of economic development and in consultation with the department of economic development, promulgate rules and regulations in accordance with the state administrative procedure act setting forth procedures to be followed by, and the responsibilities and obligations of, regional corporations and the corporation. Such rules and regulations shall be consistent with the program plan required by subdivision nineteen of section one hundred of the economic development law.

(18) For any positions opened as a result of assistance provided in this section, businesses so assisted shall first consider unemployed or low income individuals eligible to participate in programs funded through the Workforce Investment Act (P.L. 105-220) who shall be referred to the business by local workforce investment boards created pursuant to such act or by the job service division of the department of labor.

(19) The corporation shall annually conduct an audit of each regional corporation to ensure conformity of all aspects of program administration and of financial assistance transactions with the substantive and procedural provisions of this section. In the event that the corporation finds instances of substantive noncompliance by a regional corporation with any of the provisions of this section and such instances were, or should have been, known to be in noncompliance, the regional corporation shall return, within thirty days, upon demand by the corporation, all uncommitted grant funds on hand and provide an accounting of the loans currently outstanding.

The corporation may withdraw a regional corporation's certification:

(a) when a member of a board of directors or other governing body, an officer or an employee of said regional corporation is party to or has financial interests in loan projects;

(b) when said regional corporation fails to comply with the requirements for project loans pursuant to this section; or

(c) when a regional corporation makes no loans within the previous fiscal year and there is more than one hundred thousand dollars remaining in its loan fund account.

The corporation shall transfer funds returned from a decertified regional corporation to a successor regional corporation, or, if there be none, distribute such funds equally among other existing regional corporations. Outstanding loans and other obligations payable to such a decertified regional corporation shall be assigned to its successor regional corporation, or to the corporation or an agent designated by the corporation upon such terms and conditions as the corporation shall determine.

(20) Reporting. (a) The lending organization shall submit to the corporation annual reports stating: the number of program loans made; the amount of program funding used for loans; the use of loan proceeds by the borrower; the number of jobs created or retained; the status of each outstanding program loan, including fund balance; and such other information as the corporation may require.

(b) The corporation shall, on or before October 1, 1988 and on or before each October first thereafter, submit a report to the governor and the legislature on the operations and accomplishments of the regional revolving loan program. Such report shall include a summary of the information contained in the reports submitted pursuant to subdivision sixteen of this section and of the results of the audits performed by the corporation pursuant to subdivision nineteen of this section, and shall set forth the status of the regional revolving loan program for the previous fiscal year, including grants to the regional corporations, earnings and account balances as reported to the corporation. The report to be submitted on October 1, 2005 and on or before each October first thereafter shall be consolidated with the annual program report of the corporation required under the provisions of subdivision (b) of section thirty of this act, as amended.

(c) Beginning April 1, 2019, the corporation shall publish on its website the information contained in the annual reports required under paragraphs (a) and (b) of this subdivision in aggregate form omitting

borrower identifiable information.

(21) Evaluation. (a) The corporation shall submit to the director of the division of the budget, the chairperson of the senate finance committee, and the chairperson of the assembly ways and means committee an evaluation of this program prepared by an entity independent of the corporation. Such evaluation shall be submitted by September 1, 2005 and by September first every four years thereafter.

(b) Between evaluation due dates, the corporation shall maintain the necessary records and data required to satisfy such evaluation requirements and to satisfy information requests received from the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee between such evaluation due dates.

(22) The corporation shall recertify existing regional corporations or, in the event a regional corporation's certification has been withdrawn, seek successor corporations among eligible applicants after April first, two thousand two.

§ 16-b. Job retention and defense industry working capital loan program. (1) Program established. The corporation shall establish the job retention and defense industry working capital loan program for the purpose of establishing an economic development working capital revolving loan fund to be administered by the corporation. Such fund shall be used to provide financial assistance in the form of working capital loans or loan guarantees to companies at imminent risk of reducing employment including, but not limited to, companies in the defense sector or in the form of grants for the benefit of communities whose employment is or could be impacted by a planned or potential major military base closing and/or downsizing or for the benefit of communities whose employment is impacted by the downsizing of a community's major employer or employers including, but not limited to, communities impacted by cutbacks in defense contracts.

(2) Application criteria. In addition to such other criteria as the corporation may adopt in rules and regulations for the consideration of applications for loans or loan guarantees pursuant to subdivision one of this section, the corporation shall:

(a) determine that the company is unable to obtain sufficient funding on reasonable terms from other public or private sources to permit the company's planned investment to proceed without the required assistance;

(b) give priority to those applications for assistance from companies located in highly distressed areas as defined pursuant to subdivision (a) of section nine hundred fifty-eight of article eighteen-b of the general municipal law;

(c) consider whether the loan or loan guarantee will result in a reasonable likelihood of success in meeting the purposes for which it was sought by the applicant company;

(d) assess the demonstrated need for such assistance, established by a showing of a short-term lack of liquidity of an existing solvent business;

(e) request from a company a commitment to a business plan to turn around the financial condition of the business;

(f) expect the existence of a completed company evaluation, or commitment to undertake such an evaluation, by the industrial effectiveness program, or its equivalent thereof; and

(g) require companies receiving assistance pursuant to this section to first consider for any new position opened as a result of assistance, persons eligible to participate in federal job training partnership act programs (P.L. 97-3400) (29 U.S.C.A. SS 801 seq.) who shall be referred to the company by administrative entities of service delivery areas created pursuant to such act by the job service division of the department of labor.

(3) Funds. The fund shall consist of such amounts as may be appropriated, any repayment of the principal amount of any loan made from the fund, and any interest earned by the corporation from the investment of moneys of the fund.

(4) Nonapplication of certain provisions. The provisions of section ten and subdivision two of section sixteen of this act shall not apply to assistance provided under this program.

(5) Reports. The chairman of the corporation shall submit to the director of the budget, the speaker of the assembly and the temporary president of the senate an evaluation of the effectiveness of the program prepared by an entity independent of the corporation. The corporation shall select the program evaluator through a request for

proposal process. Such evaluation shall determine whether the assistance provided has enhanced the economic conditions of assisted companies or communities, and shall make recommendations for improvements which would make the program more effective. Such evaluation shall be submitted by September first, nineteen hundred ninety-five and September first every two years thereafter.

§ 16-c. Minority- and women-owned business development and lending program.

(1) Minority- and women-owned business development and lending program. (a) There is hereby created a minority- and women-owned business development and lending program for the purpose of providing financial and technical assistance to minority and women-entrepreneurs.

(b) For the purposes of this section the following words or terms shall mean as follows:

(i) "minority-owned business enterprise" or "minority-owned business" shall mean the same as "minority business enterprise" as defined in subdivision three of section two hundred ten of the economic development law.

(ii) "women-owned business enterprise" or "women-owned business" shall mean the same as "women-owned business enterprise" as defined in subdivision five of section two hundred ten of the economic development law.

(iii) "incubator" shall mean a facility providing low-cost space, technical assistance and support services, including, but not limited to, central services shared by tenants of the facility, to minority- and women-owned business enterprises.

(c) Assistance shall not be provided under this section for:

(i) the purchase or rehabilitation of real property for speculative purposes;

(ii) payment of any tax or employee benefit arrearage;

(iii) residential construction, renovation or development construction, except for assistance to minority and women contractors under subdivision four of this section;

(iv) educational institutions and proprietary education firms, except licensed child care facilities;

(v) hospitals or residential health care facilities;

(vi) overnight lodging facilities;

(vii) refinancing of commercial or business related debt or equity invested in a commercial or business related enterprise or commercial or business related project, unless the corporation finds the terms of the original debt to be unreasonable as provided in subparagraph (ix) of paragraph (d) of this subdivision.

(d) The corporation is authorized to:

(i) establish programs in conjunction with locally, and community based entities to decentralize lending for small loans and loans to start up minority- and women-owned businesses;

(ii) establish a comprehensive program for minority and women contractors, which may include assistance through loans, bonding assistance and technical assistance;

(iii) establish a program to provide loans to established minority- and women-owned businesses and for minority- and women-owned businesses, including loans to such businesses seeking to acquire or expand a franchise;

(iv) provide loan guarantees to financial institutions and make linked deposits into federally and state chartered credit unions for the purpose of encouraging private financial institutions to make loans to minority- and women-owned businesses;

(v) establish a program to create incubators to assist small and high risk minority- and women-owned businesses to grow and prosper;

(vi) promote equity investment in minority- and women-owned businesses;

(vii) establish a comprehensive technical assistance program in cooperation with the department of economic development to assist minority- and women-owned businesses and potential minority and women-entrepreneurs;

(viii) notwithstanding any provision of law to the contrary, establish a minority- and women-owned business investment fund to provide critical financial support to foster the development of new and emerging ideas and products of minority- and women-owned business enterprises as well as to promote the long-term financial performance and success of early stage enterprises that are minority- and women-owned start-ups. The selection of an eligible applicant and beneficiary companies for the

minority- and women-owned business investment fund shall be selected by the process established pursuant to subdivisions two through four of section sixteen-u of this act. Minority- or women-owned business enterprises who participate in such minority- and women-owned business investment fund under this subdivision shall not be precluded from qualifying for any other assistance, grant or loan made available from the state; and

(ix) provide for the refinancing of commercial or business related debt or equity invested in an enterprise or project, provided that the corporation determines the terms of the original debt to be unreasonable. The applicant must submit a written justification to the corporation for each loan explaining why the current loan is not on reasonable terms. Unreasonable terms of debt may include but are not limited to:

- (1) a demand or balloon maturity feature in the existing note;
- (2) the current maturity is not appropriate for the original purpose of the loan;
- (3) the existing debt being refinanced is on a revolving line or a credit card;
- (4) the interest rate is deemed unreasonable by the corporation; or
- (5) the loan is over-collateralized.

(2) Minority and women revolving loan trust fund. For the purpose of establishing programs in conjunction with locally and community based entities to decentralize lending for small loans and loans to start up minority- and women-owned businesses, the corporation shall establish minority and women revolving loan trust fund accounts and related administrative expenses trust fund accounts.

(a) Each minority and women revolving loan trust fund account shall be administered by one or more of the following types of entities that provide services to community businesses and have as one of their primary purposes the provision of services and assistance to minority- and women-owned businesses:

- (i) empire zone capital corporations established pursuant to section nine hundred sixty-four of the general municipal law;
- (ii) community-based local development corporations or industrial development agencies that serve a municipality in which an empire zone has been established pursuant to article eighteen-B of the general

municipal law and have as their primary purpose assistance to minority- and women-owned businesses located or to be located in such empire zone; or

(iii) local and community development corporations, industrial development agencies, or other not-for-profit entities, representative of the community.

(b) To be eligible to administer a minority and women revolving loan trust fund account, the entity must also: (i) have staff with sufficient expertise to analyze applications for financial assistance, to regularly monitor financial assistance to clients, and to provide management or technical assistance to clients; and (ii) have established a loan committee composed of six or more persons experienced in business management, commercial lending or in the operation of a for-profit business, at least one-half of whom shall be experienced in commercial lending, at least one-third of whom shall be minority persons and at least one-third of whom shall be women. Such loan committee shall review every application, determine the feasibility of the proposed project and the likelihood of repayment of the requested financing and shall recommend to the governing body of the entity such action on the application as the loan committee deems appropriate. The corporation shall identify entities eligible to administer minority and women revolving loan trust fund accounts through a competitive statewide request for proposal process.

(c) Any entity selected to administer a minority and women revolving loan trust fund account shall be eligible to draw funds from the account as needed to provide the following types of financial assistance to minority- and women-owned businesses upon certification to and acceptance by the corporation that such assistance complies with rules and regulations promulgated by the corporation: (i) working capital loans, provided that the amount of the loan does not exceed thirty-five thousand dollars and the term of the loan does not exceed five years; and (ii) loans for the acquisition and/or improvement of real property and for the acquisition of machinery and equipment provided that the amount of the loan does not exceed fifty thousand dollars and the term of the loan does not exceed the useful life of the equipment or property.

(d) (i) Notwithstanding any provision of law to the contrary, the

corporation may establish an administrative expenses trust fund account for the benefit of each entity selected to administer a minority and women revolving loan trust fund account. The initial deposit of funds to an administrative expenses trust fund account shall be an amount determined by the corporation but shall not exceed twenty-five thousand dollars.

(ii) An entity selected to administer a minority and women revolving loan trust fund account may use the funds in the administrative expenses trust fund account for costs incurred by it in the start up and administration of the financial assistance program authorized pursuant to this subdivision.

(iii) The corporation shall deposit into each administrative expenses trust fund account:

(A) all income earned from the moneys on deposit in the corresponding minority and women revolving loan trust fund account during the first year of the entity's administration of said account; and

(B) beginning with its second year in administering a minority and women revolving loan trust fund account, said amounts may be used for costs incurred by the entity in administering the minority and women revolving loan trust fund account; and

(C) repayments of interest on loans made from the corresponding minority and women revolving loan trust fund account.

(iv) Funds from the administrative expenses trust fund account may be used for costs incurred at any time by an administering entity in its administration of a minority and women revolving loan trust fund account pursuant to this section.

(v) Funds deposited in an administrative expenses trust fund account shall be disbursed by the corporation to the entity that administers the corresponding minority and women revolving loan trust fund account on a periodic basis and shall be expended by the entity in accordance with an annual budget and any updates of same, approved by the corporation.

(e) Any entity selected to administer a minority and women revolving loan trust fund account shall pay to the corporation for deposit any repayments received in connection with financial assistance provided from its account. Payments consisting of the repayment of the principal amount of a loan shall be deposited by the corporation into the minority and women revolving loan trust fund account from which the loan was

made. The interest earned by the corporation from the investment of moneys in each minority and women revolving loan trust fund account during and after the second year of a selected entity's administration of said account shall be deposited by the corporation into the corresponding minority and women revolving loan trust fund account and used to provide the financial assistance to minority- and women-owned businesses as authorized pursuant to this section.

(f) The provisions of subdivisions eight, nine, and fourteen through nineteen of section sixteen-a of this act pertaining to the regional revolving loan trust fund shall also be applicable to the minority and women revolving loan trust fund, provided that: where the term "regional corporation" appears therein it shall be interpreted to mean an entity selected to administer a minority and women revolving loan trust fund account, and "regional revolving loans trust fund" shall mean a minority and women revolving loan trust fund, and where the term "this section" appears therein it shall mean this section sixteen-c.

(g) The corporation may provide funds from an appropriation for the minority- and women-owned business development and lending program to any entity selected to administer a minority and women revolving loan trust fund for the purposes of recapitalizing such account and the entity's corresponding administrative expenses trust fund account following an evaluation by the corporation of the entity's administration and use of such accounts.

(h) Notwithstanding any provision of law to the contrary, the corporation shall establish a minority and women revolving loan trust fund to pay into such fund any moneys made available to the corporation for such fund from any source, including moneys appropriated by the state and any income earned by, or increment to, the account due to the investment thereof, or any repayment of moneys advanced from the fund. The corporation shall not commingle the moneys of such fund with any moneys held in trust by the corporation, except for investment purposes.

(i) Notwithstanding any other provisions of this subdivision, where applicable, the corporation is authorized to enter into agreements as may be necessary for the administration and reporting of funds repaid, received, expended or collected in a manner consistent with the provisions in section sixteen-t of this act. The use of such funds by the corporation shall be consistent with the terms, conditions and

restrictions set forth under this subdivision, to provide financial assistance to eligible businesses as defined in subdivisions three and five of section two hundred ten of the economic development law. Outstanding expenses, loans and other obligations executed prior to the effective date of this paragraph shall be subject to the terms and conditions of the original contract or contracts.

(i) The lending organization shall submit to the corporation annual reports stating: the number of program loans made; the amount of program funding used for loans; the use of loan proceeds by the borrower; the number of jobs created or retained; the status of each outstanding program loan, including fund balance; and such other information as the corporation may require.

(ii) Beginning April 1, 2019, the corporation shall publish on its website the information contained in the annual reports required under subparagraph (i) of this paragraph in aggregate form omitting borrower identifiable information.

(3) Micro-loan program. (a) For the purposes of this subdivision "micro-loan" shall mean a loan of under seven thousand five hundred dollars.

(b) The corporation shall, pursuant to requests for proposals, enter into agreements for other types of locally, community or regionally administered loan programs than those set forth in subdivision two of this section, including micro-loan programs to be administered by local development corporations, local industrial development organizations, municipalities and not-for-profit organizations, to provide micro-loans to small and high risk minority- and women-owned businesses located within their respective service areas, provided that loan review committees are established by such administering entity, including women and minority persons experienced in business management, business development, commercial lending, entrepreneurship, or in the operation of a for-profit business.

(c) Agreements entered into pursuant to paragraph (b) of this subdivision shall be governed by paragraphs (d) through (h) of subdivision two of this section, and minority and women revolving loan trust fund accounts and administrative expenses trust fund accounts shall be established in a similar fashion for entities selected to administer micro-loan funds pursuant to this subdivision.

(d) Notwithstanding any other provisions of this subdivision, where applicable, the corporation is authorized to enter into agreements as may be necessary for the administration and reporting of funds repaid, received, expended or collected in a manner consistent with the provisions in section sixteen-t of this act. The use of such funds by the corporation shall be consistent with the terms, conditions and restrictions set forth under this subdivision, to provide financial assistance to eligible businesses as defined in subdivisions three and five of section two hundred ten of the economic development law. Outstanding expenses, loans and other obligations executed prior to the effective date of this paragraph shall be subject to the terms and conditions of the original contract or contracts.

(e)(i) The lending organization shall submit to the corporation annual reports stating: the number of program loans made; the amount of program funding used for loans; the use of loan proceeds by the borrower; the number of jobs created or retained; the status of each outstanding program loan, including fund balance; and such other information as the corporation may require.

(ii) Beginning April 1, 2019, the corporation shall publish on its website the information contained in the annual reports required under subparagraph (i) of this paragraph in aggregate form omitting borrower identifiable information.

(4) Minority and women contracting program. For the purpose of establishing a comprehensive program to assist minority and women contractors, the corporation may provide loans, loan guarantees, technical assistance and bonding assistance, the corporation may enter into cooperative agreements with cities, counties, municipalities, authorities, agencies, federally and state chartered credit unions in New York state and federally insured banking organizations and financial institutions for such purposes.

(a) To be eligible for a contractor loan, the borrower must have either (i) a construction contract with, or a contract to provide goods or services to, a governmental entity or authority, (ii) a subcontract on a government-sponsored construction contract, (iii) a contract or subcontract on a government sponsored residential project, or (iv) a contract or subcontract on a construction project previously approved by the corporation pursuant to section ten of this act.

(b) The corporation shall provide technical assistance specifically oriented to minority and women-owned government contractors as part of its comprehensive technical assistance program.

(c) The corporation is authorized to provide assistance through the creation of, or assistance to, a minority and women bonding guarantee program to enable minority and women contractors and subcontractors to meet payment or performance bonding requirements.

(i) Through such program, assistance in the form of working capital loans and loan guarantees pursuant to subdivision six of this section may also be provided to minority and women contractors and subcontractors who have secured contracts by participating in the program.

(ii) The corporation shall either establish criteria for the bonding guarantee program and for any required escrow funds which shall include detailed provisions for eligibility; or if the corporation is providing assistance to a program other than one established by the corporation, review and approve the criteria established for such other program.

(5) Direct financial assistance for minority- and women-owned businesses. For the purpose of establishing a program to provide direct financial assistance to minority- and women-owned businesses, the corporation is authorized to provide assistance in the form of:

(a) Business development loans and loan guarantees pursuant to subdivision six of this section to eligible enterprises for the acquisition or improvement of real property, machinery, equipment or working capital, provided that to be eligible for a business development loan, the borrowers must have been in business for at least three years and provided that the loans must be in an amount equal to or in excess of fifty thousand dollars;

(b) Franchise loans to eligible enterprises seeking to acquire or expand franchises of nationally recognized corporations, provided that disbursements by the corporation of such loans shall be conditioned on obtaining such franchises;

(c) Equity assistance for eligible minority and women-owned enterprises to match equity contributions to such enterprises by financial institutions and community development equity capital funds, provided, however, that such assistance shall be targeted to start-up and early stage enterprises in the manufacturing, retail and service

sectors located in economically distressed areas.

(6) Deposits and loan guarantees. For the purpose of encouraging private financial institutions to make loans to eligible enterprises pursuant to this section for any of the eligible projects pursuant to subdivisions four and five of this section, the corporation is authorized to:

(a) Make linked deposits of funds into federally and state chartered credit unions in New York state, in order to encourage such organizations to make small loans to minority and women-owned businesses; and

(b) Provide loan guarantees to private financial institutions for loans made to eligible minority- and women-owned businesses pursuant to this subdivision for eligible projects, provided that the guarantee shall be at least fifty percent backed by funds of the corporation. Any such loan guaranteed by the corporation shall be made to borrowers that are approved by the corporation and substantially meet the underwriting criteria the credit union or financial institution customarily applies to similar borrowers for similar loans supported by similar guarantees, and no guaranteed loan funds shall be disbursed until the corporation has received, reviewed and concurred, in writing, with the recommendation of the credit union or banking or financial institution to make a loan.

(7) Minority and women small business incubator program. (a) The corporation shall establish a minority and women small business incubator program for the purpose of providing financial support for the creation of incubators to nurture minority and women-owned business enterprises with growth potential.

(b) Under this subdivision the corporation is authorized to provide low-interest loans and grants for construction financing and permanent financing of up to seventy-five percent of project costs up to a maximum of six hundred fifty thousand dollars per project, provided that the total amount of grant assistance provided pursuant to this paragraph shall not exceed twenty percent of an appropriation provided for the purposes of this section.

(c) Incubator projects eligible for such assistance shall involve the renovation or reconstruction of existing facilities or the acquisition of equipment, except that construction shall be allowable in cases in

which an applicant can demonstrate to the satisfaction of the corporation that an existing facility is unavailable in the area to be served by the new incubator facility.

(d) Incubator projects are not eligible to receive loans for the purpose of covering operating costs or supplying incubator support services, except that incubators in their first eighteen months of operation may receive one-time grants not to exceed forty thousand dollars, which costs may include administrative costs of employing a resident administrator/advisor to the incubator, provided that the corporation shall not expend a sum greater than two hundred fifty thousand dollars in any one state fiscal year, or so much as may be specifically appropriated for this purpose.

(e) Eligible incubator projects shall be required to demonstrate to the corporation's satisfaction:

(i) public or private support and involvement sufficient to complete the renovation of existing facilities or the construction of new facilities and the acquisition of equipment;

(ii) significant community support for the project;

(iii) the existence of prospective tenants for such incubator space;

(iv) demand for such incubator space, which may include evidence of the unavailability of suitable space for prospective tenants at appropriate rental or lease costs in the community in which such prospective tenants are located; and

(v) the inability of the project to occur without financial assistance from the corporation.

(f) The corporation shall establish criteria for eligibility for funding for incubator projects, including but not limited to the following:

(i) the project must be designed to provide low-cost space and support services to incubator tenants, coordination with other sources of assistance and flexible leasing arrangements for tenants;

(ii) the project sponsors must provide a management plan and a business plan for operating the incubator satisfactory to the corporation; and

(iii) the project gives preference for incubator space and assistance to minority- and women-owned businesses which currently receive, or have received, assistance from the corporation pursuant to this section and

to incubator projects proposed to be located in economically distressed areas.

(8) Minority- and women-owned business technical assistance program.

(a) The corporation shall establish a comprehensive technical assistance program within the minority and women business development office, in cooperation with the department of economic development's division of minority- and women-business development established pursuant to article four-A of the economic development law, to provide technical assistance to minority- and women-owned business enterprises and to prospective minority- and women-business entrepreneurs through third party service providers, which assistance shall include, but not be limited to: (i) technical assistance in development and execution of business plans, including the formation of, acquisition of, management of, or diversification of a minority- or women-owned business enterprise; (ii) technical assistance with applications for obtaining funds from public and private financing sources; (iii) technical assistance in the development of a working capital budget; (iv) referrals to other providers of technical assistance to minority- and women-owned businesses and minority and women entrepreneurs, where appropriate, including the entrepreneurial assistance program established pursuant to article nine of the economic development law; and (v) technical assistance through education programs directed primarily at women and minority entrepreneurs.

(b) Technical assistance may be provided through direct corporate support, through grants to or contracts with service providers or governmental entities, and minority- and women-owned business enterprises and individuals.

(9) Priorities. The corporation shall give priority to applications for assistance pursuant to this section in which the business seeking such assistance indicates a commitment to first consider persons eligible to participate in federal job training partnership act (P.L. 97-300) programs.

(10) Non-application of certain provisions. The provisions of section ten and subdivision two of section sixteen of this act shall not apply to assistance or projects authorized pursuant to this section.

(11) Rules and regulations. The corporation shall, assisted by the commissioner of economic development and in consultation with the

department of economic development, promulgate rules and regulations in accordance with the state administrative procedure act. Such rules and regulations shall be consistent with the program plan required by subdivision nineteen of section one hundred of the economic development law. No funds shall be disbursed under this program until such rules and regulations have been reviewed and approved by the corporation. All assistance and projects funded under this program shall be funded in accordance with the rules and regulations in effect on the date the completed application for such assistance shall be received by the corporation.

(12) Minority and women business development and lending account. Notwithstanding any provision of law to the contrary, the corporation shall establish within the treasury of the corporation a minority and women business development and lending account, and shall pay into such account any moneys which may be made available to the corporation for this purpose from any source including, but not limited to, moneys appropriated by the state and any repayment of principal and interest on loans made by the corporation pursuant to the minority- and women-owned business development and lending program. Funds in the minority and women business development and lending account, including funds from the repayment of principal and interest on loans made by the corporation, may be used for any form of assistance authorized hereunder. The amounts deposited in the minority and women business development and lending account may not be interchanged with any other account, but may be commingled with any other account for investment purposes. All loans disbursed by the corporation shall be repaid into the account. The corporation shall enter into a written agreement with the director of the budget for repayment, to the state comptroller to the credit of the capital projects fund, of all moneys in the account after a period of time to be determined by the corporation and the director of the budget. The corporation shall transfer to the minority and women business development and lending account: all moneys appropriated or reappropriated by New York state for the minority and women revolving loan trust fund that have not been committed prior to the effective date of the appropriation for the program in the current fiscal year, or become uncommitted subsequent to the effective date of the program's appropriation for the current fiscal year; and all repayments of

principal and interest on loans made by the corporation which are currently on deposit in, or payable to, the minority and women business development and lending account.

(13) Standardization. The corporation shall streamline the review and approval process for projects and wherever possible standardize all relevant attendant documentation and legal documents.

(14) Approval cycle. The corporation shall approve eligible loans or grants on at least a four-month cycle and shall give priority consideration to the comparative degree of economic distress within the areas in which the project is located. Other factors to be considered by the corporation shall include the impact of the project on the employment and economic condition of the community and the financial feasibility of the project.

(15) Repayment. Notwithstanding the provisions of section forty-a of the state finance law and any other general or special law, no written agreement under this program shall require repayment at any time or on any terms inconsistent with the provisions of this act or the New York state project finance agency act; except, however, that the corporation may make grants to projects using funds appropriated for this purpose and that the repayment provision may not apply to such grants.

(16) Reports. The chairman of the corporation shall submit to the director of the budget, the speaker of the assembly and the temporary president of the senate an evaluation of the effectiveness of the program prepared by an entity independent of the corporation. The corporation shall select the program evaluator through a request for proposal process. Such evaluation shall determine whether the assistance provided has enhanced the economic condition of assisted companies or communities, and shall make recommendation for improvements which would make the program more effective. Such evaluation shall be submitted by September first, nineteen hundred ninety-five and September first every two years thereafter.

§ 16-d. Urban and community development program. (1) Definitions. For the purposes of this section:

(a) "Business improvement district" shall mean a special assessment district established pursuant to article nineteen-A of the general

municipal law.

(b) "Business district" or "central business district" shall mean the central district of a municipality or neighborhood area traditionally used for commercial purposes.

(c) "Commercial strip" shall mean a predominantly commercial area traditionally used for commercial purposes which may not be the primary business district and which is one of several commercial districts in the municipality in which it is located.

(d) "Economically distressed areas" shall mean areas as determined by the corporation meeting criteria indicative of economic distress, including unemployment rate; rate of employment change; percentages and numbers of low-income persons; per capita income and per capita real property wealth; such other indicators of distress as the corporation shall determine. Economically distressed areas may include cities, municipalities, block numbering areas, and census tracts.

(e) "Highly distressed" shall mean suffering from severe economic distress as determined by the corporation using criteria similar to those set forth in subdivision (a) of section nine hundred fifty-eight of article eighteen-B of the general municipal law for determining eligibility for empire zone status.

(f) "Not-for-profit corporation" shall mean a corporation organized under the provisions of the not-for-profit corporation law.

(2) Urban and community development program. The corporation shall establish an urban and community development program which shall offer the following assistance:

(a) Urban and community development assistance grants pursuant to subdivision five of this section.

(b) Urban and community project development assistance pursuant to subdivision six of this section.

(c) Neighborhood and community partnership assistance pursuant to subdivision seven of this section.

(d) Urban and community commercial revitalization revolving loan fund assistance pursuant to subdivision eight of this section.

(e) Urban and community technical assistance pursuant to subdivision nine of this section.

(3) Applications. Applications for support under this program shall be made in a form and manner as determined by the corporation and

applicants shall be required to meet the criteria and requirements established by the corporation, which shall include but not be limited to:

- (a) Factors of economic distress;

- (b) The extent of support for, and involvement in, the program or project of units of local government, the local business community and local economic development professionals; and

- (c) Such other requirements as are necessary to implement the provisions of this section.

(4) Preference. Preference will be given to projects which are located in highly distressed communities, and for which other public or private funding sources are not available.

(5) Urban and community development assistance grants. (a) Grants awarded under this subdivision shall be awarded on a competitive basis, in response to requests for proposals, and through direct applications accepted at other times at the discretion of the corporation, distributed to business improvement districts, local development corporations, municipalities and other not-for-profit economic development organizations by the corporation for the purpose of soliciting applications. Requests for proposals under this subdivision shall set forth such criteria as the corporation deems necessary, including those set forth in subdivision three of this section and including, but not limited to the following:

- (i) the potential impact the proposed project would have on economic development and employment opportunities in the community and the region; and

- (ii) the existence of significant support for such activities from the local business community, local government and community organizations within the community, including the commitment of financial resources.

(b) The corporation is hereby authorized, under this subdivision to:

- (i) provide grants to business improvement districts, local development corporations, other not-for-profit economic development organizations, and municipalities involved in commercial revitalization activities in central business districts or commercial strips, such activities to include architectural design studies and services and other redevelopment work in connection with the design and implementation of a plan for facade and other improvements to commercial

strips and central business districts throughout New York state. Such grants may include monies available for individual property owners and/or tenants who agree to improve their property in accordance with an overall design plan, provided that, such individual property owners and/or tenants shall be required to match the amount of any grant awarded to them.

(ii) provide grants to local development corporations, business improvement districts and other not-for-profit organizations for studies, surveys or reports, and feasibility studies and preliminary planning studies to assess a particular site or sites or facility or facilities for any economic development purpose other than residential; and to identify development opportunities within established business improvement districts.

(iii) provide urban planning grants on a matching basis to cities, counties, or municipalities desiring to prepare and develop strategic development plans for a city, county, or municipality or a significant part thereof.

(iv) provide grants to municipalities for studies, surveys, or reports and feasibility studies or preliminary planning studies to assess the economic viability and local credit needs of the community for the purposes of establishing a banking development district pursuant to section ninety-six-d of the banking law.

(c) Notwithstanding anything contained to the contrary in this subdivision, section ten and subdivision two of section sixteen of this act shall not apply to any grants authorized under this subdivision.

(6) Urban and community project development assistance. (a) Grants, loans and loan guarantees authorized pursuant to this subdivision shall be limited to fifty percent of the actual cost of the proposed projects, and shall be located in empire zones designated pursuant to article eighteen-B of the general municipal law or in highly distressed areas.

(b) The corporation is hereby authorized, under this subdivision to: provide loans, loan guarantees and grants for projects as set forth in paragraph (c) of this subdivision, and to provide project development assistance by the corporation acting as a project developer pursuant to paragraph (d) of this subdivision.

(c) Project development loans, loan guarantees and grants. (i) The corporation may make loans, loan guarantees and grants in accordance

with the provisions of this act for which no other funds of the corporation are available, with the exception of the appropriations for this program and moneys reappropriated under the high risk targeted investment program, for the acquisition, renovation, and construction of commercial industrial and mixed-use facilities, or for feasibility or planning studies in connection with such development.

(ii) Such projects shall include projects related to the implementation of necessary construction and reconstruction projects identified or planned under grants received pursuant to subdivision five of this section.

(iii) Projects intended to be publicly-owned shall not be eligible for financial assistance in connection with the acquisition, construction or renovation of a facility or development hereunder unless such project is leased to a private enterprise.

(d) Notwithstanding anything contained to the contrary in this subdivision, section ten and subdivision two of section sixteen of this act shall not apply to any feasibility grants or planning studies authorized under paragraph (c) of this subdivision.

(e) Project development assistance. (i) The corporation may act as developer in the acquisition, renovation, construction, leasing or sale of development projects, other than residential projects, authorized pursuant to this act in order to stimulate private sector investment within the affected community.

(ii) In acting as a developer, the corporation may borrow for purposes of this paragraph for approved projects in which the lender's recourse is solely to the assets of the project, and may make such arrangements and agreements with community-based organizations and local development corporations as may be required to carry out the purposes of this section.

(iii) Prior to developing any such project, the corporation shall secure a firm commitment from entities, independent of the corporation, for the purchase or lease of such project.

(iv) Projects authorized under this paragraph whether developed by the corporation or a private developer, must be located in either state-designated empire zones or in highly distressed communities.

(v) The corporation, for purposes of this paragraph shall only select projects that have project costs not to exceed three million dollars of

which the corporation's participation shall not exceed sixty percent of the total, for which there is a demonstrated demand within the particular community.

(f) Any other provisions of this subdivision notwithstanding, the corporation may establish a loan guarantee program in conjunction with banks and other financial institutions to guarantee working capital loans and loans for real estate, construction and renovations to not-for-profit community and economic development organizations that serve highly distressed areas.

(7) Neighborhood and community partnership. (a) There is hereby created within the urban and community development program a neighborhood and community partnership program which shall be used to support regional and local activities designed to retain existing businesses and jobs within a region or locality, increase the viability of existing businesses, and stimulate and encourage the formation of new enterprises and small business growth.

(b) The corporation shall, within available appropriations, award grants or enter into contracts for services to eligible entities and organizations as set forth in this subdivision on a competitive basis, in response to requests for proposals, and through direct applications accepted at other times at the discretion of the corporation. Grants shall not exceed one hundred thousand dollars per project, and an applicant shall be permitted to apply for support in more than one project area listed under paragraph (e) of this subdivision, but the sum total of grants received under this subdivision by any one applicant for more than one project approved under paragraph (e) of this subdivision shall not exceed two hundred fifty thousand dollars.

(c) For the purposes of this subdivision the corporation shall enter into annual contracts for services or award grants in an amount not to exceed fifty percent of program or project costs in economically distressed areas, or forty percent of such costs for eligible projects or programs in non-economically distressed areas, or seventy percent of program or project costs in empire zones established pursuant to article eighteen-B of the general municipal law.

(d) The corporation shall enter into no more than one contract or make more than one grant per year per application under this subdivision regardless of the number of projects for which an applicant has applied

and for which funding has been approved. In the case of applications for multiple projects to be conducted by a single applicant, the corporation may, at its discretion, provide a grant or enter into a contract for services with the applicant for some or all of the projects for which an applicant has applied.

(e) Not-for-profit corporations, business improvement districts and community development organizations shall be eligible to apply for support under this subdivision to operate a program or programs of business and economic development services to stabilize, retain or revitalize existing businesses, and to assist small and new businesses, including, but not limited to assistance to individual businesses or business sectors in such project areas as:

(i) the analysis of industrial sectors;

(ii) the provision of services, such as regulatory compliance, security and marketing, to industries;

(iii) productivity assistance to mature industries and small businesses, including but not limited to, high performance work organization and quality improvement programs;

(iv) labor-management cooperation specific to an area or industry;

(v) management services to industrial parks and incubator facilities;

(vi) the creation of business support networks, including flexible manufacturing networks composed of small businesses, surveys of existing businesses and business sectors, the formation of quality networks, the targeting of firms or sectors with networking potential, analysis of network firms' production potential, group marketing, group purchasing, shared employee programs, and the establishment of regular lines of communication between such firms;

(vii) the establishment and staffing of network service centers for flexible manufacturing networks, combining business services, marketing/procurement assistance, and technology demonstration/training centers, such centers to be industry managed and to maintain strong connections to labor unions, universities, and the services provided through the industrial effectiveness program pursuant to article seven of the economic development law, local or federal economic assistance programs;

(viii) export, marketing, procurement and subcontracting assistance to small and medium-sized industrial firms, including minority- and

women-owned businesses, and to flexible manufacturing networks, and programs to assist regional and multi-county business marketing and procurement programs;

(ix) assistance to targeted incubator facilities to support new firms producing products and services for which there exists a stable demand but no local production;

(x) business planning, management assistance and counseling, and financial packaging assistance to small and medium-sized industrial firms, including minority- and women-owned businesses, flexible manufacturing networks, and new enterprises and small businesses, including the establishment of neighborhood-based business service centers designed to deliver comprehensive technical assistance to new and small businesses in specific communities and neighborhoods;

(xi) programs to assist economically distressed regions and communities to identify new business opportunities, plan for new enterprise development, and manage economic development projects;

(xii) innovative programs of public and private cooperation to foster new enterprise development and small business growth;

(xiii) programs to assist new enterprises and small businesses to identify and access public and private sources of equity, working capital and other types of financing;

(xiv) programs that improve the ability of small businesses to access state job training programs;

(xv) programs to assess the need for, or to implement total quality management training programs, employee retraining, and skills remediation and/or upgrading;

(xvi) employment exchange services such as job placement and job development;

(xvii) tourism matching grants to regions, as defined by the commissioner of economic development, to conduct tourism marketing, promotion and information activities;

(xviii) programs to assist small businesses in developing workplace policies, including but not limited to the design of employee benefit and assistance programs and developing child care programs;

(xix) assistance to formulate and implement a business retention strategy developed by the corporation in cooperation with a local development corporation. Such assistance may include grants to local

development corporations as well as funding for services and expenses for that purpose.

(g) Applications for support or assistance under this subdivision shall be made in a form and manner as determined by the corporation, and applicants shall be required to meet the criteria and requirements set forth in subdivision three of this section and other criteria and requirements determined by the corporation pursuant to this act, including:

(i) the likelihood that state assistance will enable local not-for-profit organizations or other eligible organizations to provide services and activities not otherwise provided in the area served by the applicant;

(ii) the potential of the project or program to stimulate or enhance economic development in the area and to create or retain substantial, permanent private sector jobs;

(iii) the innovative nature of the proposed project or program in furtherance of community economic development; and

(iv) the demonstrated ability of the applicant to deliver the proposed assistance and services.

(h) Projects and programs in communities that do not qualify as economically distressed areas shall be eligible for funding under this subdivision if such projects meet one or more of the following purposes:

(i) projects located in a non-distressed area that will significantly contribute to the revitalization of an economically distressed area;

(ii) support for business development projects of women, members of minority groups, or dislocated workers;

(iii) assistance to small or medium-sized manufacturing firms which are seeking to modernize to remain competitive;

(iv) projects to diversify the economic base of a community heavily dependent on a single industry;

(v) projects that will prevent the loss or significant contraction of a company which is the primary employer in a community, or where loss of a company would have a major adverse impact on a community's overall economic condition;

(vi) projects involving expanding companies that will create substantial numbers of new, private sector jobs;

(vii) projects creating permanent private sector jobs for dislocated

workers, public assistance recipients, or the long-term unemployed; or

(viii) projects that are an integral part of a community commercial revitalization strategy which contributes to the economic health of a community, including the provision of matching funds to newly formed business improvement districts pursuant to paragraph (i) of this subdivision.

(i) Notwithstanding any other subdivision of this section, the corporation may make grants to newly formed small- and medium-sized business improvement districts during their first three years of operation. Such grants shall provide up to sixty-six percent of eligible project costs in highly distressed areas and up to fifty percent of project costs in distressed areas.

(j) Notwithstanding anything contained to the contrary in this subdivision, section ten and subdivision two of section sixteen of this act shall not apply to any grants authorized under this subdivision.

(8) Urban and community commercial revitalization revolving loan and loan guarantee fund. (a) The corporation shall, from any appropriations made available for this purpose, establish an urban and community commercial revitalization revolving loan fund account and a related administrative expenses trust fund account in order to stimulate the development of central business districts and commercial strips through a decentralized lending program operated in conjunction with business improvement districts, local development corporations and other not-for-profit corporations serving central business districts or commercial strips. Assistance from this subdivision will be awarded through a competitive process initiated by the urban development corporation, which includes a request for proposals as well as direct applications accepted at other times at the discretion of the corporation.

(b) Loans and loan guarantees made from the urban and community commercial revitalization revolving loan fund shall be for improvements, expansions, and start-ups of businesses located in central business districts and commercial strips.

(c) Such loans and loan guarantees shall be administered by qualified business improvement districts, local development corporations and other not-for-profit corporations designated by the corporation on a competitive basis pursuant to a request for proposals process.

(d) For the purpose of this subdivision, "local trust fund account" and "local revolving loan fund" shall mean a local urban and community commercial revitalization revolving loan fund account.

(e) The corporation shall pay into such fund any monies made available to the corporation for such fund from any source including monies appropriated by the state and any income earned by, or incremental to, the fund due to the investment thereof, or any repayment of monies advanced from the fund. The monies held in or credited to the fund shall be expended for the purposes set forth in this subdivision and may not be interchanged with any other account or fund, but may be commingled with any other account for investment purposes. All loans disbursed by the corporation from such fund shall be repaid into the fund.

(f) The corporation shall allocate any monies made available for such fund for the purpose of establishing local trust fund accounts and a corresponding number of local administrative expenses trust fund accounts.

(g) The corporation shall establish a local administrative expenses trust fund account for the benefit of each entity selected to administer a local trust fund account pursuant to the following conditions:

(i) the initial deposit in each local administrative expenses trust fund account shall be in an amount to be determined by the corporation, but shall not exceed twenty-five thousand dollars;

(ii) an entity designated to administer a local trust fund account may use the funds in its local administrative expenses trust fund account for expenses incurred by it in the start-up and administration of the financial and technical assistance programs it is required to administer under this section; and

(iii) the corporation shall also deposit into each local administrative expenses trust fund account:

(A) all income earned from the moneys on deposit in the corresponding local loan trust fund account during the first year of the entity's administration of said account. Beginning with its second year in administering a local revolving loan trust fund account, said amounts may be used for costs incurred by the entity in administering the local revolving loan trust fund account; and

(B) repayments of interest on loans made from the corresponding local revolving loan trust fund account. Such funds may be used for costs

incurred at any time by an administering entity in its administration of a local revolving loan trust fund hereunder;

(iv) funds deposited in an administrative expenses trust fund account shall be disbursed by the corporation to the entity that administers the corresponding local revolving loan trust fund account on a semiannual basis and shall be expended by the entity in accordance with a semiannual budget and any updates of same approved by the corporation.

(g-1) Notwithstanding any other provision in this subdivision, where applicable, the corporation is authorized to enter into agreements as may be necessary for the administration and reporting of funds repaid, received, expended or collected in a manner consistent with the provisions in section sixteen-t of this act. The use of such funds by the corporation shall be consistent with the terms, conditions and restrictions set forth in this section, to provide financial assistance to eligible entities as designated under this subdivision. Outstanding expenses, loans and other obligations executed prior to the effective date of this paragraph shall be subject to the terms and conditions of the original contract or contracts.

(h) To be eligible to apply for designation to administer a local trust fund account, a not-for-profit corporation shall be required to:

(i) have represented on its board of directors, in such cases where an area to be served by a local trust fund account has located within its service area an empire zone designated pursuant to section nine hundred sixty of the general municipal law, one or more of the following:

(A) an empire zone capital corporation if established pursuant to section nine hundred sixty-four of the general municipal law; or

(B) community based local development corporations, industrial development agencies, or other not-for-profit entities which serve a municipality in which an empire zone has been established and which, as one of their primary purposes, provide services and assistance to business enterprises located or to be located in such empire zone, including minority- and women-owned businesses;

(ii) have represented on its board of directors, selected local and community development corporations, industrial development agencies, and other not-for-profit entities that provide services to community businesses and, as one of their primary purposes, provide services and assistance to business enterprises located in central business districts

or commercial strips;

(iii) have strong written commitments from any empire zone capital corporation, local and community development corporation, industrial development agency, and other not-for-profit entities, if represented on its board, to assist the not-for-profit corporation in administering the local trust fund account, including the provision of business planning, loan application preparation, loan application analysis, management and other technical assistance as needed;

(iv) have staff, or have access to staff from organizations which participate in the administration of a designated local revolving loan trust fund with sufficient expertise to analyze applications for financial assistance, to regularly monitor financial assistance to clients, and to provide or arrange for the provision of management or technical assistance to clients;

(v) have an effective plan to market its services and market programs provided by the corporation and the department of economic development; and

(vi) have established a loan committee composed of six or more persons experienced in business management, commercial lending or in the operation of a for-profit business. Such committee shall review every application submitted by an eligible entity for financial assistance from the local trust fund account and shall determine the feasibility of the project proposed in the application and the likelihood of repayment of the requested financing and recommend to the governing body of the eligible entity such action as the loan committee deems appropriate.

(i) Any entity selected to administer a local revolving loan trust fund account shall be eligible to draw funds from the account as needed to provide the following types of financial assistance to eligible businesses upon certification to and acceptance by the corporation that such assistance complies with rules and regulations promulgated by the corporation:

(i) working capital loans, provided that the amount of the loan does not exceed fifteen thousand dollars and the term of the loan does not exceed five years; and

(ii) loans for the acquisition and/or improvement of real property and for the acquisition of machinery and equipment, provided that the amount of the loan does not exceed twenty thousand dollars and the term of the

loan does not exceed the useful life of the equipment or property.

(j) Any other provisions of this subdivision notwithstanding, the corporation may enter into agreements for other types of locally, community or regionally administered loan programs interested in making small loans, including micro-loans, administered by municipalities and not-for-profit organizations, to provide loans to businesses located in commercial strips and central business districts located within their respective service areas, provided that:

(i) the corporation must secure certification from an entity administering such a program that the loans will be made to businesses through these agreements and meet the purposes and requirements set forth pursuant to this subdivision;

(ii) loan review committees are established by each such administering entity and that each entity designated under this paragraph have established a loan committee composed of six or more persons experienced in business management, commercial lending or in the operation of a for-profit business;

(iii) no other entity eligible under this subdivision which satisfactorily meets all requirements of this program has applied to meet the needs of an area proposed to be served under this paragraph; and

(iv) the corporation shall not expend any more than twenty-five percent of the amount appropriated for programs pursuant to this subdivision in any one fiscal year, or an amount appropriated specifically for the purpose of this paragraph.

(k) An entity designated to administer such a revolving loan trust fund account shall pay to the corporation for deposit any repayments received in connection with financial assistance provided from such account pursuant to the following:

(i) payments consisting of the repayment of the principal amount of a loan shall be deposited by the corporation in the local trust fund account from which the loan was made; and

(ii) the interest earned from the investment, by the corporation, of monies in each local revolving loan trust fund during and after the second year of a selected entity's administration of said account shall be deposited by the corporation into the corresponding local revolving loan trust fund account and used to provide the financial assistance to

businesses located in commercial strips and central business districts.

(k-1) Notwithstanding any other provision in this subdivision, where applicable, the corporation is authorized to enter into agreements as may be necessary for the administration and reporting of funds repaid, received, expended or collected in a manner consistent with the provisions in section sixteen-t of this act. The use of such funds by the corporation shall be consistent with the terms, conditions and restrictions set forth in this section, to provide financial assistance to eligible entities as designated under this subdivision. Outstanding expenses, loans and other obligations executed prior to the effective date of this paragraph shall be subject to the terms and conditions of the original contract or contracts.

(l) The decision to approve or reject an application for financial assistance pursuant to the provisions of this subdivision shall be made by the majority of the board of directors of the entity designated to administer the local revolving loan trust fund account and such decision shall be final.

(m) An entity designated to administer a local revolving loan trust fund account shall not provide any financial assistance authorized by this subdivision unless the following conditions are met:

(i) the applicant has a minimum equity interest of at least ten percent in the project;

(ii) there is reasonable prospect of repayment;

(iii) the project will comply with applicable environmental rules and regulations;

(iv) the applicant has certified that it will not discriminate against any employee or any applicant for employment because of race, religion, color, national origin, sex, or age; and

(v) a staff member or a representative of the entity designated to administer the local revolving loan trust fund account acting in an official capacity has personally visited the project site or the applicant's place of business.

(n) Financial assistance from the local trust fund shall not be made available for:

(i) projects that would result in the relocation of any business operation from one municipality within the state to another, provided, however, that such a project shall not be deemed ineligible if all

municipalities from which such business will be relocated are notified in writing of the corporation's approval of such funding and the chief executive officers of the municipalities do not object to the corporation in writing within a period of twenty days of receipt of the notification;

(ii) refinancing any portion of the total project cost or other existing loans or debts of an applicant, except for the purpose of transferring to the employees or to other local interests ownership of a company that would otherwise depart from or cease or substantially reduce operations in the state; and

(iii) providing funds, directly or indirectly, for payment, distribution, or as a loan, to owners, partners or shareholders of the applicant enterprise, except as ordinary income for services rendered.

(o) An entity designated to administer a local revolving loan trust fund account may charge application, commitment and loan guarantee fees pursuant to a schedule of fees adopted by such entity and approved by the corporation.

(p) An entity designated to administer a local revolving loan trust fund account shall submit annual reports to the corporation describing the financial assistance provided pursuant to this subdivision, including:

(i) the number of projects assisted, the amount and type of assistance provided and a description of the projects;

(ii) the number of jobs created or retained; and

(iii) such other information as the corporation may require.

(q) The corporation shall, assisted by the commissioner of economic development and in consultation with the department of economic development, promulgate rules and regulations in accordance with the state administrative procedure act to implement the provisions of the urban and community commercial revitalization revolving loan fund established pursuant to this subdivision, and to implement such revolving loan trust fund established pursuant to this subdivision, setting forth procedures to be followed by, and the responsibilities and obligations of, entities designated to administer local trust fund accounts. Such rules and regulations shall be consistent with the program plan required by subdivision nineteen of section one hundred of the economic development law. No funds shall be disbursed from amounts

appropriated to implement the provisions of this section until such rules and regulations have been reviewed and approved by the commissioner of economic development and the director of the budget.

(9) Urban and community technical assistance. There is hereby established within the urban and community development program an urban and community technical assistance program. Assistance awarded under this subdivision shall be awarded on a competitive basis, in response to requests for proposals and through direct applications accepted at other times at the discretion of the corporation. The corporation shall, from appropriations made available therefor, provide assistance for the purpose of developing the capacity of local and regional development organizations and communities to undertake economic development initiatives by:

(a) Conducting outreach to communities in areas where little, if any, economic development capacity exists, including identifying potential applicants and providing assistance to potential applicants in completing the application process for assistance and meeting eligibility requirements for federal, state and local programs. Assistance may be provided through grants to not-for-profit economic development organizations and through the deployment by the corporation of circuit riders.

(b) Providing community building grants to not-for-profit economic development or community development organizations where necessary, in organizing for economic development, analyzing potential development opportunities or obstacles to development, and developing economic development strategies, including feasibility studies for the creation of business improvement districts in highly distressed areas.

(c) Providing technical and financial packaging assistance to not-for-profit community development and economic development organizations through grants to third party providers of such services.

(d) Contracting with third parties for the purpose of providing technical assistance to municipalities, not-for-profit organizations, local development corporations, local empire zone administrative boards, or business improvement districts to analyze potential development opportunities or obstacles.

(e) Providing grants to not-for-profit economic development or community development organizations for approved costs to strengthen

their capacity to implement economic development, job creation, or business retention strategies, including assistance to enable such organizations to provide technical and financial packaging assistance to local businesses, manage economic development projects, and provide other economic development services that are identified in their strategic plans.

(f) Creating an urban internship program to provide training and field experience to individuals committed to working in highly distressed communities.

(g) Organizing and coordinating seminars and conferences to facilitate the exchange of information regarding commercial revitalization strategies.

(h) Establishing a community revitalization economic self-help program to assist public officials, community leaders, economic development and community groups to undertake an economic development planning process and to organize for economic development. Eligible applicants for assistance under this paragraph shall consist of a municipality or a consortium of municipalities from a region of the state, such regions as established by the commissioner of the department of economic development pursuant to section two hundred thirty of the economic development law.

(i) Each training program shall require each participating municipality to:

- (A) establish an economic development planning group;
- (B) undertake a community profile and needs assessment;
- (C) undertake labor market and resource surveys; and
- (D) produce a five-year strategic plan and a one-year work program.

(ii) Requests from municipalities or consortia of municipalities for technical assistance under this paragraph shall be made directly to the corporation or through the regional offices of the department of economic development.

(iii) Participating municipalities shall be required to provide matching funds in an amount at least equal to any funds provided by the corporation under this paragraph.

(iv) The corporation is authorized to enter into cooperative agreements with statewide and regional economic development organizations in New York state, acting as consultants, to conduct joint

training programs to train and educate local officials and economic development practitioners pursuant to this paragraph. Any contract for services with such organizations shall not exceed the sum of fifty thousand dollars for the conduct of each training program.

(10) Standard project program application. The corporation shall, for assistance provided in this program, develop and use standard project program applications pursuant to rules and regulations, which shall be promulgated by the corporation in accordance with the state administrative procedure act.

(11) Standardization. The corporation shall streamline the review and approval process for projects and shall standardize all relevant attendant documentation and legal documents.

(12) Master agreement. The corporation shall enter into a written master agreement with the director of the budget providing for repayment by such corporation to the state of New York of all amounts expended by the state from such appropriation for loans, on terms which may include interest thereon at a rate per annum to be determined by the director of the budget and a copy of such agreement shall be filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

(13) Repayment. Notwithstanding the provisions of section forty-a of the state finance law and any other general or special law, such written agreement shall not require repayment at any time or on any terms inconsistent with the provisions of this act or the New York state project finance agency act. Except, however, that the corporation may make grants to projects using funds appropriated for this purpose and that the repayment provision may not apply to such grants.

(14) Report. The corporation shall: (a) Monitor the performance of each recipient of a grant or contract under the provisions of this section and require periodic and annual reports from each such recipient at such time and in such a manner as prescribed by the chairman.

(b) Submit to the director of the budget, the speaker of the assembly and the temporary president of the senate an evaluation of the effectiveness of the urban and community development program prepared by an entity independent of the corporation. The corporation shall select the program evaluator through a request for proposal process. Such evaluation shall discuss the variety and types of programs supported by

the corporation under this program; and, as appropriate, the extent to which the program has served to create and maintain jobs; the extent to which the program has helped to increase the vitality of local communities; the extent to which the program is coordinated with other related state and local assistance programs; the extent to which the program serves minorities and women; the extent to which the program serves urban and rural areas; the extent to which the program serves economically distressed and highly distressed areas; the extent to which the program has helped to increase the capacity of local governments and organizations to undertake economic development activities; and such other components as the commissioner of economic development shall deem appropriate; and shall make recommendations for improvements which would make the program more effective. Such evaluation shall be submitted by September first, nineteen hundred ninety-five and by September first every two years thereafter.

(c) (i) The lending organization shall submit to the corporation annual reports stating: the number of program loans made; the amount of program funding used for loans; the use of loan proceeds by the borrower; the number of jobs created or retained; the status of each outstanding program loan, including fund balance; and such other information as the corporation may require.

(ii) Beginning April 1, 2019, the corporation shall publish on its website the information contained in the annual reports required under this paragraph and paragraphs (a) and (b) of this subdivision in aggregate form omitting borrower identifiable information.

§ 16-e. Regional economic development partnership program. (1) For the purposes of this section, the following words and terms shall have the following meanings:

(a) "Business development project". A project involving an industrial, manufacturing, commercial, research and development, high technology, tourism, agricultural or service company.

(b) "Business infrastructure project". A project involving an industrial, manufacturing, commercial, research and development, high technology, tourism, agricultural or service company which shall include, but not be limited to, basic systems and facilities on public

or privately owned property including drainage systems, sewer systems, access roads, sidewalks, docks, wharves, water supply systems, and site clearance, preparation, improvements, and demolition.

(c) "Child care assistance project". A project for the establishment, expansion, and development of licensed not-for-profit child day care centers which serve the needs of small and medium-sized commercial, industrial, service and other small and medium-sized businesses, health-related businesses and degree-granting institutions of higher education.

(d) "Infrastructure investment project". A project consisting solely of site preparation, clearance and demolition on property owned by a municipality, local development corporation, urban renewal agency or industrial development agency designated by a municipality.

(e) "Infrastructure planning projects" shall mean projects consisting solely of planning, including the preparation of schematic designs and preliminary environmental assessments for a business infrastructure project or an infrastructure investment project.

(f) "Skills training assistance". A project related to the provision of firm-specific or industry-specific employee retraining, skills upgrading, and productivity enhancement, including assessment and training related to the implementation of high-performance work organization strategies.

(g) "Tourism destination". A location or facility which is likely to attract a significant number of visitors from outside the region.

(h) "Revolving loan fund account grants" shall include: (i) grants to provide the local match for federally funded community-based loan funds; (ii) grants to capitalize and recapitalize regional revolving loan trust fund accounts pursuant to section sixteen-a of this act; and (iii) grants to recapitalize minority and women revolving loan trust fund accounts established pursuant to section sixteen-c of this act.

(2) Loans and grants. The corporation may make loans and grants for regional strategic planning, business development projects, business infrastructure and infrastructure investment projects, skills training assistance projects, economic development assistance projects, and child care assistance projects, that create or retain permanent private-sector jobs. Such projects and programs except as specifically provided herein:

(a) Must be consistent with a regional strategic plan for economic

development, as coordinated by the chairman of the corporation and approved by the director of the budget, with copies filed with the speaker of the assembly and the temporary president of the senate;

(b) Must create or retain substantial permanent private-sector jobs in the case of business development loans and business infrastructure projects, or in the case of a child care assistance project the corporation determines that the child day care center will improve or maintain the productivity of the sponsoring company or companies;

(c) Must be reasonably likely to be completed within the time and cost estimates presented in the proposal; and

(d) Must be unable to obtain sufficient funding on reasonable terms from other public or private sources to permit the project to proceed without the requested assistance; and

(3) Ineligible projects. Ineligible projects shall include retail businesses, overnight lodging facilities, debt refinancing, or the relocation of a business from one municipality within the state to another municipality, provided, however, that such a project shall not be deemed ineligible if all municipalities from which such business will be relocated are notified in writing of the corporation's approval of such funding and the chief executive officers of the municipalities do not object to the corporation in writing within a period of twenty days of receipt of the notification.

(4) Nonapplication to certain grants and projects. Section ten and subdivision two of section sixteen of this act shall not apply to grants and projects funded pursuant to the provisions of this section.

(5) Business development project loans. (a) Business development project loans made by the corporation:

(i) may be for working capital, the purchase or leasing of equipment and machinery, land acquisition, and the acquisition, renovation or construction of facilities;

(ii) shall not exceed one-third of the total project cost or five hundred thousand dollars, whichever is less; and

(iii) shall be at interest rates that are necessary to make the project feasible, as determined by the corporation.

(b) Notwithstanding section five of this act, no more than twenty percent of the funds available for business development projects shall be grants limited to:

(i) interest subsidies to reduce costs of financing projects that demonstrate an inability to occur without subsidy, which shall not exceed one-third of project cost or four hundred thousand dollars, whichever is less; and

(ii) feasibility studies of the transfer of ownership to local interests of a company which shall not exceed forty thousand dollars.

(c) The corporation may make loans or grants for business development projects in economically distressed areas and in other areas; provided, however, that in the case of other areas, the project furthers:

(i) business development by women, minorities, or unemployed persons;

(ii) modernization and productivity improvements by eligible firms;

(iii) diversification of the economic base of a community;

(iv) creation of substantial, permanent private-sector jobs, including jobs for dislocated workers, public assistance recipients, disadvantaged youth, or long-term unemployed persons;

(v) retention of jobs involving companies at imminent risk of reducing employment;

(vi) prevention of the loss of a primary employer which will have a major adverse impact on the economic condition of a community; or

(vii) furthers the development of a tourism destination.

(6) Business infrastructure projects. (a) The corporation may make loans and grants to businesses, municipalities, industrial development agencies and local, county or regional development corporations designated by local governments for specific business infrastructure projects directly related and essential to specific business developments.

(b) Grants and loans for infrastructure projects may be made in areas encompassed by empire zones established pursuant to article eighteen-b of the general municipal law and in other areas, except that in the case of other areas, a project loan or grant for a business infrastructure project must be for one of the purposes authorized for business development projects in such areas pursuant to paragraph (c) of subdivision five of this section, and shall be available only where there is a firm commitment by a company to carry out a related business development to create or retain substantial permanent private-sector jobs.

(c) Assistance for business infrastructure projects shall not exceed

forty-nine percent of the total project cost or seven hundred fifty thousand dollars, whichever is less. Loans for such projects shall be at interest rates determined by the corporation, that are necessary to make the project feasible.

(d) No more than fifty percent of funds available from the corporation for any infrastructure project not located in an empire zone, and no more than sixty percent of the funds available from the corporation for any infrastructure project located in an empire zone shall be disbursed as a grant.

(7) Infrastructure investment projects. Notwithstanding paragraph (b) of subdivision two of this section, grants may be made by the corporation for up to four hundred thousand dollars or eighty percent of the total project cost, whichever is less, for infrastructure investment projects which:

(a) Meet highly distressed area criteria as defined in article eighteen-b of the general municipal law;

(b) Are part of an economic development or urban renewal plan to attract, retain or permit the expansion of an industrial, manufacturing, research and development, high-technology, tourism, service, food processing or distribution company; and

(c) Are located in areas that are zoned industrial or commercial.

(8) Infrastructure planning projects. The corporation may make infrastructure planning project grants in an amount not to exceed twenty-five thousand dollars or fifty percent of project costs, whichever is less, for the purpose of conducting preliminary planning on business infrastructure development and infrastructure investment projects that meet the criteria set forth in subdivisions six and seven of this section.

(9) Tourism destination projects. (a) The corporation may make business development and business infrastructure loans and grants for tourism destination projects. Such projects must:

(i) involve the development of a recreational, educational, cultural or historical facility;

(ii) significantly contribute to the development of a tourism destination; and

(iii) either (A) involve construction of a new facility that will encourage investment in an area where a shortage of tourism-related

facilities, attractions or services has deterred business growth and where the proposed facility would significantly increase overall business activity and the marketability of the location as a tourism destination; or (B) improve an existing recreational, educational, or cultural or historical facility where the proposed improvement would significantly increase overall business activity and the marketability of the location as a tourism destination.

(b) The corporation may make grants involving the regional marketing of tourism destinations, including commercial tourism destination areas, where an increase of visitors to such areas will contribute to the stability and economic viability of the area.

(c) Preference shall be given to tourism destination projects which attract a significant number of visitors from outside the state, provided, however, that funding priority shall be given to tourism destination projects in distressed areas of the state.

(d) No assistance shall be provided pursuant to this subdivision to finance a tourism destination project consisting solely of overnight lodging facilities or retail businesses. Provided, however, that nothing contained herein shall prohibit the corporation from providing assistance to a tourism destination project which includes such facilities or businesses.

(10) Economic development assistance grants. (a) The corporation shall, within available appropriations, award grants or enter into contracts for services to eligible entities and organizations as set forth in this subdivision on a competitive basis and in response to requests for proposals issued by the corporation. Grants shall not exceed one hundred thousand dollars per project. An applicant shall be permitted to apply for support in more than one project area listed under paragraph (c) of this subdivision, provided, however, that the sum total of the grant received under this subdivision by any one applicant for more than one project approved under paragraph (c) of this subdivision shall not exceed two hundred fifty thousand dollars. No application for industrial effectiveness on global export and marketing assistance shall be approved by the corporation unless it is first approved by the department of economic development.

(b) The corporation shall enter into no more than one contract or make more than one grant per year per application under this subdivision

regardless of the number of projects for which an applicant has applied and for which funding has been approved. In the case of applications for multiple projects to be conducted by a single applicant, the corporation may, at its discretion, provide a grant or enter into a contract for services with the applicant for some or all of the projects for which an applicant has applied.

(c) Not-for-profit corporations, business improvement districts and regional and community development organizations shall be eligible to apply for support under this subdivision to operate a program or programs of business and economic development services to stabilize, retain or revitalize existing businesses, and to assist small and new businesses, including, but not limited to assistance to individual businesses or business sectors in project areas, including, but not limited to:

(i) the preparation of strategic plans for the economic development of the region;

(ii) analysis of industrial sectors;

(iii) productivity assistance to mature industries;

(iv) assistance in marketing and promoting regional business clusters;

(v) export assistance;

(vi) management and procurement assistance to small business, including minority- and women-owned businesses;

(vii) regional marketing of state economic development programs to areas underserved in those programs;

(viii) assistance in the training of community and economic development staff to assist communities to build capacity to engage in economic development;

(ix) assistance to expand the capacity of existing entities administering minority and women revolving loan funds to deliver services;

(x) feasibility studies for the establishment of business improvement districts and for initial eligible organizational costs; and

(xi) grants for the establishment and operation of neighborhood-based small business service centers.

(d) In awarding grants or contracts pursuant to this subdivision, preference shall be given to programs that:

(i) are located in distressed areas;

- (ii) meet a substantial regional need;
- (iii) complement local programs or provide services not readily available from units of local government or the private sector;
- (iv) provide a local match; or
- (v) foster small business and minority business development.

(11) Skills training projects. (a) Funds may be available for expenditure related to the provision of skills training assistance when utilized in conjunction with other public or private development funds for the purposes of the prevention of worker dislocation or the creation of new employment opportunities.

(b) To the extent that training expenditures involve classroom or on-the-job training, all funding by the corporation shall be in the form of grants or contracts with employers matching fifty percent of the cost of training.

(c) Allowable training expenditures may include expenses for classroom instruction and on-the-job training.

(d) No skills training assistance shall be provided by the corporation unless and until the department of economic development has reviewed and approved each project.

(e) For those projects funded pursuant to the provisions of this subdivision, the corporation shall submit to the governor, the speaker of the assembly, the temporary president of the senate, and the chair of the commission on skills development and vocational education a report of the training assistance provided by such projects to be submitted not later than September first of each year. Such report shall include, but not be limited to, a description of the training activity provided, evidence of linkages with other publicly funded training programs, specification of outcomes achieved including number of job placements, jobs retained, jobs created, or a measure of productivity improvement, the types of businesses served by size and sector, and funds provided for the construction/renovation of facilities or purchase of equipment for training purposes.

(12) Child care assistance projects. (a) The corporation shall provide financing for child care assistance projects for the establishment, expansion and development of not-for-profit child day care centers which serve the needs of small and medium-sized commercial, industrial, service and other small and medium-sized businesses, and of

health-related businesses and degree-granting institutions of higher education. Such financing may consist of grants for the establishment of licensed, not-for-profit child day care centers developed in conjunction with small and medium-sized businesses, health-related businesses and degree-granting institutions of higher education. Such grants shall not exceed forty percent of the total project cost, may be in amounts up to one hundred thousand dollars and may be used for general project development costs, including, but not limited to:

- (i) studies to assess the feasibility of, or preliminary planning for, the development of child day care centers sponsored by a not-for-profit provider or a consortia of firms;

- (ii) the acquisition, design, construction, improvement or renovation of the child day care center; and

- (iii) the purchase of permanently installed machinery and equipment necessary to establish or expand a child day care center.

(b) Loans for costs associated with the development or expansion of child day care centers to a not-for-profit child care provider, or a small or medium-sized business, consortia of such firms or health-related business or degree-granting institution of higher education that has contracted with a not-for-profit child care provider to supply child care services, provided, however, that:

- (i) such loans may be used for the acquisition, design, construction, improvement or renovation of a child day care center at the project site and/or for the purchase of permanently installed machinery and equipment in connection therewith, or for the provision of working capital to such center; and

- (ii) the corporation shall determine the terms and interest rates of such loans, except that no loan shall exceed fifty percent of the total project cost, or two hundred fifty thousand dollars, whichever is less, provided that the total amount given to any individual child care project shall not exceed two hundred fifty thousand dollars.

(c) Financing for child care assistance projects authorized pursuant to this subdivision, shall only be made upon a determination by the corporation that such center will improve or maintain the productivity of the sponsoring company or companies. Such loans and grants shall only be made for child care centers where adequate day care facilities are not available for employees of businesses within the area of the

proposed center. Such centers shall:

- (i) demonstrate an ability to obtain, from the appropriate governmental agencies, all necessary approvals and licenses required to operate the center; and

- (ii) demonstrate an ability to prevent access by children to any equipment in such centers which could be injurious to their health or safety.

- (d) The corporation shall work closely with the New York state job development authority, the New York state department of economic development, the New York state department of social services, child care resource and referral centers, and other sources offering assistance for child care in the state in order to assure coordination of services.

(13) Regional loan fund account grants. Assistance from this program may be provided for grants of up to five hundred thousand dollars to capitalize, and up to two hundred thousand dollars to recapitalize, regional revolving loan trust fund accounts established pursuant to section sixteen-a of this act and up to two hundred thousand dollars to recapitalize minority and women revolving loan trust fund accounts established pursuant to section sixteen-c of this act; and up to two hundred thousand dollars to provide the local match for appropriately federally-financed community-based loan funds.

(14) Determination of economic distress. (a) The corporation shall develop and consider criteria for determining economic distress within the areas of the state. Factors to be considered in determining economic distress shall include:

- (i) unemployment rate;
- (ii) rate of employment change;
- (iii) percentages and numbers of low-income persons;
- (iv) per capita income and per capita real property wealth; and
- (v) such other indicators of distress as the corporation shall determine.

- (b) Economically distressed areas shall also include parts of municipalities otherwise not qualifying, which meet unemployment, income and other criteria established by the corporation.

(15) Application. (a) The corporation shall develop and use a standard project application form. Project applications shall be completed,

reviewed and evaluated by the regional economic development councils established pursuant to this section, pursuant to eligibility requirements and criteria promulgated by the corporation pursuant to this section. Such applications shall be submitted to the corporation with recommendations for the project ranked in priority order; provided, however, that an applicant may make an application directly to the corporation for approval. Upon such direct application, the applicable regional economic development council shall review the application and shall make a recommendation within twenty days of receipt of such application. The corporation may act on any such application twenty days after the receipt of such application by the regional council.

(b) The corporation shall expedite the processing of approved loans and grant awards with the objectives of simplifying the administrative process and making prompt and timely payments to recipients and simplify procedures by which approved applications are processed.

(16) Regional economic development assistance revolving loan account. Notwithstanding any provisions of law to the contrary, the corporation shall establish within its treasury a regional economic development assistance revolving loan account, shall pay into such account any moneys which may be made available to the corporation for this purpose from any source including, but not limited to, moneys appropriated by the state and any income earned by, or increment to, the account due to the investment thereof, or any repayment of principal and interest on loans made by the corporation for projects authorized pursuant to this section. The amounts deposited in the regional economic development assistance revolving loan account may not be interchanged with any other account. All loans disbursed by the corporation shall be repaid into such account and such repayments shall be available to the corporation for relending and up to one hundred twenty-five thousand dollars of such repayments shall be available for the co-location of staff of the corporation in the regional offices of the department of economic development, expediting project disbursement or outreach in highly distressed areas.

(17) Approval cycle. The corporation shall approve project loans or grants made under this section on at least a four-month cycle.

(18) Priority. In approving loans or grants authorized pursuant to the provisions of this section, the corporation shall give priority

consideration to whether a project is located in an area of economic distress. Other factors to be considered by the corporation shall include:

- (a) The number of jobs created or retained;
- (b) The number of jobs created for persons eligible for benefits under the provisions of the job training partnership act (P.L. 97-3400)(29 U.S.C.A. § 801 et seq.);
- (c) The priority accorded the proposed project by the regional economic development council;
- (d) The participation of minority- and women-owned businesses;
- (e) The impact of the project on the employment and economic condition of the community;
- (f) The cost per job created or retained based on total project cost;
- (g) The amount of private investment leveraged;
- (h) The level of local public support; and
- (i) The likelihood of accomplishing the project in a timely fashion.

In the event that the corporation does not follow the priorities of a regional economic development council, it shall make a finding, in writing, as to why the council priority was not followed.

(19) Preference. For any positions opened as a result of business development project loans, entities assisted shall first consider persons eligible to participate in federal job training partnership act programs (P.L. 97-3400) (29 U.S.C.A. §801 et. seq.) who shall be referred to the business by administrative entities of service delivery areas created pursuant to such act by the job service division of the department of labor.

(20) Regional economic development council. Beginning April first, nineteen hundred ninety-five, there shall be established within each economic development region of the state, pursuant to section two hundred thirty of the economic development law, a regional economic development council.

(a) Appointments to a regional economic development council shall be made according to the following provisions:

(i) Except as provided in subparagraph (iii) of this paragraph, in regions composed of two or more counties, the chief executive officer of each county within such region shall each appoint one representative to

serve on the regional economic development council; and the mayor or other chief executive of each city within the region whose population exceeds fifty thousand, shall each appoint one member to serve on the regional economic development council; except that for regions that do not contain a city of at least fifty thousand inhabitants, the mayor or other chief executive of the municipality with the largest population shall make such appointment.

(ii) In the case of regions composed of two or fewer counties, the chief executive officer of each county within a region shall each appoint three representatives to serve on the regional economic development council; and the mayor or other chief executive of the two largest towns within each county shall each appoint one member to serve on the regional economic development council.

(iii) In the case of cities of one million or more constituting an economic development region, six appointments to the regional economic development council shall be made by the mayor, and one appointment each shall be made by the chief executive officer of any county within such city, who shall represent the county.

(iv) The governor shall make a number of appointments in each region equal to the total number of appointments made pursuant to subparagraph (i), (ii) or (iii) of this paragraph, as appropriate; provided however, that of the appointments made by the governor in each region, one shall be the director of the regional office of the department of economic development; one shall be the regional representative of the New York state job development authority, and one shall be a regional office representative of the corporation. In addition, the governor shall appoint the chair of each regional economic development council.

(b) Each individual appointed to a regional economic development council shall serve for a term of four years but shall serve for no longer than two consecutive terms.

(c) The chair of a regional economic development council shall serve as chair for a single term of four years only.

(d) Representatives appointed pursuant to this section may be removed for cause by the appointing authority.

(e) Any vacancy on a regional economic development council shall be filled for the unexpired term in the same manner as the original appointment.

* (f) Each regional economic development council awardee may certify in writing to such regional economic development council that they maintain internship opportunities, along with the number of opportunities, a description of the work the interns will engage in, and descriptions of any supplementary programming offered to the interns.

* NB Effective July 19, 2024

(21) Reports. The chairman of the corporation shall submit to the director of the budget, the speaker of the assembly and the temporary president of the senate an evaluation of the effectiveness of the program prepared by an entity independent of the corporation. The corporation shall select the program evaluator through a request for proposal process. Such evaluation shall determine whether the assistance provided has enhanced the economic conditions of assisted businesses or projects, and shall make recommendations for improvements which would make the program more effective. Such evaluation shall be submitted by September first, nineteen hundred ninety-six.

(22) Co-location of services. The commissioner of economic development, in consultation with the New York state science and technology foundation, the New York state urban development corporation, the New York state job development authority, the state university of New York and the city university of New York shall develop and implement a plan and schedule for the co-location of services provided by such agencies in each economic development region throughout the state. Such plan and schedule shall provide that at least one employee of each agency providing such services shall be located at each co-located regional office in New York state on at least a regularly scheduled part time basis. The commissioner of economic development shall report to the temporary president of the senate, the speaker of the assembly, the chairpersons of the fiscal committees of the senate and assembly, and the governor on the plan and schedule required pursuant to this act by December thirty-first, nineteen hundred ninety-four.

§ 16-f. Bonding guarantee assistance program. (1) Program created. There is hereby created a state bonding guarantee assistance program to enable small businesses, and minority-owned and women-owned business enterprises, certified as a minority-owned or women-owned business

enterprise pursuant to article fifteen-A of the executive law, to meet payment and/or performance bonding requirements by providing additional financial backing needed to induce a surety company to issue a bond for construction projects, including but not limited to, government sponsored, transportation related construction projects. For purposes of this section, the term small business shall have the same meaning as defined in section one hundred thirty-one of the economic development law. Such program shall give preference to minority-owned and women-owned business enterprises and shall:

(a) Make available funds to surety companies providing bonds to small businesses and minority- owned or women-owned business enterprises in an amount equal to a percentage not to exceed fifty percent of the face value of bonds issued by the surety.

(b) Provide technical assistance in completing bonding applications for small businesses and minority-owned or women-owned business enterprises seeking to become eligible for bonding in preparation for bidding on construction projects, including transportation related projects. The corporation shall provide and may refer such businesses to the department of economic development for technical assistance as such businesses may need, including but not limited to:

(i) a review of the applicants' market and business competitive strategy;

(ii) consultation and review of the development and planned implementation of a working capital budget;

(iii) assistance with applications for the receipt of funding from other financial sources and providing referrals to other appropriate public and private sources of financing; and

(iv) assistance from the regional offices of the department of economic development, pursuant to article eleven of the economic development law, and the entrepreneurial assistance program, pursuant to article nine of such law, and any other such program receiving state funds from this act or the department of economic development or any other state agency that is intended to provide technical assistance to small businesses and minority-owned and women-owned small business enterprises.

(2) Criteria and regulations. (a) The corporation shall by rule establish criteria for such program, such criteria to include detailed

provisions for eligibility.

(b) The corporation shall promulgate rules and regulations to effectuate the purposes of this section which shall be approved by the director of the budget.

(3) Funds. Funds for this program shall consist of such amounts as may be appropriated, any repayment of funds made available under this program, and any interest earned by the corporation from the investment of moneys from this program.

(4) Nonapplication of certain provisions. The provisions of section ten and subdivision two of section sixteen of this act shall not apply to assistance provided under this program.

§ 16-g. Child care facilities construction program. 1. Definitions. For the purposes of this section:

(a) "Child care facilities construction project" shall mean a project for the establishment, expansion, and development of licensed not-for-profit child day care centers which are intended to serve the needs of low-income working families or economically distressed areas or highly distressed communities. The project shall be used as a licensed child day care center for a period of at least ten years with at least one-quarter of the available day care placements offered to the local department of social services or set aside for persons eligible for low-income day care subsidies.

(b) "Economically distressed areas" shall have the same meaning as provided for in section 16-d of this act.

(c) "Highly distressed" shall have the same meaning as provided for in section 16-d of this act.

(d) "Not-for-profit corporation" shall mean a corporation organized under the provisions of the not-for-profit corporation law.

2. The corporation shall, from any appropriations made available for this purpose, establish a child care facilities construction program which shall offer the following assistance:

(a) Child care construction grants pursuant to paragraphs (a) and (b) of subdivision 3 of this section.

(b) Child care construction revolving loans and loan guarantees

pursuant to paragraphs (c) and (d) of subdivision 3 of this section.

3. To the extent that monies are appropriated for the child care facilities construction program, the corporation shall provide financing for child care facilities construction projects for the establishment, expansion and development of not-for-profit child day care centers which are intended to serve the needs of low-income working families or economically distressed areas or highly distressed communities. The corporation, in consultation with the department of economic development, shall develop a joint request for applications with the department of social services soliciting potential applicants seeking assistance for the development of licensed, not-for-profit child day care centers. In determining award recipients, the corporation shall consider, among other factors, the department of social services' grouped rankings of the applications. Such financing shall consist of grants, revolving loans and loan guarantees for the establishment, expansion, and development of licensed, not-for-profit child day care centers in accordance with section 410-ccc of the social services law and this section.

(a) Grants shall be used for general project development costs, including, but not limited to:

(i) the acquisition, design, construction, improvement or renovation of the site; and

(ii) the purchase of necessary equipment.

(b) For the purposes of this subdivision grants shall not exceed eighty percent of the total project cost in highly distressed communities; shall not exceed sixty-five percent of the total project cost in economically distressed areas; and shall not exceed fifty percent of the total project cost in non-economically distressed areas.

(c) Child care construction revolving loan and loan guarantees. The corporation shall provide revolving loans and loan guarantees for the establishment of licensed, not-for-profit child day care centers. Such revolving loans and loan guarantees shall be for construction costs, including, but not limited to the design, construction, improvement or renovation of a child day care center, and may include interim financing.

(d) Child care construction revolving loan and loan guarantee fund.

For the purposes of this subdivision, the corporation shall establish a child care construction revolving loan and loan guarantee fund account. The corporation shall determine the terms and interest rates of such loans, except that no loan shall exceed eighty percent of the total project cost in highly distressed communities; sixty-five percent of the total project cost in economically distressed areas; and fifty percent of the total project cost in non-economically distressed areas. In instances where an otherwise qualified applicant lacks equity in a project, equity participation may include any commitment for grants. Payments consisting of the repayment of the principal amount of the loan and interest shall be deposited by the corporation into the child care construction revolving loan fund account from which the loan was made.

4. Financing for child care facilities construction projects authorized pursuant to this subdivision, shall only be made upon a determination by the corporation, in consultation with the department of economic development, and the department of social services that such a center will increase supply and access to day care services. Such revolving loans, loan guarantees and grants shall only be made for child care centers where there is an insufficient supply of child day care. Such centers shall demonstrate the potential to obtain, from the local department of social services and other appropriate governmental agencies, all necessary approvals, licenses, and other supports required to operate the center.

5. In addition to the department of social services, the corporation shall work closely with the job development authority, the department of economic development, child care resource and referral programs, local development corporations, neighborhood preservation companies, rural preservation companies, and other sources offering assistance for child care in the state in order to assure coordination of services.

§ 16-h. The JOBS Now program is hereby created. 1. Funds of this program, within available appropriations, shall be available to any regional partnership, as provided in section 3154 of the public authorities law, eligible business expansion or attraction project: (a)

Job creation grants. Proceeds from a job creation grant shall be used by an eligible business to pay any tax liability resulting from any tax imposed by the state or a local government that the business owes for any taxable period beginning on or after the date in which the job creation grant was awarded. A job creation grant shall equal a portion, as determined by the urban development corporation, of the New York state income tax that is withheld on the employees that were hired as a result of the expansion or attraction project not to exceed one million five hundred thousand dollars;

(b) Worker training grants. Worker training grants, that are completed pursuant to eligible expansion and attraction projects, may receive partial or total reimbursement of the costs associated with such programs through a worker training grant if such training programs include, but are not limited to skills training and upgrading, productivity enhancement and total product/service quality improvements;

(c) Capital loans and grants. Capital loans and grants may be awarded if the proceeds are used for the acquisition or improvements of land, infrastructure and buildings and the acquisition of machinery and equipment;

(d) Interest subsidy grants. Interest subsidy grants may be awarded if the proceeds of such grants are used to offset debt service costs which are associated with loans supplied to the business by a private lending institution; and

(e) Working capital loan and loan guarantees. Working capital loans may be awarded if the proceeds are used to cover capital-related expenses such as, but not limited to, accounts receivable, inventory, and other expenses required to upgrade and reconfigure the competitive position of the project applicant.

2. To be eligible for a loan or grant from the JOBS Now program, a regional partnership, as provided in section 3154 of the public authorities law, or a business expansion or attraction project must result in the creation of at least 100 new, permanent, full-time private sector jobs. Not more than twenty-five percent of funds appropriated for this program shall be allocated for projects that create less than 300 jobs. At least seventy-five percent of funds appropriated for this program shall be allocated to projects that create at least 300 jobs.

Provided, however, a regional partnership, as provided in section 3154 of the public authorities law, shall be able to aggregate the total number of jobs created among more than one eligible business in order to meet the job creation amounts in this subdivision. Provided further, however, that such aggregation shall be within similar industry clusters.

3. Applications for assistance pursuant to this section shall be reviewed and evaluated in consultation with local government officials and regional economic development offices pursuant to eligibility requirements and criteria set forth in rules and regulations promulgated by the corporation. The corporation shall develop and use a standard application project form.

4. The corporation shall, on or before March 1, 1997, submit a report to the governor, the temporary president of the senate and the speaker of the assembly on the operation and accomplishments of the assistance provided pursuant to this section, including a complete inventory of projects financed pursuant to this section.

*** § 16-i. The empire state economic development fund.** 1. The empire state economic development fund is hereby created. The corporation is authorized, within available appropriations, to provide financial, technical or other assistance from such fund for the following: (a) Loans, loan guarantees and grants including interest subsidy grants to manufacturing and non-retail service firms, for headquarters facilities of firms engaged generally in retail industries, retail firms located in distressed areas and to other businesses, for the purpose of developing recreational, cultural, or historical facilities that are likely to attract significant numbers of visitors. Loans, loan guarantees and interest subsidy grants may be used to finance new construction, renovation or leasehold improvements and the acquisition of land, buildings, machinery and equipment. The proceeds of such loans, loan guarantees and interest subsidy grants may also be used to finance working capital;

(b) Loans, loan guarantees, and grants including interest subsidy

grants may be provided to municipalities, industrial development agencies, not-for-profit corporations or local development corporations for the purpose of developing federal facility sites, urban industrial sites, industrial parks and incubator buildings; or to undertake preliminary planning relating thereto;

(c) Grants for the purpose of creating or retaining jobs or preventing, reducing or eliminating unemployment or underemployment including, but not limited to, productivity assessments, export market development plans and other projects to promote international trade; skills training assistance including classroom instruction or on the job training; and programs to assist economically distressed regions and communities to identify new business opportunities, plan for new enterprise development and manage economic development projects;

(d) Loans, loan guarantees, interest subsidies and grants to businesses, municipalities, industrial development agencies and local and regional economic development corporations for projects for the purpose of attracting, retaining or permitting the expansion of industrial, manufacturing, commercial, research and development, high technology, tourism, agricultural or non-retail service businesses and not-for-profit organizations which shall include, but not be limited to basic systems and facilities on public and privately owned property including drainage systems, sewer systems, access roads, sidewalks, docks, wharves, water supply systems, and site clearance, preparation, improvements and demolition. In addition, grants for preliminary planning of projects eligible to apply for financing pursuant to this paragraph may be provided;

(e) Grants to municipalities, not-for-profit corporations and local and regional economic development organizations seeking to attract, stabilize, retain or revitalize existing businesses, and to assist small and new businesses for activities including, but not limited to, the preparation of strategic plans for local or regional economic development, the analysis of business sectors, marketing and promoting regional business clusters, and feasibility studies;

(f) Loans, loan guarantees, interest subsidy grants and direct grants for feasibility studies, surveys and reports, architectural design, studies, and other redevelopment work for non-residential improvements to commercial buildings, commercial strips, downtown areas or business

districts;

(g) Assistance to local or regional organizations to facilitate financing for small- and medium-sized business, including minority- and women-owned business enterprises through flexible financing programs, including, but not limited to, loan loss reserve and revolving loan programs, working capital loans, working capital loan guarantees, or other flexible financing programs that leverage traditional financing;

(h) Assistance to eligible entities and organizations as set forth in section 16-1 of this act to support community economic development programs and activities, including value-added small business growth, agricultural, agribusiness and forest products and those projects that promote the family farm, increase or retain employment opportunities and otherwise contribute to the revitalization of local rural areas which are economically distressed.

2. Applications for assistance pursuant to this section shall be reviewed and evaluated in cooperation with regional economic development offices pursuant to eligibility requirements and criteria set forth in rules and regulations promulgated by the corporation. Approval of project applications shall be made only upon a determination by the corporation:

(a) that the proposed project would promote the economic health of New York state by facilitating the creation or retention of jobs or would increase business activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms;

(b) that the project would be unlikely to take place in New York state without the requested assistance.

(c) that the project is reasonably likely to accomplish its stated objectives and that the likely benefits of the project exceed costs; and

(d) the project is undertaken in accordance with the memorandum of understanding executed in accordance with this section.

3. The provisions of this section shall expire, notwithstanding any inconsistent provision of subdivision 4 of section 469 of chapter 309 of the laws of 1996 or of any other law, upon the effective date of a chapter of the laws of 2000 which appropriates funds for the principal

support of the urban development corporation for the 2000-01 state fiscal year.

* NB Expired upon appropriation of funds to UDC for 2000--01 fiscal year notwithstanding being repealed March 31, 1997 by chap. 309/1996 § 469 sub. 4.

See ch. 413/99 Pt. M

§ 16-j. Strategic training alliance program. 1. Program created.

Pursuant to this section and article 24-A of the labor law there is hereby established within the corporation and the department of labor a strategic training alliance program to identify and address employer demands for skilled workers. The corporation and the department of labor may cooperate with the department of economic development, the state university of New York, the city university of New York, and the state education department, in providing support within amounts available for the program for training activities by an eligible applicant which is defined as an employer or an employer in conjunction with a labor organization, a strategic alliance or network or association of employers with common problems or concerns, a private industry council established pursuant to the federal job training partnership act (P.L. 97-300) or one or more local workforce investment boards established pursuant to the federal workforce investment act (P.L. 105-300) representing a strategic alliance.

2. Project plans. (a) Project plans shall be submitted to the corporation or the department of labor by applicants. The corporation and the department of labor shall, upon receipt of project plans, jointly review such plans in order to assure that they are approved or disapproved within the time limits set forth in paragraph (c) of this subdivision.

(b) Plans submitted pursuant to this article shall include:

- (i) documentation of the need for such training;
- (ii) the type of training and the number of individuals to be trained;
- (iii) a commitment of a cash or in-kind contribution to the cost of the project;

(iv) a commitment to first consider individuals who are unemployed, dislocated, or economically disadvantaged for employment in positions created as a result of training;

(v) the identification of an eligible training provider which is defined as a community college, agricultural and technical college, an institution of higher education, a local education agency, a community based organization or a strategic alliance;

(vi) the identification of specific projects to be assisted; and,

(vii) a description of technologies to be used to disseminate the training to participating employers.

(c) The corporation and the department of labor shall jointly approve or disapprove project plans within thirty days of receipt of such plans.

3. Assistance. (a) Assistance provided by the corporation to eligible applicants pursuant to the joint approval involving the department of labor set forth in this article shall be used for the costs of classroom training, curriculum development, and training materials associated with on the job training, skills upgrading, skills retraining, and basic skills training; and

(b) The corporation and the department of labor shall ensure that:

(i) not less than twenty percent of the program funds are used in support of projects that assist small businesses as defined in section one hundred thirty-one of the economic development law; and

(ii) not less than twenty percent of program funds are used in support of projects that assist strategic alliances or networks or associations of employers with common problems or concerns.

(c) The corporation and the department of labor may within amounts available for the program provide additional funds for regional and statewide initiatives that lead to the development and implementation of an electronically supported training and workforce education system.

4. Report and evaluation. (a) The corporation and the department of labor shall report to the legislature annually identifying the employers or alliances receiving training assistance, the type of training provided, and the number of individuals trained and newly hired including those who were previously unemployed or economically disadvantaged.

(b) The corporation and the department of labor shall also provide for an independent evaluation of the program on or before June 1, 2002, and every three years after. The cost of such evaluation shall be deemed to be an eligible expense of the New York state strategic training alliance program.

§ 16-k. Capital access program. 1. Definitions. For the purposes of this section:

(a) "Financial institution", means any bank, trust company, savings bank, savings and loan association or cooperative bank chartered by the state or any national banking association, federal savings and loan association or federal savings bank or any community development financial institution or community-based lending organization; provided, however, that the financial institution has its principal office located in the state.

(b) "Participating financial institution" shall mean any financial institution participating in the program established by this section.

(c) "Small business" shall have the same meaning as set forth in section 131 of the economic development law, whose primary place of business is in New York state.

2. (a) The corporation, or its agent, shall establish a capital access program to provide a loan loss reserve to assist small businesses that otherwise find it difficult to obtain regular bank financing.

(b)(i) Assistance under the capital access program shall be provided for a capital access program under which the corporation or its agent shall be authorized to assist small businesses that otherwise find it difficult to obtain regular or sufficient bank financing. Such assistance shall take the form of deposits by the corporation or its agent in the reserve funds in participating financial institutions to fund loan loss reserves for loans made to such small businesses.

(ii) Any financial institution desiring to become a participating financial institution shall execute an agreement in such form as the corporation or its agent may prescribe, which agreement shall contain the terms and provisions set forth in paragraph (c) of this subdivision and such other terms and provisions as the corporation or its agent may

deem necessary or appropriate.

(c) A participating financial institution originating a loan to a small business pursuant to this section shall:

(i) provide a plan to the corporation or its agent for the marketing of the capital access program to small businesses, including those in highly distressed areas and to minority- and women-owned businesses, with appropriate lending objectives identified by the financial institution for such areas and businesses;

(ii) disperse funds for the purposes of expansion, facility/technology upgrading, start-up and working capital;

(iii) not disperse funds which exceed an amount greater than five hundred thousand dollars;

(iv) set aside an amount, specified or agreed to by the corporation or its agent, from both the participating financial organization and the small business, not less than three percent nor more than seven percent of the principal amount of the loan, whereby the amount contributed by the small business does not exceed fifty percent of the total amount contributed by the small business and the financial institution, into a loan loss reserve which the institution shall maintain, applicable to all such loans by said institution to small businesses pursuant to this section; and

(v) certify to the corporation or its agent in such a fashion and with such supporting information as the corporation or its agent shall prescribe, that it has made such loan and has set aside its contribution and the contribution of the small business.

(d) The corporation or its agent shall after such certification as provided in subparagraph (v) of paragraph (c) of this subdivision, transfer to the participating financial institution an amount equal to the total of the contributions of the participating financial institution and the small business or such additional amount up to one hundred fifty percent of such contributions as determined by the corporation or its agent. The participating financial institution shall set aside such amount so received into said loan loss reserve.

(e) In the event the participating financial institution suffers a loss on any such loan, it may in its discretion draw upon the funds in such loan loss reserve to repay the loan in whole or in part.

(f) All amounts set aside by the participating financial institution

into said loan loss reserve shall be in an account at said institution.

(g) Earnings or interest from the principal of said loan loss reserve accounts shall be:

(i) maintained in the account and held as additional loan loss reserves; and

(ii) available to the corporation or its agent at any time and from time to time, to be used to defray the costs of administering the program or to replenish the loan loss reserve account of the corporation or its agent.

(h) The corporation shall assure adequate geographic distribution of participating financial institutions throughout the state to the extent feasible.

3. Administration of the capital access program. (a) The corporation is hereby authorized to do the following:

(i) enter into a contract with a third party financial institution, which may be the New York business development corporation, established under section 210 of the banking law, to act as the agent of the corporation with respect to the administration of the program, provided that the selection of a third party other than the New York business development corporation shall be made pursuant to a competitive process;

(ii) conduct an annual review and assessment of the performance of the third party in its capacity as agent for the corporation to determine whether the contract referenced in subparagraph (i) of this paragraph should be renewed for an additional two year period. The review shall be based on whether the third party agent has satisfactorily met the terms and conditions of the contract;

(iii) where an initial determination finds that the third party agent's performance is unsatisfactory, allow the third party agent the opportunity to take corrective action;

(iv) where a final review of the third party agent's performance continues to conclude that the third party agent's performance is unsatisfactory, submit to the speaker of the assembly and the temporary president of the senate its recommendation to terminate the contract with the third party agent and transfer the contract to another agent; and

(v) promulgate rules and regulations with respect to the

implementation of the capital access program established by this section and any other rules and regulations necessary to fulfill the purposes of this section, in accordance with the state administrative procedure act, and which shall be consistent with the program plan required by subdivision 19 of section 100 of the economic development law.

(b) Any contract entered into pursuant to subparagraph (i) of paragraph (a) of this subdivision shall:

(i) be for a period of two years and shall be renewed for an additional two year period subject to requirements of subparagraph (ii) of paragraph (a) of this subdivision;

(ii) provide for compensation for expenses incurred by the third party agent in connection with its services as agent and for such other services as the New York business development corporation may deem appropriate including, but not limited to the use of the premises, personnel and personal property of the third party agent; and

(iii) notwithstanding any law, rule or regulation to the contrary, use the guidelines, related to, but not limited to underwriting standards provided for in subdivision four of this section to evaluate applications for loans pursuant to the program filed by a minority and women-owned business enterprises, or a small business whose principal place of business is in a highly distressed area.

(c) The corporation, and any third party it contracts with pursuant to paragraph (a) of this subdivision, shall collaborate, to the extent practicable, to increase minority and women-owned businesses' and small businesses' whose principal place of business is in a highly distressed area, awareness of, participation in, and referrals to the capital access loan program.

4. Notwithstanding any law, rule or regulation to the contrary, the department of financial services, the empire state development corporation and the New York business development corporation, in consultation with relevant stakeholders, shall jointly establish guidelines relating to, but not limited to, underwriting standards to assist minority and women-owned business enterprises and small businesses in highly distressed areas in accessing and participating in the capital access program. In addition to other factors, such guidelines should incorporate verifiable alternative indications and

best practices of creditworthiness presented or made available by the applicant.

5. Pursuant to subparagraph (v) of paragraph (b) of subdivision 1 of section 212 of the banking law, the New York business development corporation and the empire state development corporation shall enter into an agreement pursuant to which the New York business development corporation shall authorize, maintain and administer the program established in such subparagraph.

§ 16-1. Rural revitalization program. 1. Statement of legislative intent. The legislature finds that vast areas of rural New York state show signs of severe economic distress and lag behind the rest of the state in employment growth and income, with the gap widening with passing years. Poverty in many rural areas is pervasive, with the poor often outnumbering the affluent.

The legislature further finds that rural communities in New York state need immediate assistance to develop the capacity to plan and organize for economic development, to undertake new economic development initiatives, to overcome obstacles to economic development and to fully utilize indigenous resources to provide rural residents with economic opportunities.

The legislature further finds that, to begin to address these needs, a catalyst is needed to stimulate and encourage innovative economic development alternatives to declining employment in the agricultural and manufacturing sectors.

The legislature further finds that, while agriculture is considered to be a major New York industry, state economic development financing programs do not treat agriculture as an industrial sector, and financing is not available to provide farmers with assistance to become more competitive in national and international markets.

Therefore, the legislature declares that the revitalization of the

state's rural economy is essential to New York's economic health and that state assistance in this regard is necessary and proper for achieving this public purpose.

2. Rural revitalization assistance grants. (a) The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-i of this act, to award grants or enter into contracts for services, on a competitive basis in response to requests for proposals, to eligible entities and organizations as set forth in this subdivision to support community economic development programs and activities which increase or retain employment opportunities in rural New York state and otherwise contribute to the revitalization of local rural areas which are economically distressed through innovative activities designed to generate economic alternatives and opportunities in rural areas.

(b) Grants and contracts made by the corporation pursuant to this subdivision shall be subject to the following limitations:

(i) no such grant shall exceed one hundred thousand dollars per year, except that for the purpose of paragraph (f) of this subdivision, no such grant shall exceed fifty thousand dollars.

(ii) the corporation shall enter into no more than one grant per year per application under this subdivision.

(c) Preference shall be given to programs which meet highly distressed area criteria or which support empire zones established pursuant to article 18-B of the general municipal law; provide a local match; meet a substantial local or regional need; complement local programs or provide services not readily available from units of local government or the private sector.

(d) For the purposes of this subdivision, "rural area" shall mean a rural area as defined in subdivision 7 of section 481 of the executive law.

(e) Not-for-profit corporations, agricultural cooperative corporations, public benefit corporations and educational institutions serving rural areas, shall be eligible to apply for support under this subdivision for the following activities, provided, however, that the sum total of grants received by any one eligible entity does not exceed two hundred fifty thousand dollars in any one year:

(i) innovative activities and programs designed to encourage value-added small business development and growth in rural areas, including cottage and crafts industries; group marketing of local products; women-owned industries; natural resources development; and tourism. Such activities and programs shall also include projects pertaining to agriculture and agribusiness development to stimulate the development and implementation of new and alternative production, processing, storage, distribution and marketing technologies and improvements for New York food, agricultural and forest products. Projects promoting strengthened farm management practices shall also be eligible for assistance;

(ii) in-depth analysis within rural areas to support local efforts to identify new business opportunities, and to organize industry-wide collaborative efforts designed to create jobs and to develop growth strategies;

(iii) support for the operation of programs designed to generate and leverage equity-type or working capital financing for new and small business enterprises in rural areas, or to meet other critical financing needs of existing rural businesses;

(iv) support for multi-county activities designed to provide small business development and financial packaging assistance to new and small rural business enterprises to assure the continuation and growth of such enterprises; and

(v) provide, or cause to be provided, technical assistance to small businesses to help such businesses comply with applicable federal, state and local rules and regulations, including, but not limited to, assistance to applicants for permits required by such rules and regulations.

(f) Any vocational education agency offering technical assistance services to small business, any small business development center located at a post-secondary educational institution, any county cooperative extension service, any agricultural cooperative corporation offering technical assistance services to farmers and non-farm agricultural businesses or any not-for-profit corporation offering technical assistance, shall be eligible to apply under this paragraph to establish rural enterprise extension services designed to provide technical assistance and services to entrepreneurs who are seeking to

establish or who are operating small business ventures in rural areas where, for reasons of distance, population dispersal, or scale of business venture, conventional business incubation and assistance programs are not feasible, such extension services to sponsor, employ and support technical assistance specialists as circuit riders to serve the rural area served by the sponsoring entity.

(i) Such specialists shall be the outreach arm of the technical assistance program and shall:

(A) provide technical and management assistance to entrepreneurs seeking to establish a new small business, including but not limited to, agribusinesses, part-time businesses, crafts-related businesses, tourism-related businesses, and other new businesses that are started in areas distant from other existing programs and sources of technical assistance;

(B) regularly visit outlying areas of the region or areas served by the entity sponsoring the rural enterprise extension service program to provide both short-term and ongoing technical assistance and services to clients;

(C) arrange, when needed, for supplemental assistance to be provided by the sponsoring entity;

(D) conduct, with assistance from both local sources of expertise and the sponsoring entity local seminars in outlying regions on various aspects of entrepreneurship and new enterprise development; and

(E) provide information on other sources and programs of assistance, services and support, including financial sources, to entrepreneurs and small business operators.

(ii) Applications for support under this paragraph shall be required to demonstrate a need for a rural enterprise extension service program in the area to be served; the ability and willingness of the applicant to support technical assistance specialists employed as circuit riders with additional resources to provide intensive, long-term technical assistance or specialized technical assistance to client entrepreneurs and small business operators when necessary; and the ability to assist entrepreneurs and small business operators in locating appropriate sources of financial assistance.

(iii) For the purposes of this subdivision "vocational education agency" shall mean a community college or board of cooperative

educational services operating within the state.

3. Agricultural job training assistance. The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-i of this act, to contract with the commissioner of agriculture and markets, in consultation with the commissioner of labor, to administer a program of job training for workers engaged in or to be engaged in the production, harvesting and processing of farm or aquatic products.

4. Farmers' market grant program. (a) The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-i of this act, to award grants, on a competitive basis in response to requests for proposals, to municipal corporations, local development corporations, business improvement districts, not-for-profit corporations, regional marketing authorities and agricultural cooperatives organized pursuant to the cooperative corporations law, for the construction, reconstruction, improvement, expansion or rehabilitation of farmers' markets. The corporation is further authorized to contract with the commissioner of agriculture and markets, and such commissioner is authorized to contract with the corporation, to prepare and issue requests for proposals, accept grant applications, recommend those applications which best meet established criteria and to administer grants awarded under this subdivision.

(b) Grants made by the corporation pursuant to this subdivision shall:

(i) not exceed fifty thousand dollars per year; and

(ii) be limited to fifty percent of the total proposed farmers' market start-up or expansion costs, not including any capital expenditures except as set forth in paragraph (a) of this subdivision.

(c) The corporation shall enter into no more than one grant per year per application under this subdivision.

(d) The corporation shall consult with the department of agriculture and markets in order to establish such criteria governing the award of grants as authorized herein, as the corporation and such department deem necessary. Such criteria shall include, but not be limited to:

(i) the relative impact of the proposed farmers' market project on the

economy of the area to be served;

(ii) the anticipated level of municipal support and local participation in the project by farmers and others;

(iii) the extent to which New York farmers would benefit, through the direct sale of farm and food products;

(iv) the equitable distribution of monies awarded for state assistance for farmers' markets among urban and rural areas; and

(v) the anticipated quantity of non-farm jobs which would be created and retained due to the proposed project.

(e) Preference shall be given to: applicants located in highly distressed areas and providing services not readily available from units of local government or the private sector and to applicants who are proposing to start a new farmers' market.

5. Rural single-tenant entrepreneurship and incubator facilities. The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-i of this act, to award grants, loans and loan guarantees to vocational education agencies for the development of single tenant entrepreneurship and incubator facilities in rural areas as provided in this subdivision.

(a) For the purposes of this subdivision:

(i) "rural area" shall mean a rural area as defined in subdivision 7 of section 481 of the executive law;

(ii) "vocational education agency" shall mean a community college or board of cooperative educational services operating within the state; and

(iii) "entrepreneurship and incubator facility" shall mean a single-tenant facility providing low-cost space, technical assistance and support services, to new business enterprises.

(b) In sparsely populated rural areas where multi-tenant incubator facilities are not feasible, assistance from the rural revitalization program may be provided to vocational education agencies that have an existing technical assistance capability that can be applied to the incubation of new firms for the purpose of constructing a single-tenant entrepreneurship and incubator facility or rehabilitating an existing space for use as a single-tenant entrepreneurship and incubator facility.

(c) Funds from the rural revitalization program pursuant to this subdivision shall only be provided for construction or rehabilitation of a facility. A vocational education agency receiving such assistance shall be required to provide any machinery and equipment necessary for a tenant to operate a start-up enterprise and shall be responsible for operating the facility, such operation to include classroom training in business principles and practices to the prospective owners of such enterprises prior to entering into any tenancy agreement with such prospective owners, and the provision of technical assistance and services to a tenant.

6. Agricultural industry competitiveness assistance. (a) For the purposes of this subdivision, "project" shall mean an agricultural project as set forth in paragraphs (b) and (b-1) of this subdivision.

(b) The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-m of this act, to provide financial assistance in the form of loans, loan guarantees, and interest subsidy grants to subsidize loans from federally chartered instrumentalities and state and private lending institutions, including agricultural cooperative corporations, provided that such assistance to state lending institutions shall not exceed one-third of the total project cost or four hundred thousand dollars, whichever is less, to agricultural enterprises seeking to implement the following agricultural projects:

(i) making the transition from dairy farming to crop or livestock farming or specialty wood productions, or using former dairy farms for crop, livestock or specialty wood production, in order to keep farmland in production by producing products in local, national or international demand;

(ii) start-ups of new agribusinesses or expansions or upgrades of the facilities, technologies and operations of existing agribusinesses.

(b-1) The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-m of this act, to provide financial assistance in the form of loans, loan guarantees, working capital loans, and interest subsidy grants to subsidize loans from federally chartered instrumentalities and state and private lending institutions, including agricultural

cooperative corporations, provided that such assistance to state lending institutions shall not exceed one-third of the total project cost or four hundred thousand dollars, whichever is less, to agricultural enterprises seeking to implement the projects listed in this paragraph. Funds for such loans, grants, subsidies, or any other assistance specified pursuant to this act may come from funds derived from the financial assistance for small and medium-sized business assistance projects established pursuant to section 9-a of this act, the regional revolving loan trust fund established pursuant to section 16-a of this act, the regional economic development partnership program established pursuant to section 16-e of this act, the empire state economic development fund established pursuant to section 16-m of this act, or from any other funds, programs, or projects administered by the corporation or by other state appropriations.

(i) the establishment or replanting of existing vineyards with other varieties that are in greater demand in the national and international marketplace and which will increase the national and international competitiveness of New York state grape growers;

(ii) the establishment or replanting of fruit orchards or small fruit acreages that have reached the end of their natural life cycles, with preference to plantings in the more popular varieties which have national and international markets;

(iii) the establishment, construction, retention, or expansion of facilities, buildings, machinery, equipment, and other productive assets used in the production, manufacture, processing, warehousing, research, or distribution or sale of fresh fruits or the processing of such fruits into juices, wines, or other food products. Such project costs may include, but not be limited to, buildings, machinery, equipment, New York raw fruits, New York unprocessed or partially processed fruits, or other necessary working capital or operational funds or assistance needed to ensure the success of such project.

(c) The corporation shall determine the terms and interest rates of such loans; provided, however, in the case of financial assistance for vineyards, orchards, small fruit acreages, wineries, or processing plants, the corporation may defer repayment of principal and interest on loans for up to five years.

(d) Funds may be used to undertake feasibility studies to determine

the projected local, national, and/or international demand for the proposed crop or product to be financed and the suitability of the land and climate for such production. In the case of a proposal to establish or replant a vineyard, the corporation shall consult with the New York state wine and grape foundation and the agricultural extension service of Cornell University to determine the appropriateness and feasibility of the proposed project.

(e) The provisions of section 10 and subdivision 2 of section 16 of this act shall not apply to assistance provided under this subdivision.

7. Micro business revolving loan assistance grants. (a) The corporation is authorized, within available appropriations in the empire state economic development fund, to provide financial assistance in the form of grants for the purpose of developing a statewide infrastructure that delivers financing and technical assistance to micro businesses across the state to stimulate new and existing micro business development relating to the use of agricultural products, forest products, cottage and crafts industries, tourism, and other businesses as provided for in subparagraph (i) of paragraph (e) of subdivision 2 of this section; provided such business employs five or fewer full-time persons and is based on the production, processing, and/or marketing of products grown or produced in this state. Assistance provided under this subdivision shall be awarded through a competitive process initiated by the corporation, in response to a request for proposals.

(b) Not-for-profit corporations and public benefit corporations located in the state shall be eligible to apply to the corporation, in response to a request for proposals, for a grant, not to exceed two hundred thousand dollars in any one calendar year, to create a micro business revolving loan fund to be administered by the entity applying for such grant, hereafter referred to in this subdivision as "micro loan administrators", who shall be selected by the corporation from among eligible applicants. The corporation shall show preference in its awarding of grants to micro loan administrators whose service area meets the provisions of paragraph (c) of subdivision 2 of this section. All grant funds shall be dedicated to being re-lent to individual micro business borrowers, except that ten percent of such funds as are awarded may be used by micro loan administrators to provide training and

technical assistance for such borrowers. Micro business loans shall be limited to twenty-five thousand dollars per borrower. Borrowers shall provide ten percent equity for loans up to ten thousand dollars. Loans above ten thousand dollars shall be matched on a one to one basis by including other loans, equity capital and in some circumstances, leveraged capital. The interest rate and the terms on such loans shall be determined by the micro loan administrators. The term of any loan shall not exceed five years. All loans shall be secured by lien positions on collateral at the highest level of priority that can accommodate the borrower's ability to raise sufficient debt and equity capital for the project. Any interest earned on micro business loans shall be retained in a special account for the purpose of paying expenses of the loan administrator associated with administering the micro loan program.

(c) An eligible micro loan administrator applicant shall:

(i) serve one or more rural counties;

(ii) have established a loan committee comprised of five or more persons experienced in commercial lending in rural areas or in the operation of a for-profit small business and a staff person of the regional office of the department of economic development. Such loan committee shall review every application for micro loan assistance pursuant to this subdivision, shall determine the feasibility of the transaction proposed in the application and shall recommend to the board of directors or other governing body of the micro loan administrator such action as the committee deems appropriate;

(iii) have available to its staff sufficient expertise to analyze applications for micro loan assistance, provide technical assistance to borrowers and to regularly monitor micro loan assistance to clients; and

(iv) have an acceptable plan to market its services to potential borrowers through such entities as chambers of commerce, industry trade associations, banks, local development corporations, community based organizations and industrial development agencies.

(d) Applications to the corporation for certification or recertification as a micro loan administrator shall:

(i) describe the organization, membership, loan committee, staff and sources of other funds, if any;

(ii) identify the geographic area to be served;

(iii) explain the method and criteria to be used in determining businesses eligible for micro loan assistance;

(iv) describe the means for coordination of micro loan assistance with other funding sources within the geographic area to be served for the purposes of leveraging project financing;

(v) include a proposal to reconfigure the geographic area served by the micro loan administrator, if applicable; and

(vi) contain such other information as the corporation deems appropriate.

(e) The corporation shall, every five years, recertify that each micro loan administrator has complied with the terms and conditions of this subdivision. In the event a micro loan administrator is not recertified, or its certification is withdrawn, then the corporation shall give written notice to such micro loan administrator which shall thereafter neither make new loans under this subdivision nor undertake new obligations except upon written approval of the corporation. The corporation may thereafter certify another micro loan administrator in the manner provided in this subdivision for the selection of micro loan administrators. Upon the certification of a successor micro loan administrator, all remaining micro business loan funds, records and accounts of the micro loan administrator not recertified shall be transferred to the corporation, and the micro loan administrator not recertified shall cease to function pursuant to this subdivision. The corporation shall transfer returned funds to a successor micro loan administrator, or in the event no successor micro loan administrator is certified, equally to other existing micro loan administrators.

8. Cluster based industry and agribusiness development grants. (a) The corporation is authorized, within available appropriations in the empire state economic development fund, pursuant to section sixteen-m of this act, to award matching grants, on a competitive basis in response to requests for proposals, to eligible entities and organizations as set forth in this subdivision to support cluster based industry and agribusiness development activities which increase or retain employment opportunities and otherwise contribute to the growth or revitalization of rural areas.

(b) Cluster based industry and agribusiness development grants shall

provide financial assistance for the purpose of establishing a program to support cluster based economic development efforts in rural areas. Such grants shall be used to:

(i) Assess industry and agribusiness needs and develop methods of identifying industry and agribusiness clusters in a region; and

(ii) Promote cluster based industry and agribusiness development initiatives targeted at businesses that would benefit from joint activities, marketing, and problem solving.

(c) Grant assistance provided under this subdivision shall be awarded through a competitive process initiated by the corporation, in consultation with the commissioner of agriculture and markets and local development agencies, in response to a request for proposals. To be eligible for a grant award, recipients shall provide matching funds in the form of cash, in-kind services or other resources as defined by the corporation.

(d) Not-for-profit corporations and public benefit corporations located in the state shall be eligible to apply to the corporation, in response to a request for proposals, for a matching grant, not to exceed 25,000 dollars in any one calendar year.

*** § 16-m. The empire state economic development fund.** 1. The empire state economic development fund is hereby created. The corporation is authorized, within available appropriations, to provide financial, technical or other assistance from such fund for the following: (a) Loans, loan guarantees and grants including interest subsidy grants to manufacturing and non-retail service firms, for headquarters facilities of firms engaged generally in retail industries, retail firms located in distressed areas and to other businesses, for the purpose of developing recreational, cultural, or historical facilities that are likely to attract significant numbers of visitors. Loans, loan guarantees and interest subsidy grants may be used to finance new construction, renovation or leasehold improvements and the acquisition of land, buildings, machinery and equipment. The proceeds of such loans, loan guarantees and interest subsidy grants may also be used to finance working capital;

(b) Loans, loan guarantees, and grants including interest subsidy

grants may be provided to municipalities, industrial development agencies, not-for-profit corporations or local development corporations for the purpose of developing federal facility sites, urban industrial sites, industrial parks and incubator buildings; or to undertake preliminary planning relating thereto;

(c) Grants for the purpose of creating or retaining jobs or preventing, reducing or eliminating unemployment or underemployment including, but not limited to, productivity assessments, export market development plans and other projects to promote international trade; skills training assistance including classroom instruction or on the job training; and programs to assist economically distressed regions and communities to identify new business opportunities, plan for new enterprise development and manage economic development projects;

(d) Loans, loan guarantees, interest subsidies and grants to businesses, municipalities, industrial development agencies and local and regional economic development corporations for projects for the purpose of attracting, retaining or permitting the expansion of industrial, manufacturing, commercial, research and development, high technology, tourism, agricultural or non-retail service businesses and not-for-profit organizations which shall include, but not be limited to basic systems and facilities on public and privately owned property including drainage systems, sewer systems, access roads, sidewalks, docks, wharves, water supply systems, and site clearance, preparation, improvements and demolition. In addition, grants for preliminary planning of projects eligible to apply for financing pursuant to this paragraph may be provided;

(e) Grants to municipalities, not-for-profit corporations and local and regional economic development organizations seeking to attract, stabilize, retain or revitalize existing businesses, and to assist small and new businesses for activities including, but not limited to, the preparation of strategic plans for local or regional economic development, the analysis of business sectors, marketing and promoting regional business clusters, and feasibility studies;

(f) Loans, loan guarantees, interest subsidy grants and direct grants for feasibility studies, surveys and reports, architectural design, studies, and other redevelopment work for non-residential improvements to commercial building, commercial strips, downtown areas or business

districts;

(g) Assistance to local or regional organizations to facilitate financing for small- and medium-sized business, including minority- and women-owned business enterprises through flexible financing programs, including, but not limited to, loan loss reserve and revolving loan programs, working capital loans, working capital loan guarantees, or other flexible financing programs that leverage traditional financing;

(h) Assistance to eligible entities and organizations as set forth in section 16-1 of this act to support community economic development programs and activities, including value-added small business growth, agricultural, agribusiness, and forest products and those projects that promote the family farm, increase or retain employment opportunities and otherwise contribute to the revitalization of local rural areas which are economically distressed;

(i) Assistance to eligible entities set forth in section 16-1 of this act to support value-added small businesses in the agricultural and agribusiness industries that promote fruit production, fruit processing, or wineries and which increase or retain employment opportunities in such industries or in the related tourism industry;

(j) Assistance to local or regional organizations to facilitate financing for the come home to New York program pursuant to article 9-A of the economic development law;

(k) Assistance for regional partnership proposals, as provided in subdivision 12 of section 3154 of the public authorities law;

** (l) Loans, loan guarantees, interest subsidies and grants including interest subsidy grants to businesses, local and regional economic development corporations, not-for-profit corporations, regional marketing organizations, agricultural cooperatives organized pursuant to the cooperative corporations law, and other local or regional organizations to finance transportation and distribution projects that facilitate distribution and sales of New York farm products by farmers and associations of farmers to food and food services buyers and processors, such as restaurants, schools, food retailers, farmers' markets, colleges and other institutional operations especially in urban and other communities where there has been a lack of availability of such products. Loans, loan guarantees and interest subsidy grants may be used to finance new construction, renovation or leasehold improvements

and the acquisition of land, buildings, machinery and equipment.

** NB There are 2 sub (1)'s

** (1) Assistance to biosciences research institutions and organizations on a competitive basis to develop curriculum and administer bioscience specific training programs for current and prospective industry employees, in consultation with the division of science, technology and innovation established pursuant to article 18 of the economic development law. For the purposes of this paragraph, the term biosciences research shall include, but not be limited to, the basic, applied, or translational research that leads to the development of therapeutics, diagnostics, or devices, to improve human health or agriculture and that require federal drug administration approval;

** NB There are 2 sub (1)'s

(m) Assistance to businesses that conduct basic, applied or translational research that leads to the development of products that improve human health or agriculture and that require approval by the federal food and drug administration, in order to create or expand facilities, in accordance with good manufacturing practice regulations, that will create or retain more than fifty jobs. For purposes of this paragraph, good manufacturing practice regulations refers to those regulations promulgated by the United States Food and Drug Administration under the authority of the Federal Food, Drug and Cosmetic Act.

(n) Loans, loan guarantees, interest subsidies and grants to businesses, municipalities, industrial development agencies and local and regional economic development corporations, not-for-profit corporations, business improvement districts, regional marketing authorities and agricultural cooperatives organized pursuant to the cooperative corporations law, and other entities for the construction, reconstruction, improvement, expansion or rehabilitation of wholesale regional farmers' markets or food hubs that facilitate the sale and promotion of farm products grown or produced in New York state.

For the purposes of this paragraph a wholesale regional farmers' market or food hub is a market, business or organization that actively manages the aggregation, distribution and marketing of source-identified food products primarily from local or regional producers to satisfy

wholesale, retail and institutional demand for such products.

(o) Assistance to eligible entities pursuant to article five-A of the cooperative corporations law to provide financing in the form of loans, loan guarantees, and interest subsidy grants to subsidize loans from federally chartered instrumentalities and state and private lending institutions to facilitate the creation of worker cooperatives that promote continuation of existing micro-businesses either as a part of a preexisting business succession or ownership plan or as alternative option if a business is being offered for sale or transfer by the current owner or the heirs or estate of a deceased owner. For the purposes of this section, a micro-business shall be defined as a business with five or less full-time or full-time equivalent employees. All eligible entities shall be required to submit a business plan with their application requesting assistance.

2. Applications for assistance pursuant to this section shall be reviewed and evaluated in cooperation with regional economic development offices pursuant to eligibility requirements and criteria set forth in rules and regulations promulgated by the corporation. Approval of project applications shall be made only upon a determination by the corporation:

(a) that the proposed project would promote the economic health of New York state by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms;

(b) that the project would be unlikely to take place in New York state without the requested assistance.

(c) that the project is reasonably likely to accomplish its stated objectives and that the likely benefits of the project exceed costs; and

(d) the project is undertaken in accordance with the memorandum of understanding executed in accordance with this section.

3. The provisions of this section shall expire, notwithstanding any inconsistent provision of subdivision 4 of section 469 of chapter 309 of the laws of 1996 or of any other law, on July 1, 2027.

* NB Expires July 1, 2027

*** § 16-n. Restore New York's Communities Initiative. 1. Definitions.**

(a) For the purposes of this section "deconstruction" shall mean the careful disassembly of buildings of architectural or historic significance with the intent to rehabilitate, reconstruct the building or salvage the material disassembled from the building.

(b) For the purposes of this section "reconstruction" shall mean the construction of a new building which is similar in architecture and size to a previously existing building at such location.

(c) For the purposes of this section "rehabilitation" shall mean structural repairs, mechanical systems repair or replacement, repairs related to deferred maintenance, emergency repairs, energy efficiency upgrades, accessibility improvements, mitigation of lead based paint hazards, and other repairs which result in a significant improvement to the property.

(d) For the purposes of this section "municipality" shall mean any county, city, town or village within the state of New York, except a city having a population of one million or more, unless such area is in a distressed community as defined in paragraph (c) of subdivision six of this section.

(e) For the purposes of this section "residential apartment unit" shall mean a multiple dwelling consisting of one or more rooms containing at least one bathroom, which room or rooms are separated and set apart from all other rooms within a multiple dwelling.

(f) For the purposes of this section "affordable housing units" shall mean permanent housing that is affordable to low- and moderate-income households, such that the new housing achieves income averaging at or below fifty percent of the area median income, with residents' eligibility capped at a maximum of eighty percent of the area median income at the start of their lease.

2. The Restore New York's Communities Initiative is hereby created. The corporation is authorized, within available appropriations, to issue request for proposals at least once per fiscal year to provide grants for the purposes established in subdivisions four and five of this section, to municipalities that have completed a property assessment list, as established in subdivision three of this section.

3. Property assessment list. To be eligible for the demolition and deconstruction program or rehabilitation and reconstruction program assistance, as established in subdivisions four and five of this section, municipalities shall conduct an assessment of vacant, abandoned, surplus or condemned buildings in communities within their jurisdiction. Such real property may include residential real property, residential apartment units and commercial real properties. Such properties shall be selected for the purpose of revitalizing urban centers or rural areas, encouraging commercial investment, adding value to the municipal housing stock, and increasing the amount of affordable housing units available to low- and moderate-income households. The property assessment list shall be organized to indicate the location, size, whether the building is residential or commercial and whether the building will be demolished, deconstructed, rehabilitated or reconstructed. Such properties shall be published in a local daily newspaper for no less than three consecutive days. Additionally, the municipality shall conduct public hearings in the communities where the buildings are identified.

4. Demolition and deconstruction program. Real property in need of demolition or deconstruction on the property assessment list may receive grants of up to thirty thousand dollars per residential real property. The corporation shall determine the cost of demolition and deconstruction of commercial properties on a per-square foot basis and establish maximum grant awards accordingly. The corporation shall also consider geographic differences in the cost of demolition and deconstruction in the establishment of maximum grant awards.

5. Rehabilitation and reconstruction program. (a) Real property in need of rehabilitation or reconstruction on the property assessment list may receive grants of up to one hundred fifty thousand dollars per residential real property. Exclusive of such grant of up to one hundred fifty thousand dollars for residential real property, individual residential apartment units on the property assessment list may receive grants of up to seventy thousand dollars per unit. Nothing contained in this paragraph shall be construed to authorize grants for real property

and residential apartment units to be combined.

(b) Provided, further, that a project for the rehabilitation or reconstruction of real property pursuant to this subdivision for the purpose of creating affordable housing units shall be eligible to receive a grant of up to one hundred fifty thousand dollars plus up to seventy thousand dollars per residential apartment unit.

(c) The corporation shall determine the cost of rehabilitation and reconstruction of commercial properties on a per-square foot basis and establish maximum grant awards accordingly. The corporation shall also consider geographic differences in the cost of rehabilitation and reconstruction in the establishment of maximum grant awards. Provided, however, to the extent possible, all such rehabilitation and reconstruction program real property shall be architecturally consistent with nearby and adjacent properties or in a manner consistent with a local revitalization or urban development plan. Provided, further, such grant may be used for site development needs including but not limited to water, sewer and parking.

6. Granting of assistance. (a) The corporation shall review all property assessment lists and may make awards pursuant to subdivisions four and five of this section. The corporation shall, to the fullest extent possible, provide such assistance in a geographically proportionate manner throughout the state based on the qualified applications received pursuant to this section.

(b) Priority in granting such assistance shall be given to properties eligible under this section that have approved applications or are receiving grants pursuant to other state or federal redevelopment, remediation or planning programs including, but not limited to, to the brownfield opportunity areas program adopted pursuant to section 970-r of the general municipal law or an investment zone designated pursuant to paragraph (i) of subdivision (a) or subdivision (d) of section 958 of the general municipal law.

(c) Priority shall also be given to properties in economically distressed communities which are defined as cities and other communities determined by the commissioner of the department of economic development on the basis of criteria indicative of economic distress, including poverty rates, numbers of persons receiving public assistance,

unemployment rates, rate of employment decline, population loss, rate of per capita income change, decline in economic activity and private investment, and such other indicators as the commissioner deems appropriate to be in need of economic assistance.

(d) A municipality that is granted an award or awards under this section shall provide a matching contribution of no less than ten percent of the aggregated award or awards amount. Such matching contribution may be in the form of a financial and/or in kind contribution. Financial contributions may include grants from federal, state and local entities. In kind contributions may include but shall not be limited to the efforts of municipalities to conduct an inventory and assessment of vacant, abandoned, surplus, condemned, and deteriorated properties and to manage and administer grants pursuant to subdivisions four and five of this section. A municipality that is granted an award or awards under this section shall make best efforts to ensure that minority-owned and women-owned business enterprises certified pursuant to article fifteen-A of the executive law are given the opportunity for maximum feasible participation in any municipal contracting opportunities.

* NB There are 2 § 16-n's

*** § 16-n. Collection of payments in lieu of taxes pursuant to leases with respect to parcels within the Brooklyn bridge park civic project.**

(1) Definitions. As used in this section:

(a) "tenant" shall mean any individual, partnership, trust, limited liability company, public or private corporation (including a cooperative housing corporation), or other entity holding the tenant's interest in a residential lease;

(b) "residential lease" shall mean a lease, sublease or other agreement that relates to any portion of the Brooklyn bridge park civic project and is designed and intended for the purpose of providing housing accommodations and such facilities as may be incidental thereto, the lessor's interest in which is held by Brooklyn bridge park development corporation;

(c) "underlying parcel" shall mean a parcel subject to a residential lease; provided, however, that in any case where the tenant's interest

in a residential lease is held by a unit owner, "underlying parcel" shall mean the parcel in which the unit is included;

(d) "unit owner" and "unit" shall have the meanings specified in section three hundred thirty-nine-e of the real property law;

(e) "parcel" shall have the meaning specified in section one hundred two of the real property tax law; provided, however, that in any case where the tenant's interest in a residential lease is held by a unit owner, "parcel" shall mean the real property deemed to be a parcel pursuant to paragraph (a) of subdivision two of section three hundred thirty-nine-y of the real property law;

(f) "Brooklyn bridge park" shall mean the park and facilities consisting of approximately eighty-five acres in the city of New York, county of Kings, state of New York established pursuant to the Brooklyn bridge park civic project undertaken by Brooklyn bridge park development corporation, a subsidiary of the corporation, but excluding the areas thereof developed or to be developed for private residential or commercial use pursuant to a lease, sublease or similar agreement with Brooklyn bridge park development corporation which areas may be inclusive of any easement area granted in connection with such development;

(g) "Brooklyn bridge park civic project" shall mean the park and facilities consisting of approximately eighty-five acres in the city of New York, county of Kings, state of New York established pursuant to the Brooklyn bridge park civic project and the general project plan adopted July twenty-sixth, two thousand five and affirmed as modified on January eighteenth, two thousand six undertaken by Brooklyn bridge park development corporation, a subsidiary of the corporation, as such general project plan may be further amended, modified or supplemented;

(h) "qualified leasehold condominium" shall have the meaning specified in section three hundred thirty-nine-e of the real property law.

(2) With respect to each underlying parcel which is owned in fee or leased pursuant to a ground lease by Brooklyn bridge park development corporation and is exempt from real property taxes pursuant to this act or otherwise, the residential lease for such underlying parcel shall provide for the payment by the tenant under such residential lease of annual or other periodic amounts equal to the amount of real property taxes that otherwise would be paid or payable with respect to such

underlying parcel, after giving effect to any real property tax abatements and exemptions, if any, which would be applicable thereto, if Brooklyn bridge park development corporation was not the owner or lessee of the underlying parcel.

(3) With respect to all parcels owned or leased by Brooklyn bridge park development corporation that do not constitute an underlying parcel and are exempt from real property taxes pursuant to this act or otherwise, the lease, sublease or other agreement for such parcel or any portion thereof may provide for the payment by the lessee (or sublessee) under such lease, sublease or other agreement of annual or other periodic amounts in lieu of real property taxes that otherwise would be paid or payable with respect to such parcel, after giving effect to any real property tax abatements and exemptions, if any, which would be applicable thereto, if Brooklyn bridge park development corporation was not the owner or lessee of the parcel.

(4) In addition, the lease, sublease or other agreement for each parcel or any portion thereof may provide for the payment of interest by the unit owner and any lessee (or sublessee) of a parcel (or a portion thereof) for amounts overdue, as of the dates and in the same amounts provided for the payment of overdue real property taxes in the city of New York.

(5) Payments received pursuant to this section, and all interest and earnings thereon, shall be:

(a) from the period commencing on the effective date of this section until the twentieth anniversary thereof, used to improve, operate and maintain the Brooklyn bridge park, unless otherwise agreed to be used for the other purposes specified in paragraph (b) of this subdivision in such agreements as may from time to time be entered into among Brooklyn bridge park development corporation, the city of New York and the state of New York by an entity designated by the governor; and

(b) from the twentieth anniversary of the effective date of this section,

(i) used to improve, operate and maintain the Brooklyn bridge park,

(ii) set aside in appropriate and reasonable reserve accounts, taking into account all other revenue received or anticipated by the Brooklyn bridge park development corporation from properties in the Brooklyn bridge park civic project, for expenses to be incurred for the purposes

set forth in subparagraph (i) of this paragraph, or

(iii) paid into the general fund of the city of New York to be used for its general public purposes, all in accordance with such agreements as may from time to time be entered into among Brooklyn bridge park development corporation, the city of New York, and the state of New York by an entity designated by the governor.

(6) Any state or city agency, department or authority to the extent authorized under applicable law may render such services within their functions, such as the collection and enforcement of payments owed pursuant to this section, as may be requested.

(7) All leases shall permit the assignment by Brooklyn bridge park development corporation of its right, title and interest in such lease to the entity which (a) is designated to operate and maintain the Brooklyn bridge park and is an instrumentality of the state of New York or the city of New York, (b) enables each underlying parcel and the improvements thereon to remain a qualified leasehold condominium and remain exempt from real property taxes, and (c) is authorized and required by applicable law to:

(i) collect the annual or other periodic amounts that would have been collected pursuant to this section had such assignment not been made; and

(ii) demand from, and be entitled to, interest payments by the unit owner and any lessee (or sublessee) of a parcel (or portion thereof), for such amounts past due, as of the dates and in the same amounts provided for the payment of past due real property taxes in the city of New York.

* NB There are 2 § 16-n's

§ 16-o. The community development financial institutions program. 1. Legislative intent. The legislature hereby finds that credit, banking services, and investment capital are vital to the revitalization of communities and neighborhoods throughout the state. The legislature further finds that many communities with the greatest potential for growth and the greatest need for jobs and investment lack access to the services and capital of traditional banking and lending institutions. The legislature further finds that access to banking services and

capital can be improved through a growing network of alternative financial service providers known as community development financial institutions, hereafter referred to as CDFIs. The legislature finds that CDFIs are currently providing effective lending and financial services and fulfill a vital role in meeting the needs of New York state's low and moderate income communities.

The legislature finds that the continued growth of CDFIs requires an established support structure in order to build capacity in these institutions. The legislature further finds that creation of a statewide CDFI fund will strengthen these institutions, allowing them to expand their mission of addressing the credit and banking needs of low and moderate income communities in New York state.

2. Definitions. As used in this section, the following terms shall have the meanings indicated:

(a) "Community Development Financial Institution" or "CDFI" means an organization located in this state which has been certified as a community development financial institution by the federal community development financial institutions fund, as established pursuant to 12 U.S.C. 4701 et seq.

(b) "Fund" means the community development financial institutions fund as established by subdivision three of this section.

(c) "Investment area" means a geographic area that:

(i) is economically distressed as defined in section sixteen-d of this act; and

(ii) has significant unmet needs for loans or encompasses or is located in a federally designated empowerment zone or enterprise community as established pursuant to title XIII of the federal Omnibus Budget Reconciliation Act of 1993 (Pub.L. 103-66) or a designated empire zone as defined pursuant to article eighteen-B of the general municipal law.

(d) "Low income" means having an income, adjusted for family size, of not more than:

(i) for metropolitan areas, eighty percent of the area median income; and

(ii) for non-metropolitan areas, the greater of eighty percent of the

area median income or eighty percent of the statewide non-metropolitan area median income.

(e) "Targeted population" means individuals or an identifiable group of individuals who are low income persons or otherwise lack adequate access to loans.

3. Establishment and purposes. The corporation shall establish a fund to be known as the "community development financial institutions fund" and shall pay into such fund any monies made available to the corporation for such fund from any source. The monies held in or credited to the fund shall be expended solely for the purposes set forth in this section. The corporation shall not transfer the monies of such fund to any other fund or monies of the corporation or any monies held in trust by the corporation. The corporation is authorized, subject to available funding, including, but not limited to, available appropriations, to provide financial and technical assistance to community development financial institutions that make loans and provide development services to specific investment areas or targeted populations.

4. Applications for assistance. An application for assistance shall be submitted in such form and in accordance with such procedures as the corporation shall establish. Applications submitted to the fund may include but not be limited to:

(a) A business plan;

(b) An analysis of the needs of the investment area or targeted population and a strategy for addressing those needs;

(c) An explanation of proposed activities, and information on how they are consistent with any existing economic, community, and housing development plans adopted by or applicable to an investment area or targeted population;

(d) A description of how the applicant will coordinate with community organizations and financial institutions and leverage private sector investments, including, but not limited to, loans, secondary markets, or other services to the investment area or targeted populations;

(e) In the case of an applicant with a prior history of serving investment areas or targeted populations, a demonstration that the

applicant:

(i) has a record of success in serving investment areas or targeted populations; and

(ii) will expand its operations into a new investment area or to serve a new targeted population, offer more products or services, or increase the volume of its current business;

(f) A description of how the applicant will provide financial services for community businesses that employ or will create jobs for low income persons or to businesses that are owned by low income persons, or enhance the availability of products and services to low income persons; and

(g) Any additional information that the corporation shall require.

5. Selection of CDFIs. In the awarding of assistance, the corporation shall select from eligible CDFI applicants based on criteria that may include:

(a) The likelihood of success of the applicant in meeting the goals of its strategic plan;

(b) The experience and background of the CDFI's board of directors or management team;

(c) The extent of need for loans and development services within the investment areas or targeted populations;

(d) The extent of economic distress within the investment areas or the extent of need within the targeted populations;

(e) The extent to which the proposed activities will expand economic opportunities within the investment areas or targeted populations;

(f) The extent of support from the investment areas or targeted populations;

(g) The extent of the applicant's current and planned community involvement;

(h) The extent to which the applicant will increase its resources through coordination with other institutions or participation in a secondary market;

(i) In the case of an applicant with a prior history of serving investment areas or targeted populations, the extent of success in serving such areas or populations; and

(j) Other factors deemed to be appropriate by the corporation.

6. Assistance provided by the corporation. The corporation may provide:

(a) Financial assistance through deposits, credit union shares, loans, and grants.

(b) Technical assistance and training to any CDFI regardless of whether or not it receives or has received financial assistance from the fund. Monies from the fund may be used for activities that enhance the capacity of a CDFI, such as training of management and other personnel, and development of programs, investment, or loan products. Such technical assistance and training may be provided:

(i) directly;

(ii) through grants; or

(iii) by contracting with organizations that possess expertise in community development finance, without regard to whether or not the organizations receive or are eligible to receive assistance under this section.

7. Uses of financial assistance. A CDFI which files an application and is approved by the corporation for financial assistance may use such assistance for the following purposes:

(a) the development of commercial facilities that promote revitalization, community stability, and the creation or retention of jobs;

(b) the development or improvement of community facilities;

(c) the provision of basic financial services;

(d) housing that is principally affordable to low income people, except that assistance used to facilitate home ownership shall only be used for services and lending products that serve low income people and are not provided by other lenders in the area or that complement the services and lending products provided by other lenders in the area;

(e) the development or support of businesses that:

(i) provide jobs for low income people or are owned by low income people, women, or minority entrepreneurs; or

(ii) enhance the availability of products and services to low income people; or

(f) the development or support of other businesses and activities

deemed appropriate by the corporation.

8. Advisory committee. The corporation may create an advisory committee, consisting of at least five members, to advise the corporation in the promotion, implementation and administration of the community development financial institutions program. Such members shall have experience with CDFIs and shall, to the extent practical, reflect diversity in geographic location and communities served.

9. Reporting requirements. The corporation shall submit a report to the governor, the speaker of the assembly and the temporary president of the senate on or before the first of October, and annually thereafter, describing the financial and technical assistance provided pursuant to this article, including: the number of CDFI applications filed and accepted; the amount and type of assistance provided; a description of projects financed or assisted by fund monies; the number of jobs created or retained through the investment of fund monies; the amount and source of funds leveraged; and such other information as the corporation may deem appropriate.

10. Rules and regulations. The corporation is hereby authorized to promulgate rules and regulations in accordance with the state administrative procedure act that are necessary to fulfill the purposes of this section.

§ 16-p. The investment opportunity fund. 1. Definitions. For the purposes of this section, the following terms, whenever used or referred to in this section, shall apply, but not be limited to, the following meanings:

(a) "Cost" as applied to a project or portion thereof financed under this section, means all or any part of the cost of construction, remediation, renovation, and acquisition of all lands, structures, real or personal property, rights, air rights, rights-of-way, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be

moved, the cost of machinery and equipment, interest prior to, during, and for a period after, completion of construction, remediation, renovation, or acquisition, as determined by the corporation; for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, plans, specifications, estimates, and other expenses necessary or incidental to the construction, acquisition, and financing of any project, excluding lobbying and governmental relations expenses.

(b) "Facilities" means real and personal property, structures, air rights, conveyances, equipment, thoroughfares, buildings, and supporting components thereof located in the state, that are directly related to the acquisition, construction, reconstruction, rehabilitation, remediation, or improvement of a project which will achieve the purposes of facilitating the creation or retention of jobs or increasing investment or business activity within a municipality or region of the state or academic research and development efforts that promote the development of life sciences and high technology initiatives including genomics and biotechnology research and which may include project purposes set forth in this section.

(c) "Financial assistance" in connection with a project, includes, but is not limited to, grants, loans, equity investments, loan forgiveness, loan guarantee, or any combination thereof.

(d) "Project" shall include but not be limited to designing, acquiring, planning, permitting, entitling, demolishing, removing, constructing, improving, extending, restoring, financing, remediating and generally developing facilities.

(e) "Sponsor" or "project sponsor" shall be the state or any political subdivision of the state or a municipality, including but not limited to any departments, agencies, public benefit corporations, or commissions. In addition, a sponsor or project sponsor may include not-for-profit corporations formed on behalf of a sponsor, special districts, assessment districts, tax increment financing units or districts, business improvement districts, regional and community development organizations, not-for-profit organizations, not-for-profit organizations or businesses organized to do business under the laws of, or doing business within the state, or any combination of the aforementioned entities that makes application to the corporation for

financial assistance in connection with an investment opportunity fund project in a manner prescribed by the corporation.

2. Fund created. The investment opportunity fund is hereby created. The corporation is authorized, within available appropriations, to provide financial assistance pursuant to this section.

3. Selection of projects. Following consultation with the division of the budget and with other appropriate state and local agencies and other organizations, and prior to soliciting or accepting any application for assistance, the corporation shall:

(a) provide public notice of the primary development objectives and minimum standards of the program and individual projects expected to be eligible for funding through the program; and

(b) promulgate rules and regulations setting forth the standards that will govern the selection of projects. Such standards shall, at a minimum:

(i) require that no project shall be awarded financial assistance unless such project meets or exceeds specified minimum standards as provided by rules and regulations with respect to economic impact;

(ii) require that each project be consistent with any existing local or regional comprehensive plan. A municipality which is a lead sponsor for a project or projects shall submit a resolution that has been adopted by the legislative body or bodies of the lead project sponsor that certifies that the proposed project is consistent with existing local or regional plans; the proposed financing is appropriate for the specific project; the project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and appropriate use of natural resources; and the project develops or enhances infrastructure or other facilities in a manner that will attract, create, and sustain long-term investment and employment opportunities; and

(iii) provide, to the fullest extent possible, assistance to projects that will provide economic benefits to one or more regions of the state or, for projects that are not anticipated to have a regionally significant impact, that will provide economic benefits to localities that suffer from disproportionate levels of poverty, unemployment,

population or job loss or other indicators of economic distress.

4. Reporting. The corporation shall submit a report to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly on the investments and accomplishments of the investment opportunity fund. Such report shall include, but not be limited to, information on the number of jobs created and retained, levels of private sector investment, economic benefit to the state and local economies and types of industries invested in. Such report shall be submitted by July 1, 2009 and July first every year thereafter.

5. Evaluation. The corporation shall submit a report to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly evaluating the economic and social benefits of the investment opportunity fund. Such evaluation shall be prepared by an entity or entities independent of the corporation which shall be selected through a request for proposal process. Such evaluation shall be submitted by October 1, 2009 and October first every year thereafter.

6. The investment opportunity fund capital approval board. (a) a capital approval board shall be a five member board that is created to consider and review each project receiving material financial assistance and the unanimous approval of the voting members of such capital approval board shall be required before the corporation shall furnish any material financial assistance; provided, however, that if, by thirty days following the submission of written materials by the corporation no voting member of the board has notified the chairperson of the capital approval board in writing of his or her disapproval within such period, or the capital approval board shall not have voted to approve or disapprove any proposed furnishing of financial assistance, the capital approval board shall have been deemed to have approved such proposal. The voting members shall include: (i) the director of the budget or his or her designee who shall act as chairperson, (ii) the temporary president of the senate or his or her designee, and (iii) the speaker of the assembly or his or her designee. The two non-voting members will be

appointed one each, by the minority leader of the senate and the minority leader of the assembly. The review of the capital approval board shall be limited to the adequacy of the economic and social benefits of the proposed furnishing of financial assistance by the corporation.

(b) the provisions of article 7 of the public officers law shall apply to meetings of the capital approval board.

7. Notwithstanding any other provision of law to the contrary, any project financed through the investment opportunity fund, and any bond sale undertaken by the corporation to finance such projects, shall be exempt from the provisions of sections 50 and 51 of the public authorities law.

§ 16-q. The upstate regional blueprint fund. 1. The upstate regional blueprint fund is hereby created. The upstate empire state development corporation is authorized to provide financial, product development, or other assistance from such fund to eligible entities as set forth in this subdivision to support the upstate revitalization fund, and in support of such projects that focus on: intellectual capital capacity building; investment products; applied research and development; opportunities for foreign investment and international export; and infrastructure requirements to attract new businesses or expand existing businesses. For-profit businesses, not-for-profit corporations, public benefit corporations, municipalities, and research and academic institutions shall be eligible to apply for such activities under this subdivision including, but not limited to, the following:

(a) Support for projects identified through region-wide collaborative efforts as part of the overall growth strategy for the local economy, including but not limited to smart growth and energy efficiency initiatives.

(b) Support for the attraction or expansion of a business, including, but not limited to, those primarily engaged in activities identified as a strategic industry, and minority-owned and women-owned business enterprises as defined by subdivisions (c) and (g) of section nine hundred fifty-seven of the general municipal law.

(c) Support for land acquisition and/or the construction, acquisition or expansion of buildings, machinery and equipment associated with a project.

(d) Support for projects identified as a city by city or regional blueprint priority.

2. Applications for assistance pursuant to this section shall be reviewed and evaluated pursuant to eligibility requirements and criteria set forth in rules and regulations promulgated by the upstate chairman, and subject to approval by the board of directors of the upstate empire state development corporation. Approval of project applications shall be made by the upstate chairman, subject to approval by the board of directors of the upstate empire state development corporation.

3. Priority in granting assistance generally will be given to projects (a) with significant private financing or matching funds through other public entities, (b) likely to produce a high return on public investment, (c) with existence of significant support from the local business community, local government, community organizations, academic institutions and other regional parties, (d) with significant regional breadth or likely to have wide regional impact, (e) with cost benefit analysis that demonstrates sustainable job creation and investments, (f) located in distressed areas using economic criteria developed by the upstate empire state development corporation, which may include but not be limited to land value, employment, private investment, economic activity, and population, or (g) whose application is submitted by multiple entities, both public and private.

4. The upstate empire state development corporation shall provide such assistance in a geographically proportionate manner throughout upstate based on qualified applications received pursuant to this section.

5. Assistance may be in the form of loans, grants, or monies contributing to projects for which the corporation or a subsidiary acts as developer. (i) The corporation may act as developer in the acquisition, renovation, construction, leasing or sale of development projects authorized pursuant to this act in order to stimulate private

sector investment within the affected community. (ii) In acting as a developer, the corporation may borrow for purposes of this subdivision for approved projects in which the lender's recourse is solely to the assets of the project, and may make such arrangements and agreements with community-based organizations and local development corporations as may be required to carry out the purposes of this section. (iii) Prior to developing any such project, the corporation shall secure a firm commitment from entities, independent of the corporation, for the purchase or lease of such project. (iv) Projects authorized under this subdivision whether developed by the corporation or a private developer, must be located in distressed communities, for which there is a demonstrated demand within the particular community.

6. Eligible applicants shall include, but not be limited to, business improvement districts, local development corporations, economic development organizations, institutions of higher education, incubators, technology parks, private firms, municipalities, counties, regional planning councils, tourist attractions, and community facilities.

7. The corporation shall submit a report to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly on the investments and accomplishments of the upstate regional blueprint fund. Such report shall include, but not be limited to, information on the number of jobs created and retained, levels of private sector investment, economic benefit to the state and local economies and types of industries invested in. Such report shall be submitted by July 1, 2009 and July first every year thereafter.

8. The corporation shall submit a report to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly evaluating the economic and social benefits of the upstate regional blueprint fund. Such evaluation shall be prepared by an entity or entities independent of the corporation which shall be selected through a request for proposal process. Such evaluation shall be submitted by October 1, 2009 and October first every year thereafter.

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.

§ 16-r. The downstate revitalization fund. 1. The downstate revitalization fund is hereby created. The corporation is authorized, within available appropriations, to provide financial, project development, or other assistance from such fund to eligible entities as set forth in this subdivision for the purposes of supporting investment in distressed communities in the downstate region, and in support of such projects that focus on: encouraging business, community, and technology-based development, and supporting innovative programs of public and private cooperation working to foster new investment, job creation and small business growth. For-profit businesses, not-for-profit corporations, public benefit corporations, municipalities, and research and academic institutions shall be eligible to apply for such activities under this subdivision including, but not limited to, the following:

(a) Support for projects identified through collaborative efforts as part of the overall growth strategy for the local economy, including but not limited to smart growth and energy efficiency initiatives.

(b) Support for the attraction or expansion of a business including, but not limited to, those primarily engaged in activities identified as a strategic industry and minority-owned and women-owned business enterprises as defined by subdivisions (c) and (g) of section nine hundred fifty-seven of the general municipal law.

(c) Support for land acquisition and/or the construction, acquisition or expansion of buildings, machinery and equipment associated with a project.

(d) Support for projects located in an investment zone as defined by paragraph (i) of subdivision (d) of section 957 of the general municipal law.

2. Applications for assistance pursuant to this section shall be reviewed and evaluated pursuant to eligibility requirements and criteria

set forth in rules and regulations promulgated by the corporation. Approval of project applications shall be made by the chairman and subject to approval by the board of directors of the corporation. Grants and loans awarded under this section shall be awarded on a competitive basis, in response to requests for proposals, and through direct applications accepted at other times at the discretion of the corporation.

3. Priority in granting assistance generally will be given to projects (a) with significant private financing or matching funds through other public entities, (b) likely to produce a high return on public investment, (c) with existence of significant support from the local business community, local government, community organizations, academic institutions and other regional parties, (d) deemed likely to increase the community's economic and social viability, (e) with cost benefit analysis that demonstrates sustainable job creation and investments, (f) located in distressed areas using economic criteria developed by the corporation, which may include but not be limited to land value, employment, private investment, economic activity, and population, or (g) whose application is submitted by multiple entities, both public and private.

4. Applications for support or assistance under this subdivision shall be made in a form and manner as determined by the corporation, and applicants shall be required to meet the criteria and requirements determined by the corporation pursuant to this act, which will focus on the potential of the project or program to stimulate or enhance economic development in the area or employment opportunities in the distressed communities and regions.

5. Assistance may be in the form of loans, grants, or monies contributing to projects for which the corporation or a subsidiary acts as developer. (i) The corporation may act as developer in the acquisition, renovation, construction, leasing or sale of development projects authorized pursuant to this act in order to stimulate private sector investment within the affected community. (ii) In acting as a developer, the corporation may borrow for purposes of this subdivision

for approved projects in which the lender's recourse is solely to the assets of the project, and may make such arrangements and agreements with community-based organizations and local development corporations as may be required to carry out the purposes of this section. (iii) Prior to developing any such project, the corporation shall secure a firm commitment from entities, independent of the corporation, for the purchase or lease of such project. (iv) Projects authorized under this subdivision whether developed by the corporation or a private developer, must be located in distressed communities, for which there is a demonstrated demand within the particular community.

6. Eligible applicants shall include, but not be limited to, business improvement districts, local development corporations, economic development organizations, institutions of higher education, incubators, technology parks, private firms, municipalities, counties, regional planning councils, tourist attractions, and community facilities.

7. The corporation shall submit a report to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly on the investments and accomplishments of the downstate revitalization fund. Such report shall include, but not be limited to, information on the number of jobs created and retained, levels of private sector investment, economic benefit to the state and local economies and types of industries invested in. Such report shall be submitted by July 1, 2009 and July first every year thereafter.

8. The corporation shall submit a report to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly evaluating the economic and social benefits of the downstate revitalization fund. Such evaluation shall be prepared by an entity or entities independent of the corporation which shall be selected through a request for proposal process. Such evaluation shall be submitted by October 1, 2009 and October first every year thereafter.

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.

§ 16-s. The upstate agricultural economic development fund and healthy food / healthy communities initiative. 1. The upstate agricultural economic development fund and healthy food / healthy communities initiative is hereby created. The corporation is authorized, within available appropriations, to provide financial assistance in the form of loans, grants or contracts for services, to eligible entities as set forth in this subdivision to support the upstate revitalization fund to reduce the cost of financing the construction, expansion or renovation of agricultural economic development projects, to reduce the cost of agricultural inputs or to support activities related to the retention of existing farmers or the recruitment of new farmers and to increase the number of food markets providing affordable and nutritious foods in underserved areas.

2. Not-for-profit corporations, agricultural cooperative corporations, public benefit corporations, municipalities and educational institutions serving rural areas shall be eligible to apply for support under this subdivision for the following activities:

(a) Support for local efforts to identify new agricultural economic development opportunities, and to organize industry-wide collaborative efforts designed to develop growth strategies for the agricultural industry.

(b) Support for local or regional activities designed to provide business development and financial packaging assistance to new and expanding agricultural economic development projects.

(c) Development and delivery of programs to promote the retention of existing farmers and to attract new farmers.

(d) Feasibility studies to determine the projected local, national and/or international demand for the proposed crop or product to be financed pursuant to this section and the suitability of the land and climate for such production.

(e) Support for land acquisition and/or the construction, acquisition or expansion of buildings, machinery and equipment associated with a

project.

(f) Loans can be provided by the corporation to agricultural cooperative corporations, not-for-profit corporations and public benefit corporations for the purpose of providing low cost financing from such entities to projects for purposes described in this subdivision.

(g) Such projects shall be consistent with the environmental protection goals of the state.

3. Community development financial institutions, as defined by paragraph (a) of subdivision 2 of section sixteen-o of this act, shall be eligible to apply for designation under this subdivision to perform the duties of a program administrator for the healthy food / healthy communities initiative.

(a) Program administrators will be required to enter into a contract with the corporation for the following responsibilities:

(i) raise matching capital to leverage state funds within three years of signing a contract with the corporation;

(ii) report, at least annually, on the sources and amounts of funds raised;

(iii) develop underwriting criteria; and

(iv) process loans and grants for food markets.

(b) Administrative costs of program administrators will be reimbursable as set forth in either rules and regulations issued in accordance with paragraph (d) of subdivision 5 of this section or in a request for proposal.

(c) Eligible food markets are any entities in subparagraph (i) of this paragraph. Eligible food markets must demonstrate that their proposed project will benefit an underserved area, as defined in subparagraph (ii) of this paragraph.

(i) An eligible food market applicant may be a for-profit business enterprise (including a corporation, limited liability company, sole proprietor, cooperative or partnership), not-for-profit corporation, agricultural cooperative corporation, public benefit corporation, municipal corporation, regional market facility, or a food cooperative.

(ii) An underserved area is defined as a low- or moderate-income census tract, an area of below average supermarket density or an area having a supermarket customer base with more than 50 percent living in a

low-income census tract.

(iii) Eligible uses for funds from state grants and loans to food markets include:

(A) pre-development costs for project feasibility, including professional fees, market studies and appraisals;

(B) land assembly, including demolition and environmental remediation;

(C) site development;

(D) infrastructure improvements, including renovation, new construction or adaptive reuse; and

(E) equipment purchases.

(d) The program administrator shall review, and if appropriate approve, applications by food markets. The program administrator shall review applications every other month for as long as funds remain available in the loan pool. The program administrator shall review each application to determine whether the proposed project is financially viable and demonstrates all of the following:

(i) makes a positive impact on the local economy;

(ii) increases revenues to the state, the host municipality, or the market region or creates a new agricultural economic development opportunity;

(iii) adherence to sound land use principles;

(iv) promotes community development by working in conjunction with other programs;

(v) incorporates energy efficiency and green building principles; and

(vi) to the maximum extent practicable, provides healthy, nutritious food grown by sustainable agricultural practices.

4. Applications for assistance pursuant to this section, except for the healthy foods / healthy communities initiative, shall be reviewed and evaluated pursuant to eligibility requirements and criteria set forth in rules and regulations promulgated by the upstate chairman, in consultation with the commissioner of the department of agriculture and markets, and subject to approval by the board of directors of the upstate empire state development corporation. Approval of project applications shall be made by the upstate chairman, in consultation with the commissioner of the department of agriculture and markets, subject to approval by the board of directors of the upstate empire state

development corporation.

5. Applications to be the program administrator for the healthy food / healthy communities initiative shall be reviewed and evaluated pursuant to eligibility requirements and criteria which may be set forth in either rules and regulations, a request for proposal or an application.

(a) Applications shall identify at least one food access, health or community development organization who will work with the program administrator applicant to:

(i) analyze market opportunities in underserved areas;

(ii) recruit food market operators and developers;

(iii) pre-qualify food market applications on non-financial criteria; and

(iv) provide technical assistance with regard to operating grocery stores in low-income communities.

(b) Administrative costs of the food access, health or community development organization will be reimbursable as set forth in rules and regulations issued in accordance with paragraph (d) of this subdivision or in a request for proposal.

(c) Approval of at least one program administrator shall be made by the upstate chairman, in consultation with the commissioner of the department of agriculture and markets, subject to approval by the board of directors of the upstate empire state development corporation.

(d) At his or her discretion, the upstate chairman of the corporation may promulgate rules and regulations, in consultation with the commissioner of the department of agriculture and markets, and subject to approval by the board of directors of the upstate empire state development corporation for the implementation of this section.

6. The corporation, in consultation with the commissioner of the department of agriculture and markets, shall submit a report to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly on the investments and accomplishments of the upstate agricultural economic development fund. Such report shall include, but not be limited to, information on the number of jobs created and retained, levels of private sector investment, economic

benefit to the state and local economies and types of industries invested in. Such report shall be submitted by July 1, 2009 and July first every year thereafter.

7. The corporation, in consultation with the commissioner of the department of agriculture and markets, shall submit a report to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly evaluating the economic and social benefits of the upstate agricultural economic development fund. Such evaluation shall be prepared by an entity or entities independent of the corporation which shall be selected through a request for proposal process. Such evaluation shall be submitted by October 1, 2009 and October first every year thereafter.

8. 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.

9. The provisions of section ten and subdivision 2 of section sixteen of this act shall not apply to assistance provided under this section.

§ 16-t. Small business revolving loan fund. 1. The small business revolving loan fund program is hereby created. The corporation is authorized, within available appropriations, to provide low interest loans to community development financial institutions, in order to provide funding for those lending organizations' loans to small businesses, and micro-businesses located within New York state, that generate economic growth and job creation within New York state but that are unable to obtain adequate credit or adequate terms for such credit. If in the discretion of the corporation the use of a community development financial institution is not practicable based upon the application of rules and regulations developed by the corporation, including, but not limited to, assessments of geographic and administrative capacity, then the corporation is authorized, within available appropriations, to provide low interest loans to the following

other local community based lending organizations: small business lending consortia, certified development companies, providers of United States department of agriculture business and industrial guaranteed loans, United States small business administration loan providers, credit unions and community banks. As used in this section "small business" means a business that is resident in New York state, independently owned and operated, not dominant in its field, and employs one hundred or fewer persons. As used in this section "micro-business" means a business that is resident in New York state, independently owned and operated, and employs less than five people.

2. In order for a lending organization to be eligible to receive program funds, it must have established sufficient expertise to analyze small business and micro-businesses applications for program loans, evaluate the creditworthiness of small businesses, and micro-businesses and regularly monitor program loans. The lending organization shall review every program loan application in order to determine, among other things, the feasibility of the proposed use of the requested financing by the small business or micro-business applicant, the likelihood of repayment and the potential that the loan will generate economic development and jobs within New York state. The corporation shall identify eligible lending organizations through one or more competitive statewide or local solicitations. The corporation shall show preference in awarding program funds to lending organizations who serve micro-businesses and micro-loans.

3. Program loans to small businesses and micro-businesses shall be targeted and marketed to minority and women-owned enterprises, veteran-owned enterprises as set forth in 15 U.S.C. section 632(Q)(3), as amended from time to time, and service-disabled veteran-owned enterprises as set forth in article three of the veterans' services law, and other small businesses and micro-businesses that are having difficulty accessing traditional credit markets. Program loans to small businesses and micro-businesses shall be used for the creation and retention of jobs, as defined by the corporation, including: (a) working capital; (b) the acquisition and/or improvement of real property; (c) the acquisition of machinery and equipment, property or improvement; or

(d) the refinancing of debt obligations. There shall be two categories of loans to small businesses and micro-businesses: a micro loan that shall have a principal amount that is less than twenty-five thousand dollars and a regular loan that shall have a principal amount not less than twenty-five thousand dollars. Prior to receiving program funds, the lending organization must certify to the corporation that such loan complies with this section and rules and regulations promulgated for the program and that the lending organization has performed its obligations pursuant to and is in compliance with this section, the program rules and regulations and all agreements entered into between the corporation and the lending organization. The program funds amount used by the lending organization to fund a program applicant loan shall not be more than fifty percent of the principal amount of such loan. The program funds amount used by the lending organization to fund a program applicant loan shall not be greater than one hundred and twenty-five thousand dollars. Minority- and women-owned business enterprises, veteran-owned enterprises as set forth in 15 U.S.C. section 632(Q)(3), as amended from time to time, and service-disabled veteran-owned enterprises as set forth in article three of the veterans' services law, and other small businesses or micro-businesses who access such program loans under this subdivision shall not be precluded from accessing such short-term financing loans provided under subdivision eleven of this section.

4. Program funds shall not be used for: (a) projects that would result in the relocation of any business operation from one municipality within the state to another, except under one of the following conditions: (i) when a business is relocating within a municipality with a population of at least one million where the governing body of such municipality approves such relocation; or (ii) the lending organization notifies each municipality from which such business operation will be relocated and each municipality agrees to such relocation; (b) projects of newspapers, broadcasting or other news media; medical facilities, libraries, community or civic centers; or public infrastructure improvements; and (c) providing funds, directly or indirectly, for payment, distribution, or as a loan, to owners, members, partners or shareholders of the applicant business, except as ordinary income for services rendered.

5. With respect to its program loans, the lending organization may charge application, commitment and loan guarantee fees pursuant to a schedule of fees adopted by the lending organization and approved by the corporation. Approved micro-loans for five thousand dollars or less shall have applications fees waived.

6. Program funds shall be disbursed to a lending organization by the corporation in the form of a loan to the lending organization. The term of the loan shall commence upon disbursement of the program funds by the corporation to the lending organization. The loan shall carry a low interest rate determined by the corporation based on then prevailing interest rates and the circumstances of the lending organization. Notwithstanding the performance of the loans made by the lending organization using program funds, the lending organization shall remain liable to the corporation with respect to any unpaid amounts due from the lending organization pursuant to the terms of the corporation's loans to the lending organization. In addition, a portion of program funds may be disbursed to a lending organization in the form of a grant or forgivable loan, provided those funds are used by the lending organization for administrative expenses associated with the fund, loan-loss reserves, or other eligible expenses as determined by the corporation.

7. Notwithstanding anything to the contrary in this section, the corporation shall provide at least five hundred thousand dollars in program funds pursuant to this section to lending organizations for the purpose of making loans to small business located in Niagara county.

8. Notwithstanding anything to the contrary in this section, the corporation shall provide at least five hundred thousand dollars in program funds pursuant to this section to lending organizations for the purpose of making loans to small business located in St. Lawrence county.

9. Notwithstanding anything to the contrary in this section, the corporation shall provide at least five hundred thousand dollars in

program funds pursuant to this section to lending organizations for the purpose of making loans to small business located in Erie county.

10. Notwithstanding anything to the contrary in this section, the corporation shall provide at least five hundred thousand dollars in program funds pursuant to this section to lending organizations for the purpose of making loans to small business located in Jefferson county.

11. Notwithstanding anything to the contrary in this section, the corporation may provide at least five hundred thousand dollars in program funds pursuant to this section to lending organizations for the purpose of making short-term financing available to minority- and women-owned business enterprises and other small businesses performing contracts to provide construction or professional services for state procurement purposes. Such loans shall be used to underwrite the cost of labor, materials, and equipment directly associated with (1) the contract being financed or (2) a contract that has been satisfied for which the business is awaiting payment from the state. The program funds amount used by the lending organization to fund a program applicant loan shall not be more than eighty percent of the principal amount of such loan. The program funds amount used by the lending organization to fund a program applicant loan shall not be greater than one hundred twenty-five thousand dollars. Minority- and women-owned business enterprises and other small businesses who access such short-term financing loans under this subdivision shall not be precluded from accessing such program loans provided under subdivision three of this section.

12. 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.

13. With respect to a lending organization program loan applicants, no person who is a member of the board or other governing body, officer, employee, or member of a loan committee, or a family member of any such

lending organization shall participate in any decision on such application if such person is a party to or has a financial or personal interest in such loan. Any person who cannot participate in a loan application decision for such reasons shall not be counted as a member of the loan committee, board or other governing body for purposes of determining the number of members required for approval of such application.

14. The lending organization shall submit to the corporation annual reports stating: the number of program loans made; the amount of program funding used for loans; the use of loan proceeds by the borrower; the number of jobs created or retained; the status of each outstanding program loan, including fund balance; and such other information as the corporation may require.

14-a. Beginning April 1, 2019, the corporation shall publish on its website the information contained in the annual reports required under subdivision fourteen of this section in aggregate form omitting borrower identifiable information.

15. The corporation may conduct audits of the lending organization in order to ensure compliance with the provisions of this section, any regulations promulgated with respect thereto and agreements between the lending organization and the corporation of all aspects of the use of program funds and program loan transactions. In the event that the corporation finds substantive noncompliance, the corporation may terminate the lending organization's participation in the program.

16. Upon termination of a lending organization's participation in the program, the lending organization shall return to the corporation, promptly after its demand therefor, all program fund proceeds held by the lending organization; and provide to the corporation, promptly after its demand therefor, an accounting of all program funds received by the lending organization, including all currently outstanding loans that were made using program funds. Notwithstanding such termination, the lending organization shall remain liable to the corporation with respect to any unpaid amounts due from the lending organization pursuant to the

terms of the corporation's loans to the lending organization.

§ 16-u. Innovate NY fund. 1. The Innovate NY fund is hereby created. The purpose of the Innovate NY fund is to make available state funds to eligible applicants to support emerging business ideas and products that result in the growth of business within the state and the concomitant creation of jobs and tax revenues for the state.

2. Eligible applicants for Innovate NY funds may include regional and local economic development organizations, technology development organizations, research universities, and investment funds that provide seed-stage investments in New York state companies.

3. Funding from the Innovate NY fund may be made available to the applicant for investment in beneficiary companies. In order to be eligible for an investment that includes Innovate NY investment funds, a beneficiary company must: (a) be, or agree in writing to be, located in New York state; (b) be in the seed-stage of development, as defined by the corporation; (c) demonstrate a potential for substantial growth and job development in an emerging technology field, as defined in section thirty-one hundred two-e of the public authorities law or in regulations as adopted by the corporation; and (d) have the potential to generate additional economic activity in New York state. Investment priority shall be given to beneficiary companies involved in commercialization of research and development or high technology manufacturing.

4. The corporation shall establish a competitive process for the evaluation of applicants for the Innovate NY investment fund. Applicants shall be evaluated on criteria including, but not limited to, the applicant's: (a) track record of success in raising investment funds and successfully investing them; (b) capacity to perform due diligence and to provide management expertise and other value-added services to beneficiary companies; (c) financial resources for identifying and investing in seed-stage companies; (d) ability to secure non-state matching program investment funds at a ratio that is equal to or greater than one to one (1:1); (e) ability to evaluate the commercial potential

of emerging technologies; (f) ability to secure partnerships with local or regional investors; (g) adoption of conflict of interest provisions acceptable to the corporation; and (h) other criteria that the corporation determines is relevant to making investment decisions consistent with the purposes of the fund as set forth in subdivision one of this section. When awarding funds pursuant to this subdivision, the corporation shall assure that the applicants demonstrate the need for seed capital in the areas served by the applicant and provide for adequate geographic distribution of awards to beneficiary companies throughout the state to the extent feasible. The corporation shall distribute funds promptly pursuant to a disbursement process agreed to between the corporation and applicant to enable the applicant to fulfill commitments to beneficiary companies in a timely manner.

5. At the time the applicant has invested fifty percent of the Innovate NY funds committed to such applicant and annually thereafter, aggregate investments of Innovate NY funds by such applicant in beneficiary companies shall be leveraged with private sources of capital excluding investments after the initial funding round at a ratio equal to or greater than two to one (2:1).

6. The Innovate NY fund shall not invest an amount in any single beneficiary company that exceeds five hundred thousand dollars, or seven hundred fifty thousand dollars in the case of any individual biotechnology-related beneficiary, at any one time, subject to certain exceptions to be established by rules and regulations of the corporation.

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 eligible funds available to the corporation from any source, including moneys appropriated by the state.

8. The corporation shall submit a report annually on December thirty-first to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly detailing (a) the total

amount of funds committed to each applicant that receives funds and the amount of such funds that has been invested by each such applicant; (b) the amount of Innovate NY and private funds invested in each beneficiary company; (c) the type of product or technology being developed or produced by each beneficiary company; (d) the location of each beneficiary company; (e) the number of jobs projected to be created or retained; and (f) such other information as the corporation deems necessary.

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, including with respect to reasonable management fees, promotes, share of return and other fees and charges of applicants that receive funds, and to provide for the repayment of funds received by the beneficiary company if the beneficiary company leaves New York state within a period of time to be established by the corporation.

10. 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 Innovate NY fund.

11. The provisions of section ten and subdivision two of section sixteen of this act shall not apply to assistance provided under this section.

§ 16-v. New York state business incubator and innovation hot spot support act. 1. (a) The corporation is authorized, within available appropriations, to issue requests for proposals once per fiscal year to provide grants pursuant to subdivisions five and six of this section for the purposes established under this act. The corporation may designate entities, which upon application meet the requirements of subdivision two of this section as New York state incubators, and may provide grants and assistance as provided under subdivisions five and six of this section to such designated entities. "New York state incubator" shall

mean a business incubation program which also provides physical space or which is a virtual incubation program that has been designated upon application by the corporation as a New York state incubator pursuant to subdivisions two and three of this section and which thereby becomes eligible for benefits, support, services, and programs available pursuant to such designation. Provided however, that virtual incubators which provide assistance to eligible businesses not in residence in one physical location, shall submit a plan of operation which sets forth the maximum number of eligible businesses to be served and their geographic distribution.

(b) From among the qualified "New York state incubators", the corporation is further authorized, within available appropriations, to designate applicants as "New York state innovation hot spots." An incubator receiving a "New York state innovation hot spot" designation shall be eligible for the benefits under section thirty-eight of the tax law, subparagraph eighteen of paragraph (a) of subdivision nine of section two hundred eight of the tax law, subdivision eleven of section two hundred nine of the tax law, paragraph thirty-nine of subsection (c) of section six hundred twelve of the tax law, paragraph one of subdivision (d) of section one thousand one hundred nineteen of the tax law, and paragraph thirty-five of subdivision (c) of section 11-1712 of the administrative code of the city of New York.

2. Requirements for designation. (a) An entity wishing to be designated as a New York state innovation hot spot or as a New York state incubator pursuant to this section shall be located in New York state and shall have been in existence or otherwise in operation for a period of at least three fiscal years prior to the current fiscal year, or demonstrate continuity of staffing, program, and purpose showing continuation through another auspice or governing entity, and shall have demonstrated a connection to regional sources of innovation and expertise, and that it meets the goals of creating jobs and incubating businesses with survival rates in excess of average startups, and that the program has a strategic plan to continue to meet such goals for the three years succeeding designation and that commits the program to implementing best practices. Such demonstration shall include a commitment by the sponsor to continue to maintain the program for at

least three years after such designation, and to provide any reporting information that the corporation shall require.

(b) In determining whether an entity shall be designated as a New York state innovation hot spot or New York state incubator, the corporation shall require that the entity meet the requirements of subparagraphs (i) and (ii) of this paragraph and may consider whether the entity has developed the programs, services, and attributes in subparagraphs (iii) through (xvi) of this paragraph:

(i) institutional stability and long term viability, indicated by: the sponsor's commitment to financially and programmatically maintaining the incubator for at least two years in addition to the current fiscal year; receipt of non-state public and private grant and/or other revenue sources including property rentals and program fees that are or have proven to be predictable and reliable; and manageable debt service;

(ii) a strategic plan that describes the impact on the regional entrepreneurial environment that the incubator is intended to have and commits the incubator to best incubation practices and describes a defined process that accelerates commercialization and development for a client company or entity through provision of technical assistance, direct mentorship, entrepreneurial education, and business development services, including development of a business plan and markets, aid in development of the management team, product, customers, and local or regional supply chain partners, access to investment, and launching of a successful business which will employ New Yorkers;

(iii) an integrated array of services which includes management guidance, technical assistance, consulting, mentoring, business plan development, aid in creation of the business entity, and ongoing counseling;

(iv) opportunities for clients to network, collaborate with other business programs, and gain access to services, including through such programs as the small business development center, the local or area chamber of commerce or other business association, programs of the small business administration, and/or other similar business organizations, associations, and programs;

(v) access to capital via referral or other arrangements with financial institutions, venture capitalists, angel investors, investment funds managed or financed by private entities or state or local economic

development organizations, or other similar or equivalent capital sources, evidenced by written agreements, memorandums of understanding, letters of intent, or other endorsements acceptable to the corporation, and including readying clients for financial meetings and interviews;

(vi) aid in accessing markets, via bid assistance or access programs that may include but are not limited to literature review, establishment of a resource documents room (physical or virtual), opportunity notification of local, state, and federal governmental and private opportunities, and identification of and introductions to potential first customers;

(vii) physical office space and/or laboratory space and/or manufacturing space under a written agreement for a period not to exceed five years for any individual incubator client;

(viii) policies requiring participation by clients in the incubator program, including disqualification or suspension from the program for failure to participate;

(ix) criteria for acceptance and graduation from the program or physical space, and terms and conditions for ongoing relationships, if any, between the incubator and the client;

(x) at least fifty percent of the total incubator budget provided from sources other than tenant rents and fees and in-kind support from the sponsoring entity, and must be from sources other than New York state government agencies;

(xi) an independent advisory council or similar body that includes one or more executive officers of firms that have graduated from the incubator, local economic development professionals, and individuals with business and technology expertise in areas appropriate to the sector or concentration of clients, and the mission and goal of the incubator;

(xii) a professional management and service delivery team with experience, expertise, or credentials in management, entrepreneurship, business development, or other equivalent areas;

(xiii) access by clients to mentoring, advisory, or educational services, including classroom teaching, from individuals who have successfully created, grown or managed businesses or are lawyers, professional accountants, or individuals who have been in business at an executive level for at least five years;

(xiv) evidence that the incubator is a center of entrepreneurial activities of a city, region, or distressed portion thereof, as documented by programs and activities coordinated with county or local economic development organizations, investor and financial clubs or institutions, or student or youth-oriented entrepreneurial activities;

(xv) a partnership with other incubators in the region to offer services and opportunities for entrepreneurs and leverage regional economic development assets; and

(xvi) a plan to recruit minority- and women-owned businesses for location and participation with the incubator program.

(c) The corporation, subject to appropriations provided for this purpose, may approve and designate ten New York state incubator hot spots. Such designees will be required to demonstrate an affiliation with and the application support of at least one college, university or independent research institution, and that its programs and purposes are consistent with regional economic development strategies.

3. Designation. (a) The corporation may designate applicants that meet the requirements of subdivision two of this section as New York state innovation hot spots or as New York state incubators.

(b) As a condition of maintaining designation, each incubator shall annually submit to the corporation in a manner and according to a schedule established by the corporation:

(i) updated information requested by the corporation pursuant to subparagraph (iii) of paragraph (a) of subdivision two of this section;

(ii) its strategic plan, as updated along with a brief description of its success in meeting the goals of its strategic plan;

(iii) a statement that the items listed in paragraph (b) of subdivision two of this section and, in the case of New York state innovation hot spots, paragraph (c) of subdivision two of this section are still applicable to the operations of the incubator, or any change in applicability;

(iv) a list of business enterprises served by the incubator, and in the case of New York state innovation hot spots, those clients certified as a "qualified entity" eligible for tax incentives under section thirty-eight of the tax law; and

(v) such additional information as the corporation may require.

(c) The corporation shall design simplified forms to aid in the submission of the data required in this subdivision, which may be submitted electronically. Such forms shall state the purposes of the required data submissions.

(d) The corporation shall evaluate the operations of the New York state innovation hot spot or the New York state incubator using methods including but not limited to site visits, reports pursuant to specified information, and review evaluations. If the corporation is unsatisfied with the progress of a New York state innovation hot spot or a New York state incubator, the corporation shall notify such incubator of the results of its evaluations and the findings of deficiencies in the incubator's operations and shall allow such incubator to remedy such findings in a timely manner. For New York state innovation hot spots or New York state incubators that receive operating grants pursuant to paragraph (a) of subdivision five of this section, such evaluations shall include independent peer review and shall take place no less than once every three years or more frequently at the discretion of the corporation. Such independent peer review shall result in a written report that includes programmatic and fiscal evaluation of the incubation program and recommendations for improvement.

(e) Notwithstanding any other provision of law to the contrary, a qualified entity that has previously been designated as a New York state incubator and has not fully disbursed any grants awarded pursuant to this section, shall continue being designated as such by the corporation for an additional three years.

4. Audit. The corporation shall have the authority to audit New York innovation hot spots, New York state incubators and clients designated by such hot spots as qualified entities.

5. Grants. (a) Operating grants. A program designated as a New York state innovation hot spot or as a New York state incubator shall be eligible for an operating grant in an amount to be determined by the corporation from funds appropriated to the corporation for such purpose, provided however that:

(i) Any such grant shall be matched on a two-to-one basis by the institution receiving the funds and collaborative partners in the form

of cash or in-kind personnel, equipment, material donations, and other facility and operations expenditures, provided that no more than fifty percent of such match shall be in-kind;

(ii) A program applying for a grant shall demonstrate financial stability and long term viability, as provided in subparagraph (i) of paragraph (b) of subdivision two of this section;

(iii) A grant recipient shall agree to provide data as required to the corporation and shall agree to conform to best practices as outlined by state and/or national business incubator associations;

(iv) Failure to abide by the requirements of this subdivision or to cure a default after review and agreement with the corporation shall result in loss of the grant and disqualification of the designee as a New York state innovation hot spot or as a New York state incubator; and

(v) Provided that a portion of the grants shall be awarded to the New York state innovation hot spots and the New York state incubators.

(b) The corporation shall make entities designated as New York state innovation hot spots or as New York state incubators aware of opportunities for funding or grants by or through the corporation or the department of economic development.

(c) No deduction. In addition to the foregoing requirements, an incubator sponsor shall agree to dedicate all funds from any grants or support received pursuant to this subdivision to the operations of the incubator without deductions for indirect costs of such sponsor. In no case shall an incubator sponsor agree to provide less than eighty-five percent of all funds received pursuant to this subdivision to the operations of the incubator without exception.

6. Other assistance. The corporation may make such other aid, assistance, and resources available to New York state innovation hot spots and New York state incubators and their clients as it shall deem useful and appropriate for the furtherance of the purposes of this act, including without limitation technical assistance, aid in marketing, aid in reaching and providing entrepreneurship training opportunities to such marginalized groups as those composed of individuals who are minority, female, disabled, or poor, and others, curriculum development, and other services and resources. The corporation shall also seek assistance from other state agencies in the development of procurement

and marketing resources and training opportunities for New York state innovation hot spots and New York state incubators and their clients.

7. Association of incubators. The corporation may consult with a statewide entity which is a membership association of incubators and others and which has expertise in providing services to incubators for the purpose of providing services to entities designated as New York state innovation hot spots and New York state incubators and to entities seeking to apply or applying to become New York state innovation hot spots and New York state incubators or which otherwise are included as recipients of services pursuant to this section. Such services shall include advising concerning best practices of incubation and development of plans to incorporate and integrate such practices, development of data concerning incubation in this state and recommendations for improvement, aid in marketing and event sponsorship, and such other services as the corporation shall deem necessary and appropriate to the strengthening of business incubation in this state.

8. New York state innovation hot spots may certify clients which meet the requirements of subdivision nine of this section as qualified entities eligible for New York state innovation hot spot program tax benefits pursuant to section thirty-eight of the tax law. Business enterprises of incubators designated as New York state incubators under paragraph (a) of subdivision one of this section may be certified by the New York state innovation hot spot if the incubator has entered into a memorandum of understanding with such hot spot establishing a process and threshold for the provision of innovation hot spot benefits to qualified enterprises or the hot spot is providing demonstrable services or assistance to the business enterprise in addition to those provided by the incubator.

9. "Qualified entity" shall mean a business enterprise that is:

(i) in the formative stage of development;

(ii) located in New York state;

(iii) either: (A) any corporation, except a corporation which:

(1) over fifty percent of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is

owned or controlled, either directly or indirectly, by a taxpayer subject to tax under the following provisions of the tax law: article nine-A; section one hundred eighty-three or one hundred eighty-four former section of article nine; or article thirty-three; or

(2) is substantially similar in operation and in ownership to a business entity (or entities) taxable or previously taxable under the following provisions of the tax law: article nine-A; section one hundred eighty-three, one hundred eighty-four, former section one hundred eighty-five or former section one hundred eighty-six of article nine; former article thirty-two; article thirty-three; article twenty-three, or would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two; or

(B) a sole proprietorship, partnership, limited partnership, limited liability company, or New York subchapter S corporation that is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under article nine-A of the tax law, section one hundred eighty-three, one hundred eighty-four, former section one hundred eighty-five or former section one hundred eighty-six of article nine of the tax law, former article thirty-two or article thirty-three of the tax law, article twenty-three of the tax law or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two of the tax law; and

(iv) is certified by a New York state innovation hot spot as being approved to locate in, or be part of a virtual incubation program operated by, such New York innovation hot spot.

10. The corporation may establish guidelines concerning this program to implement the purposes of this act.

§ 16-w. Beginning farmers NY fund. 1. The beginning farmers NY fund is hereby created. The purpose of the beginning farmers NY fund is to make grants to eligible applicants, to support beginning farmers and

encourage them to consider farming as a career, resulting in the growth of agribusiness within the state and the concomitant tax revenues for the state.

2. The corporation shall consult with the department of agriculture and markets in order to establish such criteria governing the award of grants as authorized herein, as the corporation and such department deem necessary. Such criteria shall include, but not be limited to, farmers who have not produced an "agricultural product" as defined by section three hundred twenty-eight of the agriculture and markets law, for more than ten consecutive years, and who will materially and substantially participate in the production of an agricultural product within a region of the state.

3. Appropriations to the beginning farmers NY fund may be used for the following purposes:

(a) to assist farmers in demonstrating innovative agricultural techniques including, but not limited to, organic farming and specialty crops.

(b) capital grants in accordance with a business plan to improve farm profitability. Upon completion of such business plan, recipients shall be eligible for capital grants to enhance the profitability of farming operations. Such grants may be used for purposes including, but not limited to, the purchase of machinery or the construction or improvement of physical structures. Any capital grant shall be issued with a one-to-one match between the state and recipient.

4. The corporation shall establish a competitive process for the evaluation of applicants for the beginning farmers NY fund. When awarding funds pursuant to this section, the corporation shall ensure that applicants meet the criteria and requirements determined by the corporation pursuant to this section.

5. The beginning farmers NY fund shall not invest an amount in any single beneficiary that exceeds fifty thousand dollars, subject to any exceptions to be established by guidelines of the corporation.

6. Notwithstanding any provision of law to the contrary, the corporation may establish a program fund for program use and pay into such fund any eligible funds available to the corporation from any source, including moneys appropriated by the state.

7. The corporation shall submit a report annually on December thirty-first to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly detailing (a) the total amount of funds committed to each applicant; (b) the location of each applicant; and (c) such other information as the corporation deems necessary.

8. The corporation is hereby authorized to establish guidelines for the administration of the program, including application procedures and disbursement terms, and to provide for the repayment of funds received by the beneficiary if the beneficiary leaves New York state or otherwise ceases farming activity within a period of time to be established by the corporation.

*** § 16-x. Dairy promotion act.** 1. Declaration of policy. (a) It is hereby declared that the mission of the corporation is to promote a vigorous and growing state economy. In implementing this mission, the corporation has undertaken a vigorous campaign to market the state's assets and, by carrying out the provisions of this section, would further this mission by promoting the state's dairy industry.

(b) It is further declared that the continued existence of the state dairy industry, and the continued production of milk on the farms of this state, is of vast economic importance to the state and to the health and welfare of the inhabitants thereof; that it is essential, in order to assure such continued production of milk and its handling and distribution, that prices to producers be such as to return reasonable costs of production, and at the same time to assure an adequate supply of milk and dairy products to consumers at reasonable prices; and to these ends it is essential that consumers and others be adequately informed as to the dietary needs and advantages of milk and dairy

products and as to the economies resulting from the use of milk and dairy products, and to command for milk and dairy products, consumer attention and demand consistent with their importance and value. It is further declared that continued decline in the consumption of fluid milk and some other dairy products will jeopardize the production of adequate supplies of milk and dairy products because of increasing surpluses necessarily returning less to producers; and that continued adequate supplies of milk and dairy products is a matter of vital concern as affecting the health and general welfare of the people of this state. It is therefore declared to be the legislative intent and policy of the state:

(i) To enable milk producers and others in the dairy industry, with the aid of the state, to more effectively promote the consumption of milk and dairy products,

(ii) To provide methods and means for the development of new and improved dairy products, and to promote their use, and

(iii) To this end, to eliminate the possible impairment of the purchasing power of the milk producers of this state and to assure an adequate supply of milk for consumers at reasonable prices.

2. Definitions. As used in this section the following terms shall have the following meanings:

(a) "President" means the president of the corporation.

(b) "Dairy products" means milk and products derived therefrom, and products of which milk or a portion thereof is a significant part.

(c) "Producer" means any person in this state who is engaged in the production of milk or who causes milk to be produced for any market in this or any other state.

(d) "Advisory board" means the persons appointed by the commissioner from nominations from producers to assist the president in administering a dairy promotion order.

(e) "Milk dealer" means any person who purchases or handles or receives or sells milk, including individuals, partnerships, corporations, cooperative associations, and unincorporated cooperative associations.

(f) "Dairy promotion order" means an order issued by the president, pursuant to the provisions of this section.

(g) "Cooperative" means an association or federation or cooperative of milk producers organized under the laws of New York state, or any other state, having agreements with their producer members to market, bargain for or sell the milk of such producers, and is actually performing one or more of these services in the marketing of the milk produced by their members, through the cooperative or through a federation of milk cooperatives in which the cooperative has membership.

(h) "State" means the state of New York.

(i) "Department" means the New York state department of agriculture and markets.

(j) "Commissioner" means the commissioner of the New York state department of agriculture and markets.

3. Powers and duties of the president. (a) The president shall administer and enforce the provisions of this section. In order to effectuate the declared policy of this section the president, in consultation with the commissioner and producers, may, after due notice and hearing, make and issue a dairy promotion order, or orders.

(b) Such order or orders shall, in consultation with the commissioner and producers, be issued and amended or terminated in accordance with the following procedures:

(i) Before any such order may become effective it must be approved by fifty-one per centum of the producers of milk voting in the referendum for the area to be regulated by such order. Such referendum shall not constitute valid approval unless fifty-one per centum of all milk producers for the area to be regulated vote in the referendum. Producers may vote by individual ballot or through their cooperatives in accordance with the following procedures:

(A) Cooperatives may submit written approval of such order within a period of one hundred twenty days after the president has announced a referendum on a proposed order, for such producers who are listed and certified to the president as members of such cooperative; provided, however, that any cooperative before submitting such written approval shall give at least sixty days prior written notice to each producer who is its member, of the intention of the cooperative to approve such proposed order, and further provide that if such cooperative does not intend to approve such proposed order, it shall likewise give written

notice to each such producer who is its member, of its intention not to approve of such proposed order.

(B) Any producer may obtain a ballot from the president so that he or she may register his or her own approval or disapproval of the proposed order.

(C) A producer who is a member of a cooperative which has notified him or her of its intent to approve or not to approve of a proposed order, and who obtains a ballot and with such ballot expresses his or her approval or disapproval of the proposed order, shall notify the president as to the name of the cooperative of which he or she is a member, and the president shall remove such producer's name from the list certified by such cooperative.

(D) In order to ensure that all milk producers are informed regarding a proposed order, the president shall notify all milk producers that an order is being considered and that each producer may register his or her approval or disapproval with the president either directly or through his or her cooperative.

(E) The president shall consult with the milk producers and establish a referendum advisory committee to assist and advise him or her in the conduct of the referendum. Such committee shall review referendum procedures and the tabulation of results, and shall advise the president of its findings. The final certification of the referendum results shall be made by the president. The committee shall be selected by the commissioner in consultation with the president, and shall consist of not less than three members, none of whom shall be persons directly affected by the promotion order being voted upon. Two members shall be representatives of general farm organizations which are not directly affected by the order being voted upon. The members of the committee shall not receive a salary but shall be entitled to actual and reasonable expenses incurred in the performance of their duties.

(ii) The president, in consultation with the commissioner, may, and upon written petition of not less than ten per centum of the producers in the area, either as individuals or through cooperative representation, shall, call a hearing to amend or terminate such order, and any such amendment or termination shall be effective only upon approval of fifty-one per centum of the producers of milk for the area regulated participating in a referendum vote as provided pursuant to

this paragraph.

(c) The president, consulting with and seeking the advice and consent of the advisory board, shall administer and enforce any such dairy promotion order while it is in effect, for the purpose of:

(i) Encouraging the consumption of milk and dairy products by acquainting consumers and others with the advantages and economy of using more of such products,

(ii) Protecting the health and welfare of consumers by assuring an adequate supply of milk and dairy products,

(iii) Providing for research programs designed to develop new and improved dairy products,

(iv) Providing for research programs designed to acquaint consumers and the public generally with the effects of the use of milk and dairy products on the health of such consumers,

(v) Carrying out, in other ways, the declared policy and intent of this section.

4. Provisions of dairy promotion orders. Any dairy promotion order or orders may contain, among others, any or all of the following:

(a) Provision for levying an assessment against all producers subject to the regulation for the purpose of carrying out the provisions of such order and to pay the cost of administering and enforcing such order. In order to collect any such assessments, provision shall be made for each milk dealer who receives milk from producers to deduct the amount of assessment from moneys otherwise due to producers for the milk so delivered. The rate of such assessment shall not exceed two percent per hundredweight of the gross value of the producers' milk, and there may be credited against any such assessment the amounts per hundredweight otherwise paid by any producer covered by the order by voluntary contribution or otherwise pursuant to any other federal or state milk market order for any similar research promotion or advertising program. Notwithstanding the provisions of paragraph (b) of subdivision three of this section, the president, upon written petition of no less than twenty-five percent of producers in the area, either as individuals or through cooperative representation, and in consultation with the commissioner, may call a hearing for the sole purpose of establishing a new rate of assessment hereunder and may submit a proposed change in the

rate of assessment to the producers for acceptance or rejection without otherwise affecting the order. The producers in the area may vote on the proposed rate either as individuals or through cooperative representation. Notwithstanding the foregoing provisions of this paragraph and of paragraph (b) of subdivision three of this section, or the provisions of any order promulgated pursuant to this section, the rate of assessment, for any period during which a dairy products promotion and research order established pursuant to the federal dairy and tobacco adjustment act of 1983 is in effect, shall not be less than an amount equal to the maximum credit which producers participating in this state's dairy products promotion or nutrition education programs may receive pursuant to subdivision (g) of Sec. 113 of said federal act.

(b) Provision for payments to organizations engaged in campaigns by advertisements or otherwise, including participation in similar regional or national plans or campaigns to promote the increased consumption of milk and dairy products, to acquaint the public with the dietary advantages of milk and dairy products and with the economy of their inclusion in the diet and to command, for milk and dairy products, consumer attention consistent with their importance and value.

(c) Provision for payments to institutions or organizations engaged in research leading to the development of new or improved dairy products or research with respect to the value of milk and dairy products in the human diet.

(d) Provision for requiring records to be kept and reports to be filed by milk dealers with respect to milk received from producers and with respect to assessments on the milk of such producers.

(e) Provision for the auditing of the records of such milk dealers for the purpose of verifying payment of producer assessments.

(f) Provision for an advisory board pursuant to subdivision 10 of this section.

(g) Provision for the president to retain money collected under any marketing order issued pursuant to this section, to defray the costs and expenses in the administration thereof.

(h) Such other provisions as may be necessary to effectuate the declared policies of this section.

5. Matters to be considered. In carrying out the provisions of this

section and particularly in determining whether or not a dairy promotion order shall be issued, the president, in consultation with the commissioner, shall take into consideration, among others, facts available to him or her with respect to the following:

- (a) The total production of milk in the area and the proportion of such milk being utilized in fluid form and in other products,
- (b) The prices being received for milk by producers in the area,
- (c) The level of consumption per capita for fluid milk and of other dairy products,
- (d) The purchasing power of consumers,
- (e) Other products which compete with milk and dairy products and prices of such products.

6. Interstate orders for compacts. The commissioner is authorized to confer and cooperate with the legally constituted authorities of other states and of the United States with respect to the issuance and operation of joint and concurrent dairy promotion orders or other activities tending to carry out the declared intent of the act. The commissioner may join with such other authorities in conducting joint investigations, holding joint hearings and issuing joint or concurrent order or orders complementary to those of the federal government and the president, after consulting with the commissioner, shall have the authority to employ or designate a joint agent or joint agencies to carry out and enforce such joint, concurrent or supplementary orders.

7. Prior assessments. Prior to the effective date of any dairy promotion order as provided in this section, the president, in consultation with the commissioner, may require that cooperative associations which have petitioned for such an order and that have approved of the issuance of such an order, to deposit with the president such amounts as he or she may deem necessary to defray the expense of administering and enforcing such order until such time as the assessments as herein before provided are adequate for that purpose. Such funds shall be received, deposited and disbursed by the president in the same manner as other funds received by him or her pursuant to this section and the president shall reimburse those who paid these prior assessments from other funds received by him or her pursuant to

this section.

8. Status of funds. Any moneys collected under any market order issued pursuant to this section shall not be deemed to be state or corporation funds and shall be deposited in a bank or other depository of the corporation, approved by the president, allocated to each dairy promotion order under which they were collected, and shall be disbursed by the president only for the necessary expenses incurred by the president with respect to each separate order, all in accordance with the rules and regulations of the president. All such expenses shall be subject to audits by the state comptroller. Any moneys remaining in such fund allocable to a particular order, after the termination of such order and not required by the president to defray the expenses of operating such order, may in the discretion of the president be refunded on a pro-rata basis to all persons from whom assessments therefor were collected; provided, however, that if the president finds that the amounts so refundable are so small as to make impracticable the computation and refunding of such moneys, the president may use such moneys to defray the expenses incurred by him or her in the promulgation, issuance, administration or enforcement of any other similar dairy promotion order or in the absence of any other such dairy promotion order, the president may pay such moneys to any organization or institution as provided in paragraph (b) or (c) of subdivision four of this section.

9. Budget. The commissioner, in consultation with the president, shall prepare a budget for the administration and operating costs and expenses including advertising and sales promotion when required in any dairy promotion order executed hereunder and to provide for the collection of such necessary fees or assessments to defray costs and expenses, in no case to exceed two percent per hundredweight of the gross value of milk marketed by producers in the area covered by the order.

10. Advisory board. (a) Any dairy promotion order issued pursuant to this section shall provide for the establishment of an advisory board to advise and assist the president in the administration of such order. The president shall administer and enforce any such dairy promotion order

while it is in effect, consulting with the advisory board and seeking its advice and consent. This board shall consist of not less than five members and shall be appointed by the commissioner from nominations submitted by producers marketing milk in the area to which the order applies. Nominating procedure, qualification, representation, and size of the advisory board shall be prescribed in the order for which such board was appointed.

(b) No member of an advisory board shall receive a salary but shall be entitled to his or her actual and reasonable expenses incurred while performing his or her duties as authorized in this section.

(c) The duties and responsibilities of the advisory board shall be prescribed by the president, in consultation with the commissioner, and he or she shall specifically delegate to the advisory board, by inclusion in the dairy promotion order the following duties and responsibilities:

(i) The recommendation to the president of administrative rules and regulations relating to the order.

(ii) Recommending to the president such amendments to the order as deemed advisable.

(iii) The preparation and submission to the commissioner, in consultation with the president, of an estimated budget required for the proper operation of the order.

(iv) Recommending to the president methods for assessing producers and methods for collecting the necessary funds.

(v) Assisting the president in the collection and assembly of information and data necessary for the proper administration of the order.

(vi) The performance of such other duties in connection with the order as the president shall designate.

11. Rules and regulations; enforcement. (a) The president may, with the advice and consent of the advisory board, make and issue such rules and regulations as may be necessary to effectuate the provisions and intent of this section and to enforce the provisions of any dairy promotion order, all of which shall have the force and effect of law.

(b) The president, in consultation with the commissioner may institute such action at law or in equity as may appear necessary to enforce

compliance with any provision of this section, or any rule or regulation, or dairy promotion order committed to his or her administration, and may apply for relief by injunction if necessary to protect the public interest without being compelled to allege or prove that an adequate remedy at law does not exist. Such application shall be made to the supreme court in any district or county provided in the civil practice law and rules, or to the supreme court in the third judicial district.

12. Cooperation by the department. The president may request and receive, within ninety days of such request from the department such assistance, information and cooperation as may be necessary for the corporation to provide services with respect to the administration of the procedures set forth for the issuance, termination or amendment of any dairy promotion order and/or the administration of any such order. The corporation shall retain an amount equal to the expenses incurred by the corporation in performing its duties pursuant to this section and reimburse the department an amount equal to the expenses incurred by the department in supplying such services, subsequent to submission and audit of a voucher therefor. Such reimbursement shall not exceed the total amount of funds collected by the corporation pursuant to this section less the reasonable expenses incurred by the corporation in performing its duties pursuant to this section.

13. Indemnification. The state shall defend, indemnify and hold harmless the corporation, its directors, officers, and employees, from and against any and all claims, demands, causes of action, damages, costs and expenses whatsoever arising directly or indirectly from, or relating to, the administration of a dairy promotion order issued or administered pursuant to this section. In connection with the foregoing, the corporation shall give the state (a) prompt written notice of any action, claim or threat of suit, (b) the opportunity to take over, settle or defend such action, claim or suit at the state's sole expense, and (c) assistance in the defense of any such action at the expense of the state.

14. Contractual provisions. The corporation may contract for services

with respect to the implementation of this section in accordance with the corporation's policies, procedures and guidelines. Notwithstanding section 2879 of the public authorities law or any other law to the contrary, any such contract may be procured by the corporation on a sole-source basis, and shall not be subject to competitive bid or competitive request for proposal requirements.

* NB Repealed July 1, 2026

*** § 16-y. Marketing of agricultural products.** Declaration of policy.

(a) It is hereby declared that the mission of the corporation is to promote a vigorous and growing state economy. In implementing this mission, the corporation has undertaken a vigorous campaign to market the state's assets and by carrying out the provisions of this section, would further this mission by promoting the development of markets for agricultural products grown and produced in the state.

(b) It is further declared that the marketing of agricultural commodities and aquatic products in this state, in excess of reasonable and normal market demands therefor; disorderly marketing of such commodities; improper preparation for market and lack of uniform grading and classification of agricultural commodities and aquatic products; unfair methods of competition in the marketing of such commodities and the inability of individual producers to develop new and larger markets for agricultural commodities and aquatic products, result in an unreasonable and unnecessary economic waste of the agricultural wealth of this state. Such conditions and the accompanying waste jeopardize the future continued production of adequate food supplies for the people of this and other states. These conditions vitally concern the health, safety and general welfare of the people of this state.

It is therefore declared the legislative purpose and the policy of this state:

(i) To enable agricultural producers and aquatic producers of this state, with the aid of the state, more effectively to correlate the marketing of their agricultural commodities and aquatic products with market demands therefor.

(ii) To establish orderly, efficient and equitable marketing of

agricultural commodities and aquatic products.

(iii) To provide for uniform grading and proper preparation of agricultural commodities and aquatic products for market.

(iv) To provide methods and means for the development of new and larger markets for agricultural commodities and aquatic products produced in New York.

(v) To eliminate or reduce the economic waste in the marketing of agricultural commodities and aquatic products.

(vi) To eliminate unjust impairment of the purchasing power of aquatic producers and the agricultural producers of this state; and

(vii) To aid agricultural and aquatic producers in maintaining an income at an adequate and equitable level.

2. Definitions. (a) "Agricultural commodity" means any and all agricultural, horticultural, vineyard products, corn for grain, oats, soybeans, barley, wheat, poultry or poultry products, bees, maple sap and pure maple products produced therefrom, christmas trees, livestock, including swine, and honey, sold in the state either in their natural state or as processed by the producer thereof but does not include milk, timber or timber products, other than christmas trees, all hay, rye and legumes except for soybeans.

(b) "Aquaculture" means the culture, cultivation and harvest of aquatic plants and animals.

(c) "Aquatic products" means any food or fiber products obtained through the practice of aquaculture, including mariculture; or by harvest from the sea when such products are cultured or landed in this state. Such products include but are not limited to fish, shellfish, seaweed or other water based plant life.

(d) "Producer" means any person engaged within this state in the business of producing, or causing to be produced for any market, any agricultural commodity or aquatic product.

(e) "Handler" means any person engaged in the operation of packing, grading, selling, offering for sale or marketing any marketable agricultural commodities or aquatic products, who as owner, agent or otherwise ships or causes an agricultural commodity to be shipped.

(f) "Processor" means any person engaged within this state in processing, or in the operation of receiving, grading, packing, canning,

freezing, dehydrating, fermenting, distilling, extracting, preserving, grinding, crushing, or in any other way preserving or changing the form of an agricultural product or aquatic product for the purpose of marketing such commodity but shall not include a person engaged in manufacturing from an agricultural commodity or aquatic product another and different product.

(g) "Distributor" means any person engaged within this state, in selling, offering for sale, marketing or distributing an agricultural commodity or aquatic product which he or she has purchased or acquired from a producer or other person or which he or she is marketing on behalf of a producer or other person, whether as owner, agent, employee, broker or otherwise, but shall not include a retailer, except such retailer who purchases or acquires from, or handles on behalf of any producer or other person, an agricultural commodity or aquatic product subject to regulation by the marketing agreement or order covering such commodity.

(h) "President" means the president of the corporation.

(i) "Marketing agreement" means an agreement entered into, with the approval of the president, by producers with distributors, processors and handlers regulating the preparation, sale and handling of agricultural commodities or aquatic products.

(j) "Marketing order" means an order issued by the president pursuant to this section, prescribing rules and regulations governing the marketing for processing, the distributing, the sale of, or the handling in any manner of any agricultural commodity or aquatic product sold in this state during any specified period or periods.

(k) "Commissioner" means the commissioner of the New York state department of agriculture and markets.

(l) "Department" means the New York state department of agriculture and markets.

3. Powers and duties of the president. (a) In order to effectuate the declared policy of this section, the president, in consultation with the commissioner, may, after due notice and opportunity for hearing, approve marketing agreements, which marketing agreements shall thereupon be binding upon the signatories thereto exclusively.

(b) The president, in consultation with the commissioner and the

producers, may make and issue marketing orders, after due notice and opportunity for hearing, subject to:

(i) approval of not less than sixty-six and two-thirds per centum of the producers participating in a referendum in the area affected, or

(ii) approval of not less than sixty-five per centum of the producers participating in a referendum vote, in the area affected, and having marketed not less than fifty-one per centum of the total quantity of the commodity which was marketed in the next preceding, ordinary marketing season by all producers that voted in the referendum, or

(iii) approval of not less than fifty-one per centum of the producers participating in a referendum vote, in the area affected, and having marketed not less than sixty-five per centum of the total quantity of the commodity which was marketed in the next preceding, ordinary marketing season by all producers that voted in the referendum. The president may, and upon written petition duly signed by twenty-five per centum of the producers in the area amend or terminate such order after due notice and opportunity for hearing, but subject to the approval of not less than fifty per centum of such producers participating in a referendum vote.

(c) The president, consulting with and seeking the advice and consent of the advisory board shall administer and enforce any marketing order, while it is in effect, to:

(i) Encourage and maintain stable prices received by producers for such agricultural commodity and aquatic product at a level which is consistent with the provisions and aims of this act.

(ii) Prevent the unreasonable or unnecessary waste of land or water based wealth.

(iii) Protect the interests of consumers of such commodity, by exercising the powers of this section to such extent as is necessary to effectuate the purposes of this act.

(iv) Provide consultation to the commissioner who shall budget for the administration and operating costs and expenses, seeking the advice and consent of the advisory board, including advertising and sales promotion when required in any marketing agreement or order executed in this section and to provide for the collection and retention of such necessary fees to defray such costs and expenses, in no case to exceed five percent of the gross dollar volume of sales or dollar volume of

purchases or amounts handled, to be collected from each person engaged in the production, processing, distributing or the handling of any marketable agricultural commodity and aquatic product produced or landed in this state and directly affected by any marketing order issued pursuant to this section for such commodity.

(v) Confer and cooperate with the legally constituted authorities of other states and the United States.

(d) Any marketing agreement or order issued by the president pursuant to this section, in consultation with the commissioner, may contain any or all of the following:

(i) Provisions for determining the existence and extent of the surplus of any agricultural commodity, or of any grade, size or quality thereof, and providing for the regulation and disposition of such surplus.

(ii) Provisions for limiting the total quantity of any agricultural product, or of any grade or grades, size or sizes, or quality or portions or combinations thereof, which may be marketed during any specified period or periods. Such total quantity of any such commodity so regulated shall not be less than the quantity which the president shall find is reasonably necessary to supply the market demand of consumers for such commodity.

(iii) Provisions regulating to the period, or periods, during which any agricultural commodity, or any grade or grades, size or sizes or quality or portions or combinations of such commodity, may be marketed.

(iv) Provisions for the establishment of uniform grading, standards, and inspection of any agricultural commodity delivered by producers or other persons to handlers, processors, distributors or others engaging in the handling thereof, and for the establishment of grading or standards of quality, condition, size, maturity or pack for any agricultural commodity, and the inspection and grading of such commodity in accordance with such grading or standards so established; and for provisions that no producer, handler, processor or distributor of any agricultural commodity for which grading or standards are so established may, except as otherwise provided in such marketing agreement or order, sell, offer for sale, process, distribute or otherwise handle any such commodity whether produced within or without this state, not meeting and complying with such established grading or standards. For the purposes of this section, the federal-state inspection service shall perform all

inspections made necessary by such provisions.

(v) Provisions for the establishment of research programs designed to benefit a specified commodity or New York agriculture in general.

(vi) Provisions for the president to retain money collected under any marketing order issued pursuant to this section to defray the costs and expenses in the administration thereof.

(vii) Such other provisions as may be necessary to effectuate the declared policies of this section.

(viii) Provisions to establish marketing promotion and research programs for aquatic products which may include subparagraphs (i) through (vii) of this paragraph.

(e) The president, seeking the advice and the consent of the advisory board, may temporarily suspend the operation of an effective marketing order for a continuing period of not longer than one growing and marketing season, if the purposes of this section are deemed unnecessary during such season.

(f) In carrying out the purposes of this section, the president, in consultation with the commissioner and consulting with and seeking the advice and consent of the advisory board, shall take into consideration any and all facts available to him or her with respect to the following economic factors:

(i) The quantity of such agricultural commodity available for distribution.

(ii) The quantity of such agricultural commodity normally required by consumers.

(iii) The cost of producing such agricultural commodity.

(iv) The purchasing power of consumers.

(v) The level of prices of commodities, services and sections which the farmers commonly buy.

(vi) The level of prices of other commodities which compete with or are utilized as substitutes for such agricultural commodity.

(g) The execution of such marketing agreements shall in no manner affect the issuance, administration or enforcement of any marketing order provided for in this section. The president, in consultation with the commissioner, may issue such marketing order without executing a marketing agreement or may execute a marketing agreement without issuing a marketing order covering the same commodity. The president, in his or

her discretion, in consultation with the commissioner may hold a concurrent hearing upon a proposed marketing agreement and a proposed marketing order in the manner provided for giving due notice and opportunity for hearing for a marketing order as provided in this section.

(h) Prior to the issuance, amendment or termination of any marketing order, the president may require the applicants for such issuance, amendment or termination to deposit with him or her such amount as he or she may deem necessary to defray the expenses of preparing and making effective amending or terminating a marketing order. Such funds shall be received, deposited and disbursed by the president in the same manner as other fees received by him or her under this section and, in the event the application for adoption, amendment or termination of a marketing order is approved in a referendum, the president shall reimburse any such applicant in the amount of any such deposit from any unexpended monies collected under the marketing order affected by such referendum.

(i) Any moneys collected by the president pursuant to this section shall not be deemed state or corporation funds and shall be deposited in a bank or other depository of the corporation, approved by the president, allocated to each marketing order under which they are collected, and shall be disbursed by the president only for the necessary expenses incurred by the president with respect to each such separate marketing order, all in accordance with the rules and regulations of the president. All such expenditures shall be subject to audits by the state comptroller. Any moneys remaining in such fund allocable to any particular commodity affected by a marketing order may, in the discretion of the president, be refunded at the close of any marketing season upon a pro-rata basis to all persons from whom assessments therefor were collected or, whenever the president finds that such moneys may be necessary to defray the cost of operating such marketing order in a succeeding marketing season, he or she may carry over all or any portion of such moneys into the next such succeeding season. Upon the termination by the president of any marketing order, all moneys remaining and not required by the president to defray the expenses of operating such marketing order, shall be refunded by the president upon a pro-rata basis to all persons from whom assessments therefor were collected; provided, however, that if the president finds

that the amounts so refundable are so small as to make impracticable the computation and refunding of such refunds, the president may use such moneys to defray the expenses incurred by him or her in the formulation, issuance, administration or enforcement of any subsequent marketing order for such commodity.

(j) Advisory board. (i) Any marketing order issued pursuant to this section shall provide for the establishment of an advisory board, to consist of not less than five members nor more than nine members, to advise the president in the administration of such marketing order in accordance with its terms and provisions. The president shall administer and enforce any such order while it is in effect, consulting with the advisory board and seeking its advice and consent. The members of said board shall be appointed by the commissioner from nominations received from the commodity group for which the marketing order is established. Nominating procedure, qualification, representation and size of the advisory board shall be prescribed in each marketing order for which such board is appointed. Each advisory board shall be composed of such producers and handlers or processors as are directly affected by the marketing order in such proportion of representation as the order shall prescribe. The commissioner may appoint one person who is neither a producer, processor or other handler to represent the department of agriculture and markets, the corporation, or the public generally.

(ii) No member of an advisory board shall receive a salary, but each shall be entitled to his or her actual expenses incurred while engaged in performing his or her duties herein authorized.

(iii) The duties and responsibilities of each advisory board shall be prescribed by the president, in consultation with the commissioner, and he or she shall specifically delegate to the advisory board, by inclusion in the marketing order, the following duties and responsibilities:

(A) The recommendation to the president of administrative rules and regulations relating to the marketing order.

(B) Recommending to the president such amendments to the marketing order as deemed advisable.

(C) The preparation and submission to the commissioner, in consultation with the president, of the estimated budget required for the proper operation of the marketing order.

(D) Recommending to the president methods for assessing members of the industry and methods for collecting the necessary funds.

(E) Assisting the president in the collection and assembling of information and data necessary to the proper administration of the order.

(F) The performance of such other duties in connection with the marketing order as the president shall designate.

4. Rules and regulations; enforcement. The president, with the advice and consent of the advisory board, may make and promulgate such rules and regulations as may be necessary to effectuate the provisions and intent of this section and to enforce the provision of any marketing agreement or order, all of which shall have the force and effect of law.

The president, in consultation with the commissioner may institute such action at law or in equity as may appear necessary to enforce compliance with any provision of this section, or any rule or regulation, marketing agreement or order, committed to his or her administration, and in addition may apply for relief by injunction if necessary to protect the public interest without being compelled to allege or prove that an adequate remedy at law does not exist. Such application may be made to the supreme court in any district or county as provided in the civil practice law and rules, or to the supreme court in the third judicial district.

5. Cooperation by the department. The president of the corporation may request and receive, within ninety days of such request, from the department such assistance, information and cooperation as may be necessary for the corporation to provide services with respect to the administration of the procedures set forth for the issuance, termination or amendment of any agricultural, commodities or aquatic order and/or the administration of any such order. The corporation shall retain an amount equal to the expenses incurred by the corporation in performing its duties pursuant to this section and reimburse the department an amount equal to the expenses incurred by the department in supplying such services, subsequent to submission and audit of a voucher therefor. Such reimbursement shall not exceed the total amount of funds collected

by the corporation pursuant to this section less the reasonable expenses incurred by the corporation in performing its duties pursuant to this section.

6. Indemnification. The state shall defend, indemnify and hold harmless the corporation, its directors, officers, and employees, from and against any and all claims, demands, causes of action, damages, costs and expenses whatsoever arising directly or indirectly from, or relating to, the administration of any agricultural, commodities or aquatic promotion order issued or administered pursuant to this section. In connection with the foregoing, the corporation shall give the state (a) prompt written notice of any action, claim or threat of suit, (b) the opportunity to take over, settle or defend such action, claim or suit at the state's sole expense, and (c) assistance in the defense of any such action at the expense of the state.

7. Contractual provisions. The corporation may contract for services with respect to the implementation of this section in accordance with the corporation's policies, procedures and guidelines. Notwithstanding section 2879 of the public authorities law or any other law to the contrary, any such contract may be procured by the corporation on a sole-source basis, and shall not be subject to competitive bid or competitive request for proposal requirements.

* NB Repealed July 1, 2026

* **§ 16-z. Marketing orders.** The marketing orders, the regulatory provisions relating thereto, set forth in title one of the official compilation of codes, rules and regulations of the state of New York parts 40, 200, 201, 202, 203, 204, and 205, and the contracts relating thereto shall remain in full force and effect until amended or repealed pursuant to the statutory authority set forth in sections 16-x and 16-y of this act except that: (a) such marketing orders, the regulatory provisions relating thereto, and the contracts relating thereto shall be administered by and under the supervision of the president of the corporation as of the effective date of sections 16-x and 16-y of this act; (b) all undisbursed funds under the control of the department of

agriculture and markets shall be transferred to the corporation on or before such effective date; and (c) any assessments due and payable under such marketing orders shall be remitted to the corporation starting 30 days after the effective date of this section.

* NB Repealed July 1, 2026

§ 16-aa. Life sciences initiatives program. The life sciences initiatives program is hereby established for the purpose of attracting new life sciences technologies, to promote critical public and private sector investment in emerging life sciences fields in New York state, and to create and expand life sciences related businesses and employment.

1. Such life sciences initiatives program is designated to operate in areas identified by the corporation as having significant potential for economic growth in New York, or in which the application of new life sciences technologies could significantly enhance the productivity and stability of New York businesses.

2. Life sciences are defined as advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, academic medical centers, agricultural biotechnology, biogenerics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research, clinical trials, including but not limited to neurological clinical trials and veterinary science.

3. A life sciences entity is defined as a business corporation, partnership, firm, unincorporated association, or any other entity engaged in life sciences research, development, manufacturing or commercialization.

4. (a) The corporation is authorized, within available appropriations and consistent with such appropriations in the Life Sciences Initiatives Program to provide financial support, through an application and approval process and such funds may be used for the advancement and economic growth of life sciences programs, employment of staff, development and facilities or other working capital that are aligned with the life sciences program strategy and approved by the corporation.

(b) A life sciences entity must submit a completed application as prescribed by the chief executive officer of the corporation. Life sciences initiatives entity applications will be accepted, reviewed and approved on a rolling basis. Life sciences initiatives entity applicants may include a program or multiple programs in their application. Each life sciences program applicant shall include information in such application relating to how its life sciences program initiative will enhance and accelerate life science programs, research and job creation and retention within New York.

5. The chief executive officer of the corporation shall, on or before October first, two thousand eighteen and every year thereafter, submit to the governor, the temporary president of the senate and the speaker of the assembly an annual report on the operations and accomplishments of the life sciences initiatives programs which shall include, but not be limited to, the economic impact of the activities undertaken with state funds, the number and amount of federal funds procured after program approval, including such factors as jobs created and maintained, the average salary of the jobs created and average salary of jobs retained.

6. (a) The corporation shall by rule establish criteria for such program, such criteria shall include detailed provisions for eligibility.

(b) The corporation shall issue guidelines to effectuate the purpose of this section.

§ 16-dd. Community development revolving loan program. 1. Definitions. As used in this section, the following terms shall have the following

meanings:

(a) "Community development financial institution" means an organization whose principal office is located in this state, which has been certified as a community development financial institution by the federal community development financial institutions fund, as established pursuant to 12 U.S.C. § 4701, et seq.

(b) "Investment area" means a geographic area which:

(i) Is economically distressed as defined in section sixteen-d of this act; and

(ii) Has significant unmet needs for loans or is located in a federally designated empowerment zone or enterprise community as established pursuant to title XIII of the federal omnibus budget reconciliation act of 1993 (Public Law 103-66).

(c) "Low income" means having an income, adjusted for family size, of not more than:

(i) For metropolitan areas, eighty percent of the area median income; or

(ii) For non-metropolitan areas, the greater of eighty percent of the area median income or the statewide non-metropolitan area median income.

(d) "Targeted population" means low-income individuals, minority and women-owned business enterprises, small businesses, microbusinesses, small farm businesses, community-based not-for-profit corporations, and such other individuals and entities that otherwise lack adequate access to loans as the corporation shall establish through guidelines.

(e) "Target market" means a defined service area which serves one or more investment areas or targeted population.

2. The community development revolving loan program is hereby created to provide low interest loans or loan guarantees to a target market, where it is underserved and otherwise difficult to obtain regular bank financing. Such loans or loan guarantees shall be made by a community development financial institution and shall be made in target markets to members of a targeted population for purposes including, but not limited to, working capital, the acquisition and/or improvement of real property, the acquisition of machinery and equipment, property or improvements thereto, residential mortgages, commercial mortgages, housing rehabilitation, home improvement, and for such other purposes as

the corporation shall establish through guidelines.

3. A community development financial institution desiring to participate in the program shall execute an agreement in such form as the corporation may prescribe and shall contain such terms and provisions as the corporation or its agent may deem as necessary and appropriate.

4. (a) The corporation is hereby authorized to administer the program created in subdivision two of this section or, alternatively, to do the following:

(i) enter into a contract with a third party to act as the agent of the corporation with respect to the administration of such program, pursuant to a competitive process;

(ii) conduct an annual review and assessment of the performance of the third party in its capacity as agent for the corporation to determine whether the contract referenced in subparagraph (i) of this paragraph should be renewed for an additional two year period. The review shall be based on whether the third party agent has satisfactorily met the terms and conditions of the contract; and

(iii) promulgate rules and regulations with respect to the implementation of the community development revolving loan program established by this section and any other rules and regulations necessary to fulfill the purposes of this section, in accordance with the state administrative procedure act.

(b) Any contract entered into pursuant to subparagraph (i) of paragraph (a) of this subdivision shall:

(i) be for a period of two years and shall be renewed for an additional two year period subject to requirements of subparagraph (ii) of paragraph (a) of this subdivision; and

(ii) provide for compensation for expenses incurred by the third party agent in connection with its services as agent and for such other services as the corporation may deem appropriate including, but not limited to the use of the premises, personnel and personal property of the third party agent.

5. The corporation is authorized to establish a revolving loan fund

account into which funds may be received from any source, including but not limited to, the corporation, financial institutions, insurance companies, business corporations and from settlements of civil actions by the department of financial services, and from which funds may be expended for the aforementioned purposes.

6. With respect to loans pursuant to this program, a community development financial institution may charge application, commitment and loan guarantee fees subject to a schedule of fees approved by the corporation.

7. A community development financial institution participating in the program shall submit to the corporation, an annual report detailing the following:

- (a) the number of program loans made;
- (b) the amount of program funding used for loans;
- (c) the use of loan proceeds by the borrower;
- (d) the number of jobs created or retained;
- (e) a description of the economic development generated;
- (f) the status of outstanding program loans; and
- (g) such other information as the corporation or its agent shall require.

8. The corporation may directly or through a third party conduct audits of a community development financial institution's compliance with the provisions of this section and any regulations promulgated. In the event of substantive noncompliance, the corporation may terminate the participation of such community development financial institution in the program.

§ 16-ee. Loans to social and economic equity applicants. The corporation is authorized, on the recommendation of the state cannabis control board, to provide low interest or zero-interest loans to qualified social and economic equity applicants and to provide funds necessary for the provision of such loans, as provided for in article four of the cannabis law.

§ 16-ff. COVID-19 pandemic small business recovery grant program. 1.

Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Small business" shall mean a business which is resident in this state, independently owned and operated, not dominant in its field, and employs one hundred or less persons.

(b) "Micro-business" shall mean a business which is a resident in this state, independently owned and operated, not dominant in its field, and employs ten or less persons.

(c) "The program" shall mean the COVID-19 pandemic small business recovery grant program established pursuant to subdivision two of this section.

(d) "Applicant" shall mean a small business or for-profit independent arts and cultural organization submitting an application for a grant award to the program.

(e) "COVID-19 health and safety protocols" means any restrictions imposed on the operation of businesses by executive order 202 of 2020 issued by the governor, or any extension or subsequent executive order issued in response to the novel coronavirus (COVID-19) pandemic, or any other statute, rule, or regulation imposing restrictions on the operation of businesses in response to the novel coronavirus (COVID-19) pandemic.

(f) "For-profit independent arts and cultural organization" shall mean a small or medium sized private for-profit, independently operated live-performance venue, promoter, production company, or performance related business located in New York state negatively impacted by COVID-19 health and safety protocols, and having one hundred or less full-time employees, excluding seasonal employees. The qualifying organizations under this definition may include businesses engaged in a field including, but not limited to, architecture, dance, design, film, music, theater, opera, media, literature, museum activities, visual arts, folk arts and casting.

2. COVID-19 pandemic small business recovery grant program established. The COVID-19 pandemic small business recovery grant

program is hereby created to provide assistance to small businesses and for-profit independent arts and cultural organizations who have experienced economic hardship during the COVID-19 pandemic.

3. Authorization. The corporation is hereby authorized, using available funds, to issue grants and provide technical assistance and outreach to small businesses, for-profit independent arts and cultural organizations, and technical assistance partners for the purpose of aiding the recovery of the New York state economy, and may promulgate guidelines or regulations to effectuate the purposes herein.

4. Selection criteria and application process. (a) In order to be eligible for a grant or additional form of support under the program, an eligible small business or for-profit independent arts and cultural organization shall:

(i) Be incorporated in New York state or licensed or registered to do business in New York state;

(ii) Be a currently viable small business or for-profit independent arts and cultural organization that has been in operation since before March 1, 2019;

(iii) Be able to demonstrate lost revenue or other economic hardship due to the COVID-19 pandemic or compliance with COVID-19 health and safety protocols which resulted in business modifications, interruptions, or closures. To demonstrate lost revenue or other economic hardship, the applicant shall show a loss in year-to-date revenue as of December 31, 2020, compared with the same period in 2019;

(iv) Be in substantial compliance with applicable federal, state and local laws, regulations, codes and requirements; and

(v) Not owe any federal, state or local taxes prior to July 15, 2020, or have an approved repayment, deferral plan, or agreement with appropriate federal, state and local taxing authorities.

(b) Grants awarded from this program shall be available to eligible micro-businesses, small businesses, and for-profit independent arts and cultural organizations that do not qualify for business assistance grant programs under the federal American Rescue Plan Act of 2021 or any other available federal COVID-19 economic recovery or business assistance grant programs, including loans forgiven under the federal Paycheck

Protection Program, or are unable to obtain sufficient business assistance from such federal programs, with priority given to socially and economically disadvantaged business owners including, but not limited to, minority and women-owned business enterprises, service-disabled veteran-owned businesses, and veteran-owned businesses, or businesses located in communities that were economically distressed prior to March 1, 2020, as determined by the most recent census data.

5. Eligible costs. (a) Eligible costs shall be considered for micro-businesses, small businesses, and for-profit independent arts and cultural organizations negatively impacted by the COVID-19 pandemic or by their compliance with COVID-19 health and safety protocols which resulted in lost revenue, business modifications, interruptions, or closures. Such eligible costs shall have been incurred between March 1, 2020 and April 1, 2021.

(b) The following costs incurred by a micro-business, small business, or for-profit independent arts and cultural organization shall be considered eligible under the program at a minimum: payroll costs; costs of rent or mortgage as provided for in subparagraph (i) of this paragraph; costs of repayment of local property or school taxes associated with such small business's location as provided for in subparagraph (ii) of this paragraph; insurance costs; utility costs; costs of personal protection equipment (PPE) necessary to protect worker and consumer health and safety; heating, ventilation, and air conditioning (HVAC) costs, or other machinery or equipment costs, or supplies and materials necessary for compliance with COVID-19 health and safety protocols, and other documented COVID-19 costs as approved by the corporation.

(i) Mortgage payments or commercial rent shall be considered eligible costs.

(ii) Payment of local property taxes and school taxes shall be considered eligible costs.

(c) Grants awarded under the program shall not be used to re-pay or pay down any portion of a loan obtained through a federal coronavirus relief package for business assistance or any New York state business assistance programs.

6. Application and approval process. (a) An eligible micro-business, small business, or for-profit independent arts and cultural organization shall submit a complete application in a form and manner prescribed by the corporation.

(b) The corporation shall establish the procedures and time period for micro-businesses, small businesses, or for-profit independent arts and cultural organizations to submit applications to the program. As part of the application each micro-business, small business, or for-profit independent arts and cultural organization shall provide sufficient documentation in a manner prescribed by the corporation to demonstrate hardship, and prevent fraud, waste, and abuse.

7. Reporting. The corporation, on a quarterly basis beginning September 30, 2021, and ending when all program funds are expended, shall submit a separate and distinct report to the governor, the temporary president of the senate, and the speaker of the assembly setting forth the activities undertaken by the program. Such quarterly report shall include, but need not be limited to: the number of applicants and their county locations; the number of applicants approved by the program and their county location; the total amount of grants awarded, and the average amount of such grants awarded; and such other information as the corporation determines necessary and appropriate. Such report shall be included on the corporation's website and any other publicly accessible state database that list economic development programs, as determined by the commissioner.

8. Technical assistance and outreach. The corporation may offer or make available to all applicants, regardless of approval status, direct or indirect access to financial and business planning, legal consultation, language assistance services, mentoring services for post-pandemic planning, reopening planning assistance and other assistance and support as determined by the corporation. Assistance, support, outreach and other services may be provided by or through partner organizations, including but not limited to chambers of commerce, local business development corporations, trade associations and other community organizations that have expertise and background in providing technical assistance, at the discretion of the corporation.

*** § 16-gg. Small business seed funding grant program.** 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Small business" shall mean a business which is resident in this state, independently owned and operated, not dominant in its field, and employs one hundred or less persons, was started on September 1, 2018 or later and has been operational for a minimum of six months prior to application.

(b) "Micro-business" shall mean a business which is a resident in this state, independently owned and operated, not dominant in its field, and employs ten or less persons.

(c) "The program" shall mean the small business seed funding grant program established pursuant to subdivision two of this section.

(d) "Applicant" shall mean a micro-business, small business, or for-profit independent arts and cultural organization, including independent arts contractors submitting an application for a grant award to the program.

(e) "For-profit independent arts and cultural organization" shall mean a small or medium sized private for-profit, independently operated live-performance venue, promoter, production company, or performance related business, including independent arts contractors, located in New York state negatively impacted by COVID-19 health and safety protocols, and having one hundred or less full-time employees, excluding seasonal employees.

2. Small business seed funding grant program established. The small business seed funding grant program is hereby created to provide assistance to early-stage small businesses to succeed in a recovering New York state economy.

3. Authorization. The corporation is hereby authorized, using available funds, to issue grants and provide technical assistance and outreach to micro-businesses, small businesses, for-profit arts and cultural organizations including independent arts contractors and technical assistance partners for the purpose of aiding the recovery of

the New York state economy, and may promulgate guidelines to effectuate the purposes herein.

4. Selection criteria and application process. (a) In order to be eligible for a grant or additional form of support under the program, an eligible small business shall:

(i) be incorporated in New York state or licensed or registered to do business in New York state and must be resident in the state of New York;

(ii) be a currently viable micro-business, small business, for-profit arts and cultural organization including independent arts contractors that started business on September 1, 2018 or later and has been operational for at least six months before an application is submitted;

(iii) have between five thousand and one million dollars in gross receipts or be able to demonstrate five thousand dollars in business expenses;

(iv) be in substantial compliance with applicable federal, state and local laws, regulations, codes and requirements; and

(v) not owe any federal, state or local taxes, or have an approved repayment, deferral plan, or agreement with appropriate federal, state, and local taxing authorities.

(b) (i) Grants awarded from this program shall be available to eligible micro-businesses, small businesses, and for-profit arts and cultural organizations including independent arts contractors that do not qualify for business assistance grant programs under the federal American Rescue Plan Act of 2021 or any other available federal COVID-19 economic recovery or business assistance grant programs, including loans forgiven under the federal Paycheck Protection Program, or are unable to obtain sufficient business assistance from such federal programs, with priority given to socially and economically disadvantaged business owners including, but not limited to, minority and women-owned business enterprises, service-disabled veteran-owned businesses, and veteran-owned businesses, or businesses located in communities that were economically distressed prior to March 1, 2020, as determined by the most recent census data.

(ii) Grants awarded from this program shall be available to eligible micro-businesses, small businesses and for-profit arts and cultural

organizations including independent arts contractors that did not qualify for business assistance under the COVID-19 pandemic small business recovery grant program as provided for in section sixteen-ff of this act.

5. Eligible costs. (a) Eligible costs considered for micro-businesses and small businesses under this program must have been incurred between September 1, 2018 and January 1, 2022.

(b) (i) The following costs incurred by a micro-business, small business, and for-profit arts and cultural organization including independent arts contractors shall be considered eligible under the program at a minimum: payroll costs; costs of rent or mortgage as provided for in subparagraph (ii) of this paragraph; costs of repayment of local property or school taxes associated with such small business's location as provided for in subparagraph (iii) of this paragraph; insurance costs; utility costs; costs of personal protection equipment (PPE) necessary to protect worker and consumer health and safety; heating, ventilation, and air conditioning (HVAC) costs, or other machinery or equipment costs, or supplies and materials necessary for compliance with COVID-19 health and safety protocols, and other documented COVID-19 costs as approved by the corporation.

(ii) Mortgage payments or commercial rent shall be considered eligible costs.

(iii) Payment of local property taxes and school taxes shall be considered eligible costs.

(c) Grants awarded under the program shall not be used to re-pay or pay down any portion of a loan obtained through a federal coronavirus relief package for business assistance or any New York state business assistance programs.

6. Application and approval process. (a) An eligible micro-business, small business, or for-profit arts and cultural organization including independent arts contractors shall submit a complete application in a form and manner prescribed by the corporation.

(b) The corporation shall establish the procedures and time period for micro-businesses, small businesses, or for-profit arts and cultural organizations including independent arts contractors to submit

applications to the program. As part of the application each micro-business, small business, or for-profit arts and cultural organization including independent arts contractors shall provide sufficient documentation in a manner prescribed by the corporation to demonstrate hardship, and prevent fraud, waste, and abuse.

7. Technical assistance and outreach. The corporation may offer or make available to all applicants, regardless of approval status, direct or indirect access to financial and business planning, legal consultation, language assistance services, mentoring services for post-pandemic planning, reopening planning assistance and other assistance and support as determined by the corporation. Assistance, support, outreach and other services may be provided by or through partner organizations, including but not limited to chambers of commerce, local business development corporations, trade associations and other community organizations that have expertise and background in providing technical assistance, at the discretion of the corporation.

8. Reporting. The corporation, on a quarterly basis beginning September 30, 2022, and ending when all program funds are expended, shall submit a separate and distinct report to the governor, the temporary president of the senate, and the speaker of the assembly setting forth the activities undertaken by the program. Such quarterly report shall include, but need not be limited to: the number of applicants and their county locations; the number of applicants approved by the program and their county location; the total amount of grants awarded, and the average amount of such grants awarded; and such other information as the corporation determines necessary and appropriate. Such report shall be included on the corporation's website and any other publicly accessible state database that list economic development programs, as determined by the commissioner. Such reporting may be incorporated as part of any reporting required under section sixteen-ff of this act.

* NB There are 2 § 16-gg's

* § 16-gg. Division of Broadband Access. 1. Statement of Legislative

findings and purpose. The legislature hereby finds and declares that: access to high-speed, reliable, and affordable broadband is essential for education, economic growth, and full participation in civic life; the persistence of the digital divide is a key barrier to improving the general welfare; the digital divide disproportionately affects communities of color, lower-income areas, rural areas, and other vulnerable populations, and the benefits of broadband access should be available to all; a robust and competitive internet marketplace in New York supports general economic development and benefits New Yorkers with improved internet service and affordability; the state has a responsibility to assist in ending the digital divide, supporting a more robust and competitive internet marketplace, and carrying out other actions to ensure universal access to high-speed, reliable, and affordable broadband.

2. Definitions. The following definitions shall apply throughout this section unless the context clearly requires otherwise:

(a) "Advisory committee" or "committee" shall mean the broadband development advisory committee created by this section.

(b) "Broadband", "broadband service", or "broadband internet" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service.

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

(d) "Director" shall mean the director of the division of broadband access.

(e) "Division" means the division of broadband access created by this section.

(f) "Unserved location" means a broadband-serviceable location, as determined by the division, that has no access to broadband service or lacks access to reliable broadband service at 25 megabits per second for downloads and 3 megabits per second upload speed.

(g) "Underserved location" means a broadband-serviceable location, as determined by the division, that only has access to broadband service of

at least 25 megabits per second but less than 100 megabits per second download speed and at least 3 megabits per second but less than 20 megabits per second upload speed.

(h) Should the division determine that the definitions under paragraphs (f) and (g) of this subdivision concerning download and upload speeds be outdated as a result of advancements in broadband technological capabilities or standards, such download and upload speeds established under this section shall be superseded by guidelines, rules, or regulations established by the division; provided that the download and upload speeds included in the definitions shall not be reduced.

3. Division of broadband access; director; employees. There is hereby created within the department of economic development a division of broadband access. The head of such office shall hold the title of director and be appointed by the commissioner, and shall hold office at the pleasure of the commissioner.

4. Powers and duties of the division of broadband development. The division shall have the power to:

(a) Coordinate the activities of all state agencies performing functions affecting access to high-speed, reliable, and affordable broadband.

(b) Conduct research and analyses of matters affecting access to high-speed, reliable, and affordable broadband.

(c) Advise and make recommendations to the commissioner on matters affecting access to high-speed, reliable, and affordable broadband.

(d) Provide advisory assistance to municipalities, state and local authorities, and other entities to expand access to high-speed, reliable, and affordable broadband.

(e) Establish and implement programs, including grant programs, to expand access to high-speed, reliable, and affordable broadband, including but not limited to: programs to improve broadband access at unserved and underserved locations; programs to deploy broadband infrastructure owned or managed by municipalities, state and local authorities, entities established pursuant to section 99-y of the general municipal law, or not-for-profit entities; programs to deploy innovative broadband technologies and means to improve broadband access;

including in low-income areas; programs to improve digital equity, digital inclusion, and digital literacy.

(f) Take additional actions the division deems necessary to expand access to high-speed, reliable, and affordable broadband.

5. Rules and regulations. The commissioner may adopt any necessary rules, regulations, or guidelines to effectuate the purposes of the division. Notwithstanding any conflicting provision of this article, the commissioner may adopt any necessary rules, regulations, or guidelines for state participation in federal broadband programs consistent with the requirements set forth under the Infrastructure Investment and Jobs Act, American Rescue Plan Act, Digital Equity Act, or any other federal program determined as directly relevant to increasing access to high-speed, reliable, and affordable broadband by the commissioner.

6. Broadband access advisory committee. (a) There is hereby created in the division of broadband access a broadband development advisory committee. The committee shall consist of 16 members, four of which are to be appointed by the governor, one of which is to be appointed by the speaker of the assembly, and one of which is to be appointed by the temporary president of the senate. The commissioners, or designees thereof, of the department of public service, department of labor, department of transportation, office of general services, department of economic development, department of homeland security and emergency services, division of housing and community renewal, and education department, the president of the New York power authority, and the director of the division of the budget shall serve as ex-officio members. The governor shall designate a chairperson from the members of the advisory committee, to serve as such at the pleasure of the governor. In appointing the members of the advisory committee the governor shall ensure that at least one member is an individual representing a telecommunications union, at least one member is an individual with substantial expertise in tribal affairs, and two of the members are individuals who have substantial expertise in telecommunications policy, broadband development, grant-making, or internet regulation, of which one shall have expertise on service providers with over 100,000 subscribers in New York state and one shall

have expertise on service providers with less than 100,000 subscribers in New York state.

(b) All members of the advisory committee, other than the ex-officio members, shall serve for terms of three years, such term shall commence on the first day the committee is convened. Any vacancies occurring otherwise than by expiration of term shall be filled in the same manner as original appointments for the balance of the unexpired term.

(c) The advisory committee shall meet at least twice in each calendar year. Special meetings may be called by its chairperson and shall be called by the chairperson at the request of the director of the division of broadband access.

(d) No member of the advisory committee shall be disqualified from holding any other public office, nor forfeit any such office by reason of appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance or city charter, provided however that members appointed by the governor, speaker of the assembly, or temporary president of the senate shall be considered state officers and subject to the provisions of paragraph (a) of subdivision 8 of section 73 of the public officers law.

(e) The members of the advisory committee shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder.

(f) The committee shall:

(i) advise the director in carrying out the functions, powers and duties of the division, as set forth in this article.

(ii) advise the director, the governor, and the legislature concerning policy changes necessary to promote expansion and development of access to high-speed, reliable, and affordable broadband.

(iii) advise the director, the governor, and the legislature concerning existing policies of state agencies which may be counter-productive or inimical to promote expansion and deployment of high-speed, reliable, and affordable broadband.

(iv) advise the director, the governor, and the legislature concerning the development of inter-governmental cooperation among agencies of the federal, state, and local governments and cooperation between private industry and government so as to promote expansion, deployment and

continued provision of high-speed, reliable, and affordable broadband.

(v) advise the director, the governor, and the legislature on issues related to fostering consumer choice, increasing competition in the broadband industry, and promoting open-access infrastructure.

(vi) advise the director, in consultation with the division of broadband access, on potential guidelines or regulations for implementation of broadband-related programs.

(vii) advise the director, the governor, and the legislature on policies related to the deployment of wireless and cellular services, including deployment of small cell networks for access to 5G services.

(viii) advise the director on policies to reduce regulatory obstacles and streamline regulations to promote access to high-speed, reliable, and affordable broadband.

(ix) advise the director on policies to maximize access to high-speed, reliable, and affordable broadband in affordable housing projects.

(x) advise the director on policies relevant to ensuring that senior citizens have access to high-speed, reliable, and affordable broadband.

(xi) make periodic recommendations as to updates to the broadband report required by the Comprehensive Broadband Connectivity Act.

7. ConnectAll deployment program. The ConnectAll deployment program is hereby established to provide grant funding to construct infrastructure necessary to provide broadband services to unserved and underserved locations in the state. Grants issued pursuant to this program shall facilitate projects that, at a minimum, provide reliable internet service with consistent speeds of at least 100 megabits per second for download and at least 20 megabits per second for upload, unless this requirement is waived for a specific project or location and a different speed level is approved by the division, but under no circumstances less than 25 megabits per second download and 3 megabits per second upload; provided further that applicants for grant funding under this section may include incorporated organizations, Native American tribes or tribal organizations, local units of government, or a group of any of the above entities; provided further that an applicant for grant funding under this section shall demonstrate suitable fiscal, technical, operational, and management capabilities as determined by the division; provided further that an applicant for grant funding under this section shall

provide certifications as to compliance with relevant safety standards as determined by the division, including the National Electrical Safety Code; provided further that an applicant for grant funding under this section shall provide certifications as to compliance with relevant workplace protections as determined by the division including the Occupational Safety and Health Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and New York State labor and employment laws; provided further that an applicant for grant funding under this section shall submit to the division a workforce plan in a format determined by the division which, to the extent practicable, shall include: (a) information relating to whether the construction workforce will be directly employed or subcontracted; (b) the anticipated size of the workforce required to carry out the proposed work; (c) a description of plans to maximize use of local or regional workforce; and (d) a description of the expected workforce safety standards and training to ensure the project is completed at a high standard. The division shall establish the procedures to solicit, receive and evaluate applications for the program consistent with rules, regulations, or guidelines established by the commissioner; provided that preference shall be given to applications that: (a) are capable of delivering speeds of 1 gigabit per second download and 1 gigabit per second upload to the end user; (b) provide service to locations in unserved areas as determined by the division; (c) commit not to impose caps on data usage on the service provided to the end-user or to block, throttle, or prioritize internet content in the general course of business; and (d) have and commit to maintaining high standards of workplace safety practices, training, certification or licensure for all relevant workers, and compliance with state and federal workplace protections.

8. ConnectAll municipal assistance program. The ConnectAll municipal assistance program is hereby established to provide grant funding to municipalities, state and local authorities, and entities established pursuant to section 99-y of the general municipal law to plan and construct infrastructure necessary to provide broadband services, support the adoption of broadband services, or other purposes for maximizing the effectiveness of municipal broadband programs as

determined by the division. For the purposes of broadband infrastructure, such grants issued pursuant to this program shall facilitate projects that, at a minimum, provide reliable internet service with consistent speeds of at least 100 megabits per second for download and at least 20 megabits per second for upload, unless this requirement is waived for a specific project or location and a different speed level is approved by the division, but under no circumstances less than 25 megabits per second download and 3 megabits per second upload; provided further that an applicant for grant funding under this section shall demonstrate suitable fiscal, technical, operational, and management capabilities as determined by the division; provided further that an applicant for grant funding under this section shall provide certifications as to compliance with relevant safety standards as determined by the division, including the National Electrical Safety Code; provided further that an applicant for grant funding under this section shall provide certifications as to compliance with relevant workplace protections as determined by the division including the Occupational Safety and Health Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and New York state labor and employment laws; provided further that an applicant for grant funding under this section shall submit to the division a workforce plan in a format determined by the division which, to the extent practicable, shall include: (a) information relating to whether the construction workforce will be directly employed or subcontracted; (b) the anticipated size of the workforce required to carry out the proposed work; (c) a description of plans to maximize use of local or regional workforce; and (d) a description of the expected workforce safety standards and training to ensure the project is completed at a high standard. The division shall establish the procedures to solicit, receive and evaluate proposals for the program consistent with, rules, regulations, or guidelines established by the commissioner; provided that preference shall be given to applications that: (a) are capable of delivering speeds of 1 gigabit per second download and 1 gigabit per second upload to the end user; (b) provide service to locations in unserved areas as determined by the division; (c) commit not to impose caps on data usage on the service provided to the end-user or to block, throttle, or prioritize internet content in the general course of

business; and (d) have and commit to maintaining high standards of workplace safety practices, training, certification or licensure for all relevant workers, and compliance with state and federal workplace protections.

9. ConnectAll innovation grant program. The ConnectAll innovation grant program is hereby established to develop, pilot, and deploy innovative models and technologies for the delivery of broadband services. Grants issued pursuant to this program shall: (a) benefit the development of innovative and new broadband solutions and technologies; (b) deploy innovative broadband technology to rural, low-income, or other areas that would be unlikely to otherwise see such deployment; (c) promote critical private sector investment in such technologies; (d) provide seed funding for the development of such technologies and products; or (e) foster collaboration between the academic research community and the business sector for such purposes. The division shall establish the procedures to solicit, receive and evaluate proposals for the program consistent with rules, regulations, or guidelines established by the commissioner.

10. ConnectAll digital equity grant program. The ConnectAll digital equity grant program is hereby established to support individuals to have the information technology capacity needed for full participation in society and the economy, including the effective implementation of a State Digital Equity Plan or any successor plan. Grants issued pursuant to this program shall be awarded in a manner and form as determined by the division consistent with all relevant federal laws, codes, rules, and regulations associated with the federal Digital Equity Act as established under the Infrastructure Investment and Jobs Act. The division shall establish such State Digital Equity Plan and the procedures to solicit, receive and evaluate proposals for the program consistent with rules, regulations, or guidelines established by the commissioner.

11. Assistance of other agencies. To effectuate the purposes of this article, the director may request from any department, division, board, bureau, commission or other agency of the state or from any public

corporation or district, and the same are authorized to provide, such assistance, services and data as will enable the office properly to carry out its functions, powers and duties hereunder.

12. New NY Broadband Program; transfer. All the functions and powers possessed by and all the obligations and duties of the state broadband program office and the New NY Broadband Program are hereby transferred and assigned to and assumed by the division.

13. Reporting. The division shall: (a) in a form and manner prescribed in accordance with the Infrastructure Investment and Jobs Act or American Rescue Plan Act, make publicly available information relevant to long term plans for the use of broadband expansion funds, the mechanisms by which the division will award such funds, the entities that will receive such funds from the division, progress reports on the use and disbursement of such funds by the division, and a comprehensive final report on the activities of the division; and

(b) every six months, beginning twelve months after the first disbursement to a grant awardee under any program established under this section, until such a time that all funds associated with all programs established under this section have been fully expended, submit a report to the governor, the temporary president of the senate, and the speaker of the assembly setting forth the activities undertaken by the program. Such reports shall include, but need not be limited to, the details of the grants and recipients, locations of the projects, and such other information as the division deems necessary and appropriate, to the extent that the production such reporting is not duplicative of federal reporting requirements associated with broadband expansion in New York state under the Infrastructure Investment and Jobs Act or American Rescue Plan Act. Such reports shall be included on the department's website and any other publicly accessible state database that list economic development programs as determined by the director.

* NB There are 2 § 16-gg's

* **§ 16-hh. Small business and entrepreneurs grant program.** 1. The corporation shall establish and support, within available

appropriations, the small business and entrepreneurs grant program, as a two-year pilot initiative of the corporation, to award grants of up to twenty-five thousand dollars, but no less than five thousand dollars, to entrepreneurs and small business owners to cover start up costs of a new small business, or to support or expand an existing small business in New York state. The corporation shall establish criteria for selection and designation of awardees which shall include, without limitation, the following requirements:

(a) any applicant for a grant under this program shall have successfully completed a training program at an entrepreneurship assistance center established pursuant to section 211 of the economic development law;

(b) an entrepreneur or small business owner shall not be eligible for more than one award under this program for the same small business; and

(c) the recipient of the grant shall agree to maintain the operations of the small business for which the grant was approved physically located in the state for at least two years after receipt of the grant, to the extent the business remains operational. Provided however that if within two years of receiving the grant, such business is found to have moved its operations outside the state, the department may seek to recapture the funds or a portion thereof.

2. The corporation may promulgate guidelines necessary to effectuate the purposes of this section including, but not limited to, guidelines setting forth procedures for submission and processing of grant applications.

* NB Repealed July 2, 2025

§ 16-ii. Empire AI consortium reports. Beginning May first, two thousand twenty-seven, and annually thereafter, the corporation shall prepare and publish on its website, an annual report on the empire AI research institute at the university of Buffalo. Such report shall include but not be limited to: detail on achieving the goals and mission of the empire AI research institute at the university of Buffalo, a summary of the state investment into the empire AI research institute at the university of Buffalo, the leveraged investment, job creation

impact, the total investment, total funding disbursed by the corporation to date, the names of the private sector and academic partners that participate in the empire AI research institute at the university of Buffalo and affirmation that any and all academic partners are recognized by the board of regents as defined in section two hundred two of the education law, a list of research areas of focus, an accounting of the total number of small businesses provided access to the supercomputing equipment, an assessment of whether or not the contract awardee, via the corporation, is in compliance with the terms and conditions of the contract with regard to the empire AI research institute at the university of Buffalo, an articulation of any additional state benefits for empire state development projects as defined in paragraph (a-3) of subdivision one of section fifty-eight of this chapter. Additionally, in all years in which the institute is fully operational, such report shall include noteworthy projects or innovations which serve to highlight the developments occurring in New York state as a result of the project.

§ 17. Bonds and notes of the corporation. (1) Subject to the provisions of section eighteen of this act, the corporation shall have the power and is hereby authorized from time to time to issue its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amounts, as, in the opinion of the corporation, shall be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on bonds and notes of the corporation, establishment of reserves to secure such bonds and notes, and all other expenditures of the corporation incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) All bonds and notes issued by the corporation may be secured by the full faith and credit of the corporation or may be payable solely out of the revenues and receipts derived from the lease, mortgage or sale by the corporation of its projects or of any thereof, all as may be designated in the proceedings of the corporation under which the bonds or notes shall be authorized to be issued. Such bonds and notes may be executed and delivered by the corporation at any time and from time to

time, may be in such form and denominations and of such tenor and maturities, may be in bearer form or in registered form, as to principal and interest or as to principal alone, all as the corporation may determine.

(3) Bonds may be payable in such installments and at such time or times not exceeding fifty years from the date thereof, as shall be determined by the corporation.

(4) Notes, or any renewals thereof, may be payable in such installments and at such time or times as shall be determined by the corporation, not exceeding ten years from the date of the original issue of such notes.

(5) Bonds and notes may be payable at such place or places whether within or without the state, may bear interest at such rate or rates payable at such time or times and at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided in the proceedings of the corporation under which the bonds or notes shall be authorized to be issued.

(6) If deemed advisable by the corporation, there may be retained in the proceedings under which any bonds or notes of the corporation are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be recited in the face of the bonds or notes, but nothing herein contained shall be construed to confer on the corporation any right or option to redeem any bonds or notes except as may be provided in the proceedings under which they shall be issued.

(7) Any bonds or notes of the corporation may be sold at such price or prices, at public or private sale, in such manner and from time to time as may be determined by the corporation, and the corporation may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof. No bonds or notes of the corporation may be sold at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller where such sale is not to the comptroller, or (b) the state director of the budget, where such sale is to the comptroller.

(8) Any moneys of the corporation, including proceeds from the sale of any bonds or notes, and revenues, receipts and income from any of its

projects or mortgages, may be invested and reinvested in such obligations, securities and other investments as shall be provided in the resolution or resolutions under which such bonds or notes are authorized.

(9) Issuance by the corporation of one or more series of bonds or notes for one or more purposes shall not preclude it from issuing other bonds or notes in connection with the same project or any other project, but the proceedings whereunder any subsequent bonds or notes may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds or notes unless in the proceedings authorizing such prior issue the right is reserved to issue subsequent bonds or notes on a parity with such prior issue.

(10) The corporation is authorized to provide for the issuance of its bonds or notes for the purpose of refunding any bonds or notes of the corporation then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of such bonds or notes, and, if deemed advisable by the corporation, for the additional purpose of paying all or any part of the cost of acquiring, constructing, reconstructing, rehabilitating, or improving any project, or the making of any mortgage loan on any project. The proceeds of any such bonds or notes issued for the purpose of refunding outstanding bonds or notes, may, in the discretion of the corporation, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds or notes either on their earliest or any subsequent redemption date, and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the corporation. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations of or guaranteed by the United States of America, or in certificates of deposit or time deposits secured in such manner as the corporation shall determine, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, on the outstanding bonds or notes to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds or notes to be so refunded. After the terms of the

escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the corporation for use by it in any lawful manner. The portion of the proceeds of any such bonds or notes issued for the additional purpose of paying all or any part of the cost of acquiring, constructing, reconstructing, rehabilitating, or improving any project, or the making of any mortgage loan on any project, may be invested and reinvested in obligations of or guaranteed by the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost, or the making of any such mortgage loan. The interest, income and profits, if any, earned or realized on such investments may be applied to the payment of all or any part of such cost, or the making of any such mortgage loan, or may be used by the corporation in any lawful manner. All such bonds or notes shall be issued and secured and shall be subject to the provisions of this act in the same manner and to the same extent as any other bonds or notes issued pursuant to this act.

§ 18. Bond authorization. The corporation shall not issue bonds and notes in an aggregate principal amount exceeding one billion two hundred ninety-five million dollars, excluding (1) bonds and notes issued to refund or otherwise repay outstanding bonds and notes of the corporation or of the New York state project finance agency, (2) notes issued by the corporation to evidence eligible loans made to the corporation pursuant to the New York state project finance agency act, and (3) bonds and notes issued with the approval of the state director of the budget and the New York state public authorities control board which are secured by and payable solely out of a specific project, other than a residential project, undertaken by the corporation subsequent to June first, nineteen hundred seventy-seven, and the revenues and receipts derived therefrom, without recourse against other assets of the corporation or against a debt service reserve fund to which state funds are apportionable pursuant to subdivision three of section twenty of this act, provided that the corporation shall not issue bonds or notes pursuant to this clause (3) if (a) (i) the arrangements under which the

project is undertaken do not provide for annual real property taxes, or payments in lieu of real property taxes, on the real property included in the project securing such bonds or notes which together at least equal the average annual real property taxes which were paid with respect to such real property for three years prior to the acquisition of such project or any portion thereof by the corporation or a subsidiary thereof, and (ii) after a public hearing, the local legislative body of the city, town or village in which such project is to be located has not consented to such arrangements, provided, however, that in a city having a population of one million or more such consent shall be given by the board of estimate of such city, or (b) the aggregate principal amount of any such bonds and notes is less than twice the amount of any moneys appropriated by the state and made available by the corporation to the project securing such bonds and notes, or (c) the aggregate principal amount of the bonds and notes issued pursuant to this clause (3) will thereby exceed three hundred seventy-nine million dollars, excluding bonds and notes issued to refund or otherwise repay outstanding bonds and notes issued pursuant to this clause (3), provided, however, that the corporation may provide for a pooled financing arrangement with regard to bonds issued for the purposes of financing the construction of the Center for Computers, Microelectronics and Telecommunications at Columbia University, the Center for Science and Technology at Syracuse University, the Cornell Super Computer Center at Cornell University, the Onondaga County Convention Center Complex, the Center for Advanced Materials Processing at Clarkson University, the Center for Electro-Optic Imaging at University of Rochester, the Center for Neural Science at New York University, the Alfred University Incubator Facilities in Allegany County and Steuben County, the Broadway Redevelopment Project, and the Sematech Semiconductor facility, and, that the aggregate amount of bonds which may be issued pursuant to this clause (3) shall be increased above the amounts in the following schedule for the purposes of providing for the costs of issuance including any debt service reserve requirements that may be necessary in accordance with the following schedule:

Schedule

Project	Amount
The Carborundum Company	

Niagara Falls.....	4,400,000
Hooker Chemicals & Plastics Corporation	
Niagara Falls.....	13,500,000
Moog, Inc.	
Town of Elma.....	8,925,000
Sybron Corporation	
Rochester.....	6,600,000
Refined Syrups & Sugars, Inc.	
Yonkers.....	7,500,000
Sheraton Hotel	
Utica.....	4,300,000
Urban Renewal Parcel	
Office Building	
Utica.....	5,000,000
Downtown Retail Center	
Binghamton.....	3,000,000
American Stock Exchange/Office Facility	
New York City.....	-0
New Printing Plant	
New York City (Bronx).....	16,000,000
New Electronics Manufacturing Plant	
New York City (Bronx).....	8,000,000
Savin Corporation	
Binghamton.....	6,000,000
Industrial Renewal Project	
New York City (Brooklyn).....	2,700,000
Manufacturing Plant Expansion	
New York City (Bronx).....	15,000,000
Shopping Mall	
City of Buffalo.....	2,100,000
Nettleton Shoe	
Syracuse.....	2,200,000
Batten Kill Railroad Project	
Warren/Washington Counties.....	2,250,000
Carrier Corporation	
Onondaga County.....	27,000,000
Center for Industrial Innovation	

City of Troy.....	33,000,000
Fordham Plaza	
New York City (Bronx).....	10,000,000
Freezer Queen Foods, Inc.	
Buffalo.....	2,380,000
Chelsea Homes Project	
Marlboro (Ulster County).....	2,700,000
Columbia University	
Center for Computers, Microelectronics and Telecommunications	
City of New York.....	36,000,000
Syracuse University	
Center for Science and Technology	
City of Syracuse.....	27,000,000
Cornell University	
Cornell Super Computer Center	
City of Ithaca.....	5,000,000
Onondaga County Convention	
Center Complex at Syracuse.....	40,000,000
Clarkson University	
Center for Advance	
Materials Processing.....	23,500,000
University of Rochester	
Center for Elector-Optic Imaging.....	10,000,000
New York University	
Center for Neural Science.....	5,000,000
Alfred University Incubator Facilities in	
Allegany County and Steuben County.....	10,000,000
Broadway Redevelopment Project	
at Schenectady.....	5,500,000
Albany International	
East Greenbush (Rensselaer County).....	2,500,000
Sematech Semi-Conductor Facility	
New York State.....	40,000,000
Stony Brook Incubator	
Project.....	2,305,000

Total of Schedule..... \$389,360,000
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The amounts in the above schedule are interchangeable among the projects listed but in no case may be used to fund or initiate any other project.

§ 19. Security for bonds or notes; construction and acquisition of projects. (1) The principal of and interest on any bonds or notes issued by the corporation may be secured by a pledge of any revenues and receipts of the corporation and may be secured by a mortgage or other instrument covering all or any part of a project, including any additions, improvements, extensions to or enlargements of any projects thereafter made.

(2) Bonds or notes issued for the acquisition, construction, reconstruction, rehabilitation, or improvement of a project may also be secured by an assignment of any lease of or mortgage on such project and by an assignment of the revenues and receipts derived by the corporation from any such lease or mortgage.

(3) The resolution under which the bonds or notes are authorized to be issued and any such mortgage, lease or other instrument may contain agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents or other revenues therefrom, including monies received in repayment of mortgage loans, and interest thereon, the creation and maintenance of special funds from such rents or other revenues and the rights and remedies available in the event of default, all as the corporation shall deem advisable.

(4) Each pledge, agreement, mortgage or other instrument made for the benefit or security of any of the bonds or notes of the corporation shall continue effective until the principal of and interest on the bonds or notes for the benefit of which the same were made shall have been fully paid, or until provision shall have been made for such payment in the manner provided in the resolution or resolutions under which the same may be authorized.

(5) The corporation may provide in any proceedings under which bonds or notes may be authorized that any project or part thereof may be

constructed, reconstructed, rehabilitated or improved by the corporation, any subsidiary, or any lessee or any designee of the corporation, and may also provide in such proceedings for the time and manner of and requisites for disbursements to be made for the cost of such construction, and for all such certificates and approvals of construction and disbursements as the corporation shall deem necessary and provide for in such proceedings.

(6) Any resolution or resolutions or trust indenture or indentures under which bonds or notes of the corporation are authorized to be issued may contain provisions for vesting in a trustee or trustees such properties, rights, powers and duties in trust as the corporation may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of any issue of notes or bonds pursuant to section twenty-seven of this act, in which event the provisions of said section twenty-seven authorizing the appointment of a trustee by such holders of bonds or notes shall not apply.

(7) It is the intention hereof that any pledge or assignment for security made by the corporation shall be valid and binding from the time when the same is made; that the monies or property so pledged or assigned and then held or thereafter received by the corporation shall immediately be subject to the lien or security interest of such pledge or assignment without any physical delivery thereof or further act; and that the lien or security interest of any such pledge or assignment shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which any such pledge or assignment is created need be recorded, and no filing with respect to such pledge or assignment need be made under the uniform commercial code.

§ 20. Reserve funds and appropriations. (1) The corporation may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such reserve funds (a) any moneys appropriated and made available by the state for the purposes of such funds, (b) any proceeds of sale of bonds and notes to the extent

provided in the resolution of the corporation authorizing the issuance thereof, and (c) any other moneys which may be made available to the corporation for the purposes of such funds from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this subdivision, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the corporation secured by such reserve fund, as the same mature, the purchase of such bonds of the corporation, the payment of interest on such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the corporation then outstanding and secured by such reserve fund, except for the purpose of paying principal and interest on the bonds of the corporation secured by such reserve fund maturing and becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred to any other fund or account of the corporation to the extent it does not reduce the amount of such debt service reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the corporation then outstanding and secured by such reserve fund.

(2) The corporation shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the corporation, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds then to be issued and on all other bonds of the corporation then outstanding and secured by such reserve fund.

(3) To assure the continued operation and solvency of the corporation for the carrying out of the public purposes of this act provision is made in subdivision one of this section for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the corporation then outstanding and secured by such reserve fund. In order further to assure the maintenance of such debt service reserve funds, there shall be annually apportioned and paid to the corporation for deposit in each debt service reserve fund such sum, if any, as shall be certified by the chairman of the corporation to the governor and state director of the budget as necessary to restore such reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the corporation then outstanding and secured by such reserve fund. The chairman of the corporation shall annually, on or before December first, make and deliver to the governor and state director of the budget his certificate stating the sum, if any, required to restore each such debt service reserve fund to the amount aforesaid, and the sum or sums so certified, if any, shall be apportioned and paid to the corporation during the then current state fiscal year.

(4) In computing any debt service reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the corporation.

(5) With respect to any project, the corporation may create and establish a special fund to be known as the project reserve fund and deposit therein (a) any moneys appropriated and made available by the state for the purposes of such fund, (b) such amount as may be determined by the corporation in connection with any lease by the corporation to others to be charged to such lessee for deposit in such fund, and (c) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or sources. All moneys held in or credited to any project reserve fund shall be first used for the payment of the principal of and interest on the bonds or notes of the corporation issued for the project secured by such project reserve fund in the event that other moneys of the

corporation, other than moneys held in the debt service reserve fund, are not available for such purpose. Upon the retirement of the bonds or notes of the corporation issued for the project secured by such project reserve fund, moneys so held in such fund may be used by the corporation for any lawful purpose.

§ 21. Trust funds. All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or notes or as revenues, receipts or income, shall be deemed to be trust funds to be held and applied solely as provided in the proceedings under which such bonds or notes are authorized. Any officer with whom or any bank or trust company with which such moneys shall be deposited as trustee thereof shall hold and apply the same for the purposes thereof, subject to such provisions as this act and the proceedings authorizing the bonds or notes of any issue or the trust agreement securing such bonds or notes may provide.

§ 22. Exemption from taxation. The exercise of the powers granted by this act will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and will constitute the performance of an essential governmental function and the corporation and its subsidiaries shall not be required to pay any taxes, other than assessments for local improvements, upon or in respect of a project or of any property or moneys of the corporation or any of its subsidiaries, levied by any municipality or political subdivision of the state, nor shall the corporation or its subsidiaries be required to pay state taxes of any kind, and the corporation, its subsidiaries, projects, property and moneys and, except for estate and gift taxes and taxes on transfers, any bonds or notes issued under the provisions of this act and the income therefrom, shall at all times be free from taxation of every kind by the state and by the municipalities and all other political subdivisions of the state.

§ 23. Notes and bonds as legal investments. The notes and bonds of the corporation are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

§ 24. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds or notes issued under this act, that the state will not limit or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such bonds or notes, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes.

§ 25. State's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the corporation to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published at

least twice in at least two newspapers publishing and circulating respectively in the cities of Albany and New York, the first publication to be at least thirty days before the date of redemption. The provisions of this section relating to the state's right to require redemption of bonds shall not apply to state-supported debt, as defined by section 67-a of the state finance law, issued by the corporation. Such corporation bonds shall remain subject to redemption pursuant to any contract with the holders of such bonds.

§ 26. State payments to municipalities and political subdivisions. In order to prevent undue loss of revenues to municipalities and political subdivisions, there shall be annually apportioned and paid by the state, during the then current state fiscal year, to any municipality or political subdivision in which an industrial project is located, a sum equal to one hundred per centum of the average annual real property taxes paid or due to such municipality or political subdivision on the real property constituting the project site for three years prior to the time of its acquisition by the corporation or subsidiary thereof, or in the case of real property acquired by the corporation from an urban renewal agency or from a municipality which acquired such property for urban renewal purposes, for three years prior to the time of its acquisition by such urban renewal agency or municipality. The chairman of the corporation shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sum, if any, required to be paid to each municipality and political subdivision by reason of tax exemptions for industrial projects received pursuant to section twenty-two of this act, and the sum or sums so certified, if any, shall be apportioned and paid to each such municipality and political subdivision, as provided herein. Such apportionment and payment shall also be made to each municipality and political subdivision in which is located real property of the corporation as to which no project findings have been made by the corporation, pursuant to section ten hereof, and the chairman of the corporation shall certify the sums required to be paid in respect of such real property, and the state shall apportion and pay such sums, if any, in the manner provided herein.

§ 27. Remedies of noteholders and bondholders. (1) In the event that the corporation shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the corporation shall fail or refuse to comply with the provisions of this act, or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, to require the corporation to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this act;

(b) bring suit upon such notes or bonds;

(c) by action or suit, require the corporation to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

(3) Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and

protection of their rights.

(4) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county in which the principal office of the corporation is located.

(5) Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days notice in writing to the governor, to the corporation, and to the attorney general of the state.

§ 28. Monies of the corporation. (1) All monies of the corporation, except as otherwise authorized or provided in this act, shall be paid to the commissioner of taxation and finance as agent of the corporation, who shall not commingle such monies with any other monies. Such monies shall be deposited in a separate bank account or accounts. The monies in such accounts shall be paid out on checks signed by the commissioner of taxation and finance on requisition of the chairman of the corporation or of such other officer or employee or officers or employees as the corporation shall authorize to make such requisition. All deposits of such monies shall, if required by the commissioner of taxation and finance or the corporation, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits.

Notwithstanding the provisions of this section, the corporation shall have power to contract with the holders of any of its notes or bonds, as to the custody, collection, securing, investment, and payment of any monies of the corporation, of any monies held in trust or otherwise for the payment of notes or bonds, and to carry out such contract. Monies held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such monies may be secured in the same manner as monies of the corporation, and all banks and trust companies are authorized to give such security for such deposits.

(2) Subject to agreements with noteholders and bondholders and the approval of the comptroller, the corporation shall prescribe a system of accounts.

(3) The comptroller, or his legally authorized representative, is hereby authorized and empowered from time to time to examine the books and accounts of the corporation including its receipts, disbursements, contracts, reserve funds, sinking funds, investments, and any other matters relating to its financial standing. Such an examination shall be conducted by the comptroller at least once in every five years; the comptroller is authorized, however, to accept from the corporation, in lieu of such an examination, an external examination of its books and accounts made at the request of the corporation.

(4) The corporation shall submit to the governor, chairman of the senate finance committee, chairman of the assembly ways and means committee and the comptroller, within thirty days of the receipt thereof by the corporation, a copy of the report of every external examination of the books and accounts of the corporation other than copies of the reports of such examinations made by the comptroller.

§ 29. Assistance by state officers, departments, boards and commissions. (1) The department of audit and control, department of law, and all other state agencies may render such services to the corporation within their respective functions as may be requested by the corporation.

(2) Upon request of the corporation, any state agency is hereby authorized and empowered to transfer to the corporation such officers and employees as it may deem necessary from time to time to assist the corporation in carrying out its functions and duties under this act. Officers and employees so transferred shall not lose their civil service status or rights.

(3) In order most effectively to carry out its corporate purposes, the corporation shall assist and cooperate with the corporation for urban development and research of New York, created by the New York state urban development and research act.

§ 30. Reports and evaluations. (a) Annual fiscal report. The corporation shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means

committee, the comptroller and the director of the budget within 6 months after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the corporation for its operating and capital outlay purposes, including a listing of all private consultants engaged by the corporation on a contract basis and a statement of the total amount paid to each such private consultant; (3) its assets and liabilities at the end of its fiscal year, including a schedule of its leases and mortgages and the status of reserve, special or other funds; and (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

(b) Annual program report. The corporation shall report on an annual basis beginning October 1, 2005, and on each October 1 thereafter, to the governor, the chairpersons of the senate committees on finance, commerce, economic development and small business, and corporations, authorities and commissions, the chairpersons of the assembly committees on ways and means, economic development, job creation, commerce and industry, corporations, authorities and commissions, and small business on each of the financial assistance programs, and for each program, each category of assistance administered by the corporation, identifying each proposal for assistance through such program for which the corporation has received a formal application or otherwise has begun to undertake an analysis.

(1) For those requests which are currently being evaluated but which have not yet been approved such description shall include, but not be limited to, the name and location of the applicant, the amount of assistance requested, the date of receipt of such request, and the status of such request.

(2) In providing such report, where necessary to promote the development of proposed projects, the corporation may delete references to the specific names of the participants, instead making references to them in some other form so as to make it possible to identify the progress of specific proposals.

(3) Such report shall provide a breakdown, for each of the regions established pursuant to section 230 of the economic development law, of

proposals for assistance through each program. In addition, such report shall summarize, by program, the data reported pursuant to this paragraph.

(4) For those requests which have been evaluated and for which no further action has been recommended, the corporation shall present summary data indicating why no further action was taken.

(5) The corporation shall make available to each of the legislative committees specified in this subdivision, a copy of the materials provided to its board prior to each board meeting.

(c) Evaluations. (1) In addition to any other requirements imposed by the act or otherwise regarding evaluations of programs administered by the corporation, each evaluation shall include an analysis of the job creation effect of such program, the number of small businesses that received assistance, the number of minority and women-owned firms that received assistance, the number of projects undertaken in distressed and highly distressed communities, and, if applicable, the repayment experience of borrowers of funds from the corporation.

(2) (i) In the case of any assistance programs administered by the corporation for which independent evaluations are not otherwise required, the corporation shall submit to the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee an evaluation of such programs prepared by an entity independent of the corporation. Such evaluations shall be submitted by September 1, 2005 and by September 1 every four years thereafter.

(ii) Between evaluation due dates, the corporation shall maintain the necessary records and data required to satisfy such evaluation requirements and to satisfy information requests received from the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee between such evaluation due dates.

§ 30-a. With respect to applications for assistance submitted pursuant to this act:

(a) The corporation shall, upon receipt of an application or other formal request for funding for any project, provide notice of such

application or request within ten days of such receipt to the senator and member of assembly representing the district in which such project is to be located;

(b) The corporation shall provide copies of all correspondence relating to each such application to such senator or member of assembly on a timely basis; provided, however, that proprietary information may be withheld from such correspondence if such senator and member of assembly is given notice that such information has been withheld;

(c) Such senators and members of assembly shall be provided notice of all proceedings relating to such application and shall be invited to participate in such proceedings. A copy of such notice shall also be provided to the designees of the temporary president of the senate and the speaker of assembly;

(d) Such senators and members of assembly shall be provided with notice of the final disposition of the application by the corporation and the reasons for such disposition;

(e) In order to ensure that the funds appropriated for existing statutory programs are approved in a equitable, ratable and timely manner, the corporation shall:

(1) require all projects, including those in an amount of fifty thousand dollars or less, be approved by the governing board of the corporation and included in the agenda and the minutes of the meetings of the board, accompanied by a summary of the proposed project and the source of funds used to finance the project; and

(2) require projects to be financed out of the empire state economic development fund be approved generally in amounts which are proportional to amounts appropriated for the urban and community development program, and the minority and women-owned business development and lending program;

(f) The corporation shall accept no funds through transfer from the department of economic development for personal or nonpersonal service expenses, except for economic development program funds where such transfer will facilitate the prompt and effective distribution of program funds to projects, provided that those funds are used for the statutory purposes for which they were appropriated to the department of economic development;

(g) No later than twenty days after the end of each fiscal year

quarter, the chairman of the urban development corporation shall:

(1) report to the senate majority leader and the speaker of the assembly on the status of all economic development programs administered during the current fiscal year. Such report shall include but not be limited to:

(A) a cumulative summary of commitments and disbursements by year of original appropriation;

(B) the geographic distribution of approved projects;

(C) the extent to which approved projects are expected to create or retain jobs in New York state; and

(D) the impact of approved projects, where quantified and available, on distressed urban and rural communities, small- and medium-sized businesses, and strategic industries.

(2) Copies of such report shall also be provided to the designees of the temporary president of the senate and the speaker of the assembly in both paper and electronic format;

(h) If: (1) such report is not submitted on or before the required date, or (2) the corporation has failed to undertake a good faith effort to comply with this act, upon a written determination of non-compliance issued, not more than quarterly, by either the temporary president of the senate or speaker of the assembly, the corporation agrees that it shall approve no further project commitments from the empire state economic development fund and no state funds appropriated from the local assistance account shall be allocated to the corporation for such commitments until such report is submitted or the corporation provides evidence of good faith effort to be in compliance with provisions hereof; and

(i) Upon the issuance of such a determination of non-compliance, the corporation shall undertake the necessary acts to comply with this agreement and shall provide evidence of such compliance within ten days of receipt of such determination.

§ 31. Court proceedings; preferences; venue. Any action or proceeding to which the corporation or the people of the state of New York may be parties, in which any question arises as to the validity of this act, shall be preferred over all other civil causes except election causes in

all courts of the state of New York and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the corporation in any action or proceeding questioning the validity of this act in which he may be allowed to intervene. The venue of any such action or proceeding shall be laid in the county in which the principal office of the corporation is located.

§ 31-a. Actions against corporation. Except in an action for wrongful death, in any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the corporation, any of its subsidiary corporations, or any officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. No such action shall be commenced more than one year and ninety days after the cause of action therefor shall have accrued. An action for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

§ 32. Special provisions relating to directors of the corporation and members of the business advisory council for urban development.

Notwithstanding the provisions of any other law, any state instrumentality, including any state agency, trust fund or public benefit corporation other than the corporation, may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any corporation, trust, association, partnership or other entity in which any director of the corporation or any member of the business advisory council for urban development, created by section four of this act, has a financial interest, direct or indirect, and the corporation may engage in any such transaction with any other state instrumentality with which any director of the corporation is affiliated as a state officer or employee, provided that prior to such transaction such interest or affiliation is disclosed to such other state instrumentality and is

disclosed in the minutes of the corporation, and provided further that no director having such an affiliation (except such an affiliation with a subsidiary corporation of the corporation organized in accordance with section twelve of this act or with any authority or commission heretofore or hereafter continued or created under the public authorities law) may participate in any decision of the corporation affecting such transaction.

§ 33. Inconsistent provisions of other laws superseded. Insofar as the provisions of this act are inconsistent with the provisions of any other law, general, special or local, the provisions of this act shall be controlling.

§ 34. Construction. This act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its purposes.

§ 35. Separability. If any clause, sentence, paragraph, 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, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 36. Limitation on new projects

The corporation shall not expend any proceeds of the sale of assets to, or borrowings from, the New York state project finance agency for the construction or development of any new project which on February twenty-fifth, nineteen hundred seventy-five, was not under construction by the corporation, or the subject of a contract or legally binding commitment for the construction or financing thereof by the corporation,

except for expenditures related to the prompt and orderly termination of the corporation's activities in relation to a project that was not under construction or subject to such a contract or legally binding commitment on that date.

§ 37. Assistance; application and evaluation, generally. (1) The corporation shall develop guidelines for application for assistance through each of its programs which are consistent with the rules published pursuant to section 9-c of this act and pursuant to the state administrative procedure act. Guidelines shall provide clear guidance to potential applicants as to criteria for program eligibility, and shall specify criteria used by the corporation in evaluating applications.

(2) The corporation shall prepare forms, application procedures and evaluation processes which are consistent with the rules and guidelines promulgated by the corporation and which are developed with the goal of making them easily understandable to applicants.

(3) The corporation shall make available, with the department of economic development, applications and guidance to applicants for each of its programs of assistance at the regional offices of the department of economic development.

(4) The corporation shall establish, by rule, procedures for (i) the notification to each applicant for assistance of the receipt of such application; (ii) notification to each applicant for assistance of such additional materials as the corporation requires for evaluation of such application; and (iii) periodic notifications not exceeding thirty days apart to each applicant of the status of such application. Such rule shall specify uniform time periods within which the corporation shall make the notifications required by this paragraph.

(5) Whenever possible, the corporation shall render a determination on an application within thirty working days of the receipt of a completed application including necessary documentation. In the event that a determination cannot be reached within the thirty working day period, the corporation shall submit to the applicant a statement of the reasons for such delay upon or prior to the expiration of the thirty working day period.

(6) Upon approval of an application for financial assistance, the

corporation shall inform the recipient of all steps which must be taken in order to receive the promised assistance. The requirements imposed by the corporation shall be pursuant to statute or rules adopted pursuant to the state administrative procedure act.

§ 38. Small business and minority-owned and women-owned business enterprises transportation capital assistance and guaranteed loan program.

1. To provide financial assistance to small business and minority-owned and women-owned business enterprises engaged in government sponsored, transportation related construction projects, the corporation shall establish a small business and minority-owned and women-owned business enterprise transportation capital assistance revolving loan fund which shall provide loans or loan guarantees to small business and minority-owned and women-owned business enterprises. For purposes of this section: (a) the term small business shall have the same meaning as defined in section one hundred thirty-one of the economic development law and (b) the term project shall mean a project of state agency or authority that sponsors transportation related construction projects and participates in this program and any definition of project contained elsewhere in this act shall not apply.

2. Such loans, or loan guarantees for loans made by federally and state chartered credit institutions, financial institutions, and federally insured banking organizations to small business and minority-owned and women-owned business enterprises, shall be used to (a) enable such businesses, through the acquisition, leasing or improvement of real property, machinery or equipment, or through the provision of working capital to secure service, commodity or construction contracts; (b) restore working capital to such businesses which have successfully completed work under a contract but whose liquidity has been adversely affected by problems resulting from delayed payments; and (c) ensure the completion of the work associated with a governmental service, commodity or construction contract in order to prevent default on such contract.

3. (a) To be eligible for such loans or loan guarantees (i) a

minority-owned or women-owned business enterprise must be certified as a minority-owned or women-owned business enterprise pursuant to article 15-A of the executive law; and (ii) a small business or a minority-owned or women-owned business enterprise shall have a contract or sub-contract to provide goods or services related to a government sponsored, transportation related construction project.

(b) Only such business enterprises referred to the corporation by a written application of a state agency or authority that sponsors transportation related construction projects shall be eligible for program assistance. Such assistance shall be provided to such an enterprise only in connection with its performance as a contractor or sub-contractor on a specific transportation related project of the referring agency or authority. In order for such an agency or authority to refer such enterprises to the corporation, such agency or authority shall enter into a master agreement with the corporation covering procedures and requirements for providing program assistance. The corporation shall determine whether or not to approve such an agency's or authority's written application for program assistance to such a business within twenty business days of the corporation's receipt of such application. If it approves the application, the corporation will provide assistance pursuant to the applicable master agreement.

4. The corporation shall give preference to minority-owned and women-owned business enterprises in making such loans and loan guarantees and shall establish such other criteria as it may deem necessary for this program and for any required amount that shall be held in reserve for any guarantees made under this program.

5. Notwithstanding any inconsistent provision of law, general, special or local, including pursuant to capital projects budget appropriations or reappropriations, where applicable, the corporation is hereby authorized to enter into such agreements as may be necessary for the operation and administration of a small business and minority-owned and women-owned business enterprises transportation capital assistance and guaranteed loan program.

6. The corporation is authorized to establish a revolving loan fund

account into which funds may be received and from which funds may be expended for the aforementioned purposes.

7. The provisions of section ten and subdivision two of section sixteen of this act shall not apply to assistance provided under this program.

§ 39. Lease and operation of seventh regiment armory. (a) The corporation is hereby authorized to act on behalf of the state and the division of military and naval affairs to enter into a lease or subsequent leases and the management agreement on behalf of the state and the division with a lessee, subsequent lessee or the manager pursuant to the terms of the management agreement in order to accomplish the purposes of this section. The leasing of the armory to a lessee or subsequent lessee and the entrance into the management agreement and the repair, restoration and refurbishment of the armory and operation thereof by a lessee or subsequent lessee for cultural and other civic uses pursuant to the lease is hereby declared to be a valid use under the city lease, and is undertaken for public purposes.

(b) The lease with a lessee or subsequent lessee authorized by this section shall require a lessee or subsequent lessee to undertake a program of repair, restoration and refurbishment of the armory and to manage and use the same as a facility for cultural and other civic uses. The lease shall demise all portions of the armory other than those reserved for a homeless shelter for women operated by the city of New York pursuant to agreement with the state, those spaces reserved for use by a legacy cadet corps program pursuant to an agreement between the division and the state of New York, and for that reserved for military use by the division. The portion of the premises allocated to the shelter for homeless women shall be sufficient and suitable space for the current and uninterrupted operation of the shelter by the city of New York. The portion of the premises allocated to a legacy cadet corps program shall be sufficient and suitable space for the current and uninterrupted operation, provided that it is no less than twelve hundred square feet for their headquarters. The division shall cause the 107th corps support group or its lineal descendent to maintain military use

within the reserved portions of the armory. The division, and the city of New York, respectively, shall be responsible to repair and maintain their reserved premises, including the costs of renovation and uninterrupted use, and to pay an annual common maintenance charge to a lessee or subsequent lessee to cover allocated costs of repair, maintenance and operation of the common portions of the armory. The lessee or subsequent lessee shall be required to apply all revenues generated by operations at the armory to pay or provide for costs of repairs, restoration, refurbishment, operating, maintenance and programming of the armory and the uses therein and the activities of the lessee or subsequent lessee with respect thereto.

(c) The corporation, in carrying out its authorization under this section may exercise all of the power granted it in law, as if fully enumerated herein. Without limiting the generality of the foregoing, the powers granted to the corporation under sections sixteen and twenty-two of this act shall be utilized by the corporation in its administration of the lease, and shall be applicable in respect to the repair, restoration, refurbishment and operation of the armory pursuant to the lease.

(d) In no event shall the lessee or subsequent lessee be deemed a state actor or an agent or an instrumentality of the state by reason of the lease or this section or any of the activities of the lessee or subsequent lessee with respect to the armory pursuant to the lease or this section.

(e) Except with respect to military use or periods of civil or military emergency, for any action involving the armory that may have a significant effect on the environment, the corporation shall be the lead agency having principal responsibility for carrying out or approving such action for purposes of article eight of the environmental conservation law.

§ 41. International computer chip research and development center. 1. Notwithstanding the provisions of any other law to the contrary, the urban development corporation is hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs at the College of Nanoscale Science and Engineering of the University at

Albany - State University of New York for the development and/or expansion of an international computer chip research and development center, including but not limited to the construction and renovation, purchase and installation of equipment or other state costs associated with the project at the College of Nanoscale Science and Engineering of the University at Albany - State University of New York. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed three hundred million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such 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 the state to the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the corporation in undertaking the financing of the development and/or expansion of an international computer chip research and development center, including but not limited to the construction and renovation, purchase and installation of equipment, or other state costs associated with the project, the director of the budget is hereby authorized to enter into one or more service contracts with the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the corporation agree, so as to annually provide to the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond

the monies available for such purpose, subject to annual appropriation by the legislature. Any such 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 by this act.

3. The corporation, in conjunction with the College of Nanoscale Science and Engineering of the University at Albany-State University of New York, shall develop a program and financing plan for the project. Upon certification by the corporation, copies of such plan shall be filed with the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee. Further, the corporation shall provide an annual report to the director of the budget, chair of the senate finance committee and the chair of the assembly ways and means committee detailing the use of state assistance for the project and the progress of the project in meeting the performance criteria set forth on the program and financing plan. Such report shall be submitted by March thirty-first, two thousand eight and March thirty-first thereafter for a period not to exceed seven years.

§ 42. New York state modernization projects. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the Roosevelt Island operating corporation related to the modernization of the aerial tramway, critical maintenance and improvement projects on Governor's Island, redevelopment initiatives at the Harriman research and technology park and USA Niagara and other state costs associated with such projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed fifty million four hundred fifty thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and 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 the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for the Roosevelt Island operating corporation related to the modernization of the aerial tramway, critical maintenance and improvement projects on Governor's Island, redevelopment initiatives at the Harriman research and technology park and USA Niagara and other state costs associated with such projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

§ 43. 2008 and 2009 Economic development initiatives. 1.

Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project

costs for various economic development and regional initiatives, the upstate regional blueprint fund, the downstate revitalization fund, the upstate agricultural economic fund, the New York state capital assistance program, the New York state economic development assistance program and other state costs associated with such projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed one billion two hundred sixty-nine million four hundred fifty thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and 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 the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for various economic development and regional initiatives, the upstate regional blueprint fund, the downstate revitalization fund, the upstate agricultural economic fund, the New York state capital assistance program, the New York state economic development assistance program and other state costs associated with such projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount

therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

§ 44. Issuance of certain bonds or notes. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the regional economic development council initiative, the economic transformation program, state university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state economic development fund, the clarkson-trudeau partnership, the New York genome center, the Cornell university college of veterinary medicine, the olympic regional development authority, projects at nano Utica, Onondaga county revitalization projects, Binghamton university school of pharmacy, New York power electronics manufacturing consortium, regional infrastructure projects, high tech innovation and economic development infrastructure program, high technology manufacturing projects in Chautauqua and Erie county, an industrial scale research and development facility in Clinton county, upstate revitalization initiative projects, downstate revitalization initiative, market New York projects, fairground buildings, equipment or facilities used to house and promote agriculture, the state fair, the empire state trail, the moynihan station development project, the Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, water infrastructure in the city of Auburn and town of Owasco, a life sciences laboratory public health initiative, not-for-profit pounds, shelters and humane societies, arts and cultural facilities improvement program, restore New York's communities

initiative, heavy equipment, economic development and infrastructure projects, Roosevelt Island operating corporation capital projects, Lake Ontario regional projects, Pennsylvania station and other transit projects, athletic facilities for professional football in Orchard Park, New York, Rush - NY, New York AI Consortium, New York Creates UEV Tool, and other state costs associated with such projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed twenty-six billion four hundred ninety-eight million four hundred fifty-three thousand dollars \$26,498,453,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and 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 the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for project costs for the regional economic development council initiative, the economic transformation program, state university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state economic development fund, the clarkson-trudeau partnership, the New York genome center, the cornell university college of veterinary medicine, the olympic regional development authority, projects at nano Utica, onondaga county revitalization projects, Binghamton university school of pharmacy, New York power electronics manufacturing consortium, regional infrastructure projects, New York State Capital Assistance Program for Transportation, infrastructure, and economic development,

high tech innovation and economic development infrastructure program, high technology manufacturing projects in Chautauqua and Erie county, an industrial scale research and development facility in Clinton county, upstate revitalization initiative projects, downstate revitalization initiative, market New York projects, fairground buildings, equipment or facilities used to house and promote agriculture, the state fair, the empire state trail, the moynihan station development project, the Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, water infrastructure in the city of Auburn and town of Owasco, a life sciences laboratory public health initiative, not-for-profit pounds, shelters and humane societies, arts and cultural facilities improvement program, restore New York's communities initiative, heavy equipment, economic development and infrastructure projects, Roosevelt Island operating corporation capital projects, Lake Ontario regional projects, Pennsylvania station and other transit projects, athletic facilities for professional football in Orchard Park, New York, Rush - NY, New York AI Consortium, New York Creates UEV Tool, and other state costs associated with such projects the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

§ 45. NY-SUNY 2020. 1. Notwithstanding the provisions of any other law to the contrary, the urban development corporation of the state of New York is hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the implementation of a NY-SUNY and NY-CUNY 2020 challenge grant program subject to the approval of a NY-SUNY and NY-CUNY 2020 plan or plans by the governor and either the chancellor of the state university of New York or the chancellor of the city university of New York, as applicable. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed \$660,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such 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 the state to the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the urban development corporation of the state of New York for capital disbursements associated with such project costs.

3. Notwithstanding any other provision of law to the contrary, in order to assist the urban development corporation in undertaking the financing for project costs for the NY-SUNY 2020 challenge grant program, the director of the budget is hereby authorized to enter into one or more service contracts with the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the corporation agree, so as to annually provide to the corporation, in the aggregate, a sum not to exceed the

principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged to the corporation as security for its bonds and notes, as authorized by this section.

§ 46. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for restoring state properties damaged as a result of Storm Sandy and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed four hundred fifty million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and 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 the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for project costs for restoring state properties damaged as a result of Storm Sandy and other state costs

associated with such capital projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

3. The comptroller is hereby authorized to receive from the dormitory authority and the corporation any portion of bond proceeds paid to provide funds for or reimburse the state for its costs associated with such capital project costs and to credit such amounts to the capital projects fund or any other appropriate fund.

§ 47. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the office of information technology services, department of law, and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed two billion four million one hundred twelve thousand dollars \$2,004,112,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and

notes of the dormitory authority and 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 the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for project costs for the office of information technology services, department of law, and other state costs associated with such capital projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

3. The comptroller is hereby authorized to receive from the dormitory authority and the corporation any portion of bond proceeds paid to provide funds for or reimburse the state for its costs associated with such capital project costs and to credit such amounts to the capital

projects fund or any other appropriate fund.

§ 48. Authorization for transportation infrastructure finance and innovation act loans. 1. (a) Notwithstanding the provisions of any other law to the contrary, each of the authorized issuers, as such term is defined in paragraphs (a) and (b) of subdivision 1 of section 68-a of the state finance law, are hereby authorized to accept transportation infrastructure finance and innovation act (TIFIA) loans from the United States of America, subject to any applicable agreement with bondholders or noteholders, to enter into contracts, secured loan agreements, service agreements or repayment agreements and to execute all instruments necessary, convenient or desirable in connection therewith, including, its bonds, notes or other obligations evidencing any such loan from the United States of America, and to pledge and assign as security for any such grants or loans, bonds or notes issued by such authorized issuer or payments due to such authorized issuer in connection therewith or revenues of such authorized issuer, as applicable. The aggregate principal amount of bonds authorized to be issued by the authorized issuers pursuant to this section shall not exceed seven hundred fifty million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds, notes, or other obligations issued to refund or otherwise repay such bonds, notes, or other obligations previously issued. If such bonds, notes, or other obligations are secured by a service contract with the state of New York, such bonds, notes, or other obligations of the authorized issuers 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 the state to the authorized issuers for principal, interest, and related expenses pursuant to a service contract and such bonds, notes, and other obligations shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

(b) Any bonds, notes, or other obligations issued pursuant to this section shall (i) be in furtherance of capital projects and public

purposes consistent with the objectives of the TIFIA loans from the United States of America, and (ii) any such financings shall provide a demonstrable benefit to the state of New York and the authorized issuers through a lower cost of financing than could otherwise be achieved, as evidenced by a report from an independent financial advisor.

2. Notwithstanding the provisions of any other law to the contrary, in order to assist the authorized issuers in undertaking the TIFIA loans from the United States of America, the state of New York, acting through the director of the budget, is hereby authorized to enter into one or more service contracts with the authorized issuers upon such terms and conditions as the director of the budget and the authorized issuers agree, so as to annually provide to the authorized issuers, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds, notes, and other obligations. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the authorized issuers as security for their bonds, notes, and other obligations as authorized by this section.

3. The state comptroller is hereby authorized to receive from the authorized issuers TIFIA loan proceeds from the United States of America, to reimburse the state for costs associated with capital projects related thereto and to credit such amounts to the capital projects fund or any other appropriate fund.

4. Prior to submitting a letter of interest to the United States department of transportation for a TIFIA loan, the director of the budget shall submit a report from an independent financial advisor to the speaker of the assembly, the temporary president of the senate, the chair of the senate finance committee and the chair of the assembly ways

and means committee evidencing a demonstrable benefit to the state of New York through a lower cost of financing than could otherwise be achieved.

§ 49. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the state and municipal facilities program and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed three billion one hundred eighty-three million five hundred thousand dollars \$3,183,500,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and 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 the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for project costs for the state and municipal facilities program and other state costs associated with such capital projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for

such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

3. The comptroller is hereby authorized to receive from the dormitory authority and the corporation any portion of bond proceeds paid to provide funds for or reimburse the state for its costs associated with such capital project costs and to credit such amounts to the capital projects fund or any other appropriate fund.

§ 50. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs undertaken by or on behalf of the state education department, special act school districts, state-supported schools for the blind and deaf, approved private special education schools, non-public schools, community centers, day care facilities, residential camps, day camps, Native American Indian Nation schools, and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed four hundred eighty-five million nine hundred sixty thousand dollars \$485,960,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development 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 the state to the dormitory authority and the urban development corporation for

principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs undertaken by or on behalf of special act school districts, state-supported schools for the blind and deaf and approved private special education schools, non-public schools, community centers, day care facilities, and other state costs associated with such capital projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

§ 51. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the nonprofit infrastructure

capital investment program and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed one hundred seventy million dollars \$170,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development 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 the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs for the nonprofit infrastructure capital investment program and other state costs associated with such capital projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made

thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

§ 52. Small business innovation research (SBIR)/small business technology transfer (STTR) technical assistance program. 1. The small business innovation research/small business technology transfer technical assistance program, hereafter referred to as "the program", is hereby created in the corporation for the purposes of providing funds to eligible entities to provide technical assistance to small businesses of one hundred employees or less and located in New York state in competing successfully for grants made available through phase I and II of the federal small business innovation research program as enacted pursuant to the small business innovation development act of 1982, and the small business technology transfer act of 1982, so as to increase the number of phase I and II SBIR and STTR award winners within the state.

2. Technical assistance services under this section may include, but are not limited to:

(a) outreach to small businesses to promote awareness of SBIR/STTR program solicitations;

(b) counseling to determine the ability of a business to pursue SBIR/STTR phase I and II funding, the technology match with the federal agency solicitation to be pursued, the qualifications of personnel involved in the proposed project, and the level of support needed from the technical assistance program to produce a competitive application; and

(c) proposal preparation assistance including grant writing, technology evaluation, and general proposal evaluation.

3. In determining whether to provide technical assistance authorized pursuant to this section to a small business, eligible entities shall consider the probability of such business commercializing any innovations resulting from research funded by an SBIR or STTR award in New York state.

4. (a) Entities that are eligible to receive funds under this section shall have demonstrable experience and success in providing technical assistance authorized pursuant to this section, and as determined by the corporation, and shall include:

(i) centers for advanced technology established pursuant to section thirty-one hundred two-b of the public authorities law;

(ii) technology development corporations established pursuant to section thirty-one hundred two-d of the public authorities law;

(iii) any university, college or community college located in New York state;

(iv) centers of excellence established pursuant to section 3 of part T of chapter 84 of the laws of 2002 and section four hundred ten of the economic development law; and

(v) any other entities that are located and based in New York state and demonstrate continuity of staffing, program, and purpose adequate to provide technical assistance to small businesses pursuant to this section.

(b) Preference for receiving funds under this section shall be given to entities that partner with other eligible entities to provide the full range of technical assistance services as specified in subdivision two of this section.

(c) Entities receiving funds under this section shall match such funds on a one-to-one basis. Such match shall consist of actual cash, salaries, staff time, or expenses directly attributable to the purposes of this section. Overhead costs may not be included in the match.

5. (a) Funds can be used for costs related to conducting outreach to small businesses to promote awareness of SBIR/STTR program solicitations, grant preparation and review, and printing costs and supplies associated with the submission of grants.

(b) From such funds as may be appropriated for this purpose by the legislature, the corporation shall make competitive awards in amounts of up to two hundred thousand dollars to providers of assistance pursuant to this section.

6. (a) Entities receiving funds shall annually provide to the corporation details on the following:

(i) description of small businesses served, including technology focus, business size and location;

(ii) SBIR and STTR grants applied for and received as a result of assistance provided; and

(iii) any other information deemed appropriate by the corporation.

(b) The corporation shall include the information provided pursuant to subdivision five of this section in the annual report filed pursuant to section four hundred four of the economic development law.

(c) On or before June first, two thousand nineteen, the corporation shall evaluate the effectiveness of the SBIR/STTR technical assistance program and report such findings to the governor and legislature.

§ 52-a. Small business innovation research and small business technology transfer matching grant program. 1. The corporation, subject to available appropriations and in consultation with the department of economic development's division for small business, shall establish a matching grant program to provide funds to small businesses who have been awarded phase one or phase two grants under the federal small business innovation research program or the small business technology transfer program. Such grants shall be awarded based on a company's potential for commercialization and job growth. As used in this section, "small business" shall have the same meaning as provided for in section one hundred thirty-one of the economic development law.

2. The funding amounts for such grant program shall be as follows:

(a) For small businesses that have been awarded phase one funding under the federal small business innovation research program or the small business technology transfer program, the amount shall be up to one hundred thousand dollars.

(b) For small businesses that have been awarded phase two funding under the federal small business innovation research program or the small business technology transfer program, the amount shall be up to two hundred thousand dollars.

(c) For small businesses that have been awarded phase three status under the federal small business innovation research program or the small business technology transfer program, such businesses shall be

provided access to technical assistance and outreach support through relevant programs of the corporation or the division of economic development best suited to foster such businesses continued success and growth, including but not limited to the manufacturing extension program, centers for advanced technology program, centers of excellence program, the state small business credit initiative program, certified innovation hot spots program, certified business incubator program, entrepreneurial assistance centers, business competitions and accelerators supported by the corporation or department of economic development, and venture capital investments administered by the corporation or department of economic development.

3. Small businesses applying to the federal small business innovation research program or the small business technology transfer program may apply to the corporation for a commitment letter that may be included in their application to the federal programs named herein to demonstrate contingent state support and therefore increase their likelihood of receiving federal small business innovation research and small business technology transfer matching grant program funding. State matching grants shall only be provided to small businesses that are selected for an award through the federal small business innovation research program or the small business technology transfer program.

4. Such funds awarded pursuant to this section shall be used to expedite commercialization and generally used to cover expenses not allowed under the federal small business innovation research program or the small business technology transfer program, including but not limited to business planning, commercialization, patents and marketing studies in sales efforts. Additionally, the corporation shall offer grantees assistance with accessing existing resources offered through the corporation or the department of economic development that cover areas such as business planning inclusive of business financial planning, commercialization, intellectual property and patents, mentoring, international trade and export development, and marketing studies in sales efforts support to ensure the most efficient use of funds awarded through this program.

5. Such funds shall be awarded on condition that the small business recipient remains headquartered and operates or manufactures in the state for at least two years following the successful commercialization of the business's product or products. Any small business that has received funding under this program that is not headquartered and operates or manufactures in the state for at least two years following the successful commercialization of the business's product or products shall return all grant awards to the state. If the small business ceases operations before five years after the commercialization of its product or products, such business shall be eligible for a waiver of this clawback provision, as determined by the corporation, in consultation with the department of economic development's division for small business.

6. The corporation, in consultation with the department of economic development's division for small business, shall establish the form and manner in which applications for grant awards shall be submitted and shall establish rules, regulations, or guidelines for the grant program. The corporation shall endeavor to advance applicants that can demonstrate the degree to which their small business or product advances a green and sustainable economy, or supports traditionally disadvantaged populations.

The corporation shall review each application for compliance with the eligibility criteria and other requirements set forth in the program's rules, regulations, or guidelines established by the commissioner. The corporation may approve or reject each application or may return an application for modifications, if necessary.

7. The corporation, beginning on June first, two thousand twenty-four, and annually thereafter, provided program funds remain, shall submit a report to the governor, the temporary president of the senate, and the speaker of the assembly. Such annual report shall include, but need not be limited to: the number of applicants by stage; the number of applicants approved to receive grants; the total amount of grants awarded and the average amount of such grants awarded; and such other information as the corporation determines necessary and appropriate.

Such report shall be included on the corporation's website and any other publicly accessible state databases that list economic development programs, as determined by the corporation.

§ 53. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the acquisition of equipment, including but not limited to the creation or modernization of information technology systems and related research and development equipment, health and safety equipment, heavy equipment and machinery, the creation or improvement of security systems, and laboratory equipment and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed seven hundred ninety-three million dollars \$793,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development 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 the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs for the acquisition of equipment, including but not limited to the creation or modernization of information technology systems and related research and development equipment, health and safety equipment, heavy equipment and machinery, the creation or improvement of security systems, and

laboratory equipment and other state costs associated with such capital projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

§ 54. 1. Findings and declaration of need. (a) The state of New York finds and determines that the global spread of the COVID-19 coronavirus disease is having and is expected to continue to have a significant impact on the health and welfare of individuals in the state as well as a significant financial impact on the state. The serious threat posed by the COVID-19 coronavirus disease has caused governments, including the state, to adopt policies, regulations and procedures to suspend various legal requirements in order to (i) respond to and mitigate the impact of the outbreak, and (ii) provide temporary relief to individuals, including the deferral of the federal income tax payment deadline from April 15, 2020 to a later date in the calendar year. The state of New York further finds and determines that certain fiscal management authorization measures should be authorized and established.

(b) Notwithstanding any other provision of law to the contrary, including, specifically, the provisions of chapter 59 of the laws of 2000 and section sixty-seven-b of the state finance law, the dormitory

authority of the state of New York and the corporation are hereby authorized to issue until December 31, 2020, notes with a maturity no later than March 31, 2021, to be designated as personal income tax revenue or bond anticipation notes, in one or more series in an aggregate principal amount not to exceed eight billion dollars, excluding notes issued to finance one or more debt service reserve funds, to pay costs of issuance of such notes, and notes issued to renew, refund or otherwise repay such notes previously issued, for the purpose of temporarily financing budgetary needs of the state following the federal government deferral of the federal income tax payment deadline from April 15, 2020 to a later date in the calendar year. Such purpose shall constitute an authorized purpose under subdivision two of section sixty-eight-a of the state finance law for all purposes of article five-C of the state finance law with respect to the notes, renewal notes, refunding notes and any state personal income tax revenue bonds issued to refinance any notes, renewal notes, refunding notes authorized by this paragraph. On or before their maturity, such notes may be renewed or refunded once with renewal or refunding notes for an additional period not to exceed one year from the date of renewal or refunding. If on or before the maturity date of such notes or such renewal or refunding notes, the director of the division of the budget shall determine that all or a portion of such notes or such renewal or refunding notes shall be refinanced on a long term basis, such notes or such renewal or refunding notes may be refinanced with state personal income tax revenue bonds in one or more series in an aggregate principal amount not to exceed the then outstanding principal amount of such notes or such renewal or refunding notes plus an amount necessary to finance one or more debt service reserve funds and to pay costs of issuance of such refunding bonds, notwithstanding any other provision of law to the contrary, including, specifically, the provisions of chapter fifty-nine of the laws of two thousand and section sixty-seven-b of the state finance law. For so long as any notes, renewal or refunding notes or such refunding bonds authorized by this paragraph shall remain outstanding, including any state-supported debt issued to refinance the refunding bonds authorized by this paragraph, the restrictions, limitations and requirements contained in article five-B of the state finance law shall not apply.

(c) Such notes, renewal or refunding notes and refunding bonds of the dormitory authority and 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 the state to the dormitory authority and the corporation for debt service and related expenses pursuant to any financing agreement described in paragraph (d) of this subdivision, and such notes, renewal or refunding notes and refunding bonds shall contain on the face thereof a statement to such effect. Such notes, renewal or refunding notes and any refunding bonds issued to refinance such notes and/or any renewal or refunding notes on a subordinate basis shall be secured by subordinate payments from the revenue bond tax fund established pursuant to section ninety-two-z of the state finance law. Refunding bonds issued to refinance any such notes and/or renewal or refunding notes on a parity basis with outstanding state personal income tax revenue bonds shall be issued only in accordance with the provisions of the applicable resolution of the dormitory authority or the corporation authorizing the issuance of state personal income tax revenue bonds and shall be secured by payments from the revenue bond tax fund on a parity with such outstanding state personal income tax revenue bonds. Except for purposes of complying with the internal revenue code, any interest income earned on note proceeds shall only be used to pay debt service on such notes. All of the provisions of the dormitory authority act and the New York state urban development corporation act relating to notes and bonds which are not inconsistent with the provisions of this section shall apply to notes and bonds authorized by paragraph (b) of this subdivision, including but not limited to the power to establish adequate reserves therefor and to issue renewal notes, refunding notes and refunding bonds, in any case subject to the final maturity limitation for such notes set forth in paragraph (b) of this subdivision. The issuance of any notes, renewal or refunding notes and refunding bonds authorized by paragraph (b) of this subdivision shall further be subject to the approval of the director of the division of the budget.

(d) Notwithstanding any other law, rule or regulation to the contrary but subject to the limitations contained in paragraph (b) of this subdivision, in order to assist the dormitory authority and the corporation in undertaking the administration and financing of such

notes, renewal or refunding notes and refunding bonds, the director of the budget is hereby authorized to supplement any existing financing agreement with the dormitory authority and the corporation, or to enter into a new financing agreement with the dormitory authority and the corporation, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation shall agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for any notes, renewal or refunding notes and refunding bonds issued pursuant to this section. Any financing agreement supplemented or entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purposes, subject to annual appropriation by the legislature. Any such financing agreement or any payments made or to be made thereunder may be assigned or pledged by the dormitory authority and the corporation as security for the notes, renewal and refunding notes and refunding bonds authorized by paragraph (b) of this subdivision.

(e) Notwithstanding any other provision of law to the contrary, including specifically the provisions of subdivision 3 of section 67-b of the state finance law, no capital work or purpose shall be required for any issuance of personal income tax revenue or bond anticipation notes, renewal or refunding notes or refunding bonds issued by the dormitory authority and the corporation pursuant to this section.

(f) Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the general fund, all proceeds of personal income tax revenue or bond anticipation notes issued by the dormitory authority and the New York state urban development corporation pursuant to this section.

2. Effect of inconsistent provisions. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this section shall be

controlling.

3. Severability; construction. The provisions of this section shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this section to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this section or remainder thereof, as the case may be, to any other person or circumstance, 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.

§ 54-a. Personal income tax notes; 2022. 1. Findings and declaration of need. (a) The state of New York finds and determines that the global spread of the COVID-19 pandemic has had and is expected to continue to have a significant adverse impact on the health and welfare of individuals in the state as well as to the financial condition of the state during the state's 2021 and 2022 fiscal years and beyond. The anticipated shortfalls and deferrals in the state's financial plan receipts caused by the COVID-19 pandemic has required the state to adopt policies, regulations and procedures that suspend various legal requirements and address state budgetary pressures, some of which require certain fiscal management authorization measures to be legislatively authorized and established.

(b) Notwithstanding any other provision of law to the contrary, including, specifically, the provisions of chapter 59 of the laws of 2000 and section sixty-seven-b of the state finance law, the dormitory authority of the state of New York and the corporation are hereby authorized for the state's 2022 fiscal year, to issue until December 31, 2021, notes with a maturity no later than March 31, 2022, to be designated as personal income tax revenue anticipation notes, in one or more series in an aggregate principal amount not to exceed three billion dollars, excluding any such notes issued to finance one or more debt service reserve funds, and to pay costs of issuance of such notes, for

the purpose of temporarily financing budgetary needs of the state. Such purpose shall constitute an authorized purpose under subdivision two of section sixty-eight-a of the state finance law for all purposes of article five-C of the state finance law with respect to the notes authorized by this paragraph. Such notes shall not be renewed or refunded beyond March 31, 2022. For so long as any notes authorized by this paragraph shall remain outstanding, the restrictions, limitations and requirements contained in article five-B of the state finance law shall not apply, other than subdivision four of section sixty-seven-b of such article.

(c) Such notes of the dormitory authority and 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 the state to the dormitory authority and the corporation for debt service and related expenses pursuant to any financing agreement described in paragraph (d) of this subdivision, and such notes shall contain on the face thereof a statement to such effect. Such notes shall be issued on a subordinate basis and shall be secured by subordinate payments from the revenue bond tax fund established pursuant to section ninety-two-z of the state finance law. Except for purposes of complying with the internal revenue code, any interest income earned on note proceeds shall only be used to pay debt service on such notes. All of the provisions of the state finance law, the dormitory authority act and this act relating to notes and bonds which are not inconsistent with the provisions of this section shall apply to notes authorized by paragraph (b) of this subdivision, including but not limited to the power to establish adequate reserves therefor, subject to the final maturity limitation for such notes set forth in paragraph (b) of this subdivision. The issuance of any notes authorized by paragraph (b) of this subdivision shall further be subject to the approval of the director of the division of the budget.

(d) Notwithstanding any other law, rule or regulation to the contrary but subject to the limitations contained in paragraph (b) of this subdivision, in order to assist the dormitory authority and the corporation in undertaking the administration and financing of such notes, the director of the budget is hereby authorized to supplement any existing financing agreement with the dormitory authority and the

corporation, or to enter into a new financing agreement with the dormitory authority and the corporation, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation shall agree, so as to provide to the dormitory authority and the corporation, a sum not to exceed the debt service payments and related expenses required for any notes issued pursuant to this section. Any financing agreement supplemented or entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purposes, subject to annual appropriation by the legislature. Any such financing agreement or any payments made or to be made thereunder may be assigned or pledged by the dormitory authority and the corporation as security for the notes authorized by paragraph (b) of this subdivision.

(e) Notwithstanding any other provision of law to the contrary, including specifically the provisions of subdivision 3 of section 67-b of the state finance law, no capital work or purpose shall be required for any issuance of personal income tax revenue anticipation notes issued by the dormitory authority and the corporation pursuant to this section.

(f) Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the general fund, all proceeds of personal income tax revenue anticipation notes issued by the dormitory authority and the New York state urban development corporation pursuant to this section.

2. Effect of inconsistent provisions. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this section shall be controlling.

3. Severability; construction. The provisions of this section shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this section to any person or circumstance shall be adjudged by any court of competent jurisdiction to

be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this section or remainder thereof, as the case may be, to any other person or circumstance, 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.

§ 54-b. Personal income tax notes. 1. Findings and declaration of need. (a) The state of New York finds and determines that shortfalls in the state's financial plan arising from adverse economic and fiscal events and risks, disasters and emergencies, including but not limited to, public health emergencies, may occur or develop, and that the financial impact of such events, risks, disasters and emergencies could be prudently mitigated by certain fiscal management authorization measures being legislatively authorized and established.

(b) Notwithstanding any other provision of law to the contrary, including, specifically, the provisions of chapter 59 of the laws of 2000 and section sixty-seven-b of the state finance law, the dormitory authority of the state of New York and the corporation are hereby authorized to issue personal income tax revenue anticipation notes with a maturity no later than March 31, 2027, in one or more series in an aggregate principal amount for each fiscal year not to exceed three billion dollars, and to pay costs of issuance of such notes, for the purpose of temporarily financing budgetary needs of the state. Such purpose shall constitute an authorized purpose under subdivision two of section sixty-eight-a of the state finance law for all purposes of article five-C of the state finance law with respect to the notes authorized by this paragraph. Such notes shall not be renewed, extended or refunded. For so long as any notes authorized by this paragraph shall be outstanding, the restrictions, limitations and requirements contained in article five-B of the state finance law shall not apply.

(c) Such notes of the dormitory authority and 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 the state to the dormitory authority and the corporation for debt

service and related expenses pursuant to any financing agreement described in paragraph (d) of this subdivision, and such notes shall contain on the face thereof a statement to such effect. Such notes shall be issued on a subordinate basis and shall be secured by subordinate payments from the revenue bond tax fund established pursuant to section ninety-two-z of the state finance law. Except for purposes of complying with the internal revenue code, any interest income earned on note proceeds shall only be used to pay debt service on such notes. All of the provisions of the state finance law, the dormitory authority act and this act relating to notes and bonds which are not inconsistent with the provisions of this section shall apply to notes authorized by paragraph (b) of this subdivision, including but not limited to the power to establish adequate reserves therefor, subject to the final maturity limitation for such notes set forth in paragraph (b) of this subdivision. The issuance of any notes authorized by paragraph (b) of this subdivision shall further be subject to the approval of the director of the division of the budget.

(d) Notwithstanding any other law, rule or regulation to the contrary but subject to the limitations contained in paragraph (b) of this subdivision, in order to assist the dormitory authority and the corporation in undertaking the administration and financing of such notes, the director of the budget is hereby authorized to supplement any existing financing agreement with the dormitory authority and/or the corporation, or to enter into a new financing agreement with the dormitory authority and/or the corporation, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation shall agree, so as to provide to the dormitory authority and the corporation, a sum not to exceed the debt service payments and related expenses required for any notes issued pursuant to paragraph (b) of this subdivision. Any financing agreement supplemented or entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purposes, subject to annual appropriation by the legislature. Any such financing agreement or any payments made or

to be made thereunder may be assigned or pledged by the dormitory authority and the corporation as security for the notes authorized by paragraph (b) of this subdivision.

(e) Notwithstanding any other provision of law to the contrary, including specifically the provisions of subdivision 3 of section 67-b of the state finance law, no capital work or purpose shall be required for any issuance of personal income tax revenue anticipation notes issued by the dormitory authority and the corporation pursuant to paragraph (b) of this subdivision.

(f) Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the general fund, all proceeds of personal income tax revenue anticipation notes issued by the dormitory authority and the New York state urban development corporation pursuant to paragraph (b) of this subdivision.

2. Effect of inconsistent provisions. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this section shall be controlling.

3. Severability; construction. The provisions of this section shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this section to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this section or remainder thereof, as the case may be, to any other person or circumstance, 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.

§ 55. 1. Findings and declaration of need. (a) The state of New York finds and determines that the global spread of the COVID-19 coronavirus disease is having and is expected to continue to have a significant

impact on the health and welfare of individuals in the state as well as a significant financial impact on the state. The serious threat posed by the COVID-19 coronavirus disease has caused governments, including the state, to adopt policies, regulations and procedures to suspend various legal requirements in order to: (i) respond to and mitigate the impact of the outbreak; and (ii) address budgetary pressures to the state arising from anticipated shortfalls and deferrals in the state's fiscal 2021 financial plan receipts, thereby requiring that certain fiscal management authorization measures be authorized and established.

(b) Notwithstanding any other provision of law to the contrary, including, specifically, the provisions of chapter 59 of the laws of 2000 and section 67-b of the state finance law, during the state's 2021 fiscal year, the dormitory authority of the state of New York and the urban development corporation are authorized to: (i) enter into commitments with financial institutions for the establishment of one or more line of credit facilities and other similar revolving financing arrangements not in excess of three billion dollars in aggregate principal amount outstanding at any one time; (ii) draw, at one or more times at the direction of the director of the budget, upon such line of credit facilities and provide to the state the amounts so drawn for the purpose of assisting the state to temporarily finance its budgetary needs; and (iii) secure repayment of such draws under such line of credit facilities with a service contract of the state, which payment obligation thereunder 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 moneys are available and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such payment obligation is subject to annual appropriation by the legislature. Any line of credit facility agreements entered by the dormitory authority of the state of New York and/or the urban development corporation with financial institutions pursuant to this section may contain such provisions that the dormitory authority of the state of New York and/or the urban development corporation deem necessary or desirable for the establishment of such credit facilities. The maximum original term of any line of credit facility shall be one year from the date of incurrence; provided however that any such line of credit facility may be extended, renewed or refinanced for up to two

additional one year terms. If on or before the maturity date of the original term of such line of credit facility or any renewal or extension term thereof, the director of the division of the budget shall determine that all or a portion of any outstanding line of credit facility shall be refinanced on a long-term basis, the dormitory authority of the state of New York and/or the urban development corporation are authorized to refinance such line of credit facility with state personal income tax revenue bonds and/or state service contract bonds in one or more series in an aggregate principal amount not to exceed the then outstanding principal amount of such line of credit facility and any accrued interest thereon, plus an amount necessary to finance one or more debt service reserve funds and to pay costs of issuance of such state personal income tax revenue bonds and/or state service contract bonds.

(c) Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the general fund, all amounts provided by the dormitory authority of the state of New York and/or the urban development corporation to the state from draws made on any line of credit facility authorized by paragraph (b) of this subdivision.

(d) Notwithstanding any other provision of law to the contrary, including specifically the provisions of subdivision 3 of section 67-b of the state finance law, no capital work or purpose shall be required for any indebtedness incurred in connection with any line of credit facility authorized by paragraph (b) of this subdivision and any extensions or renewals thereof, or for any state personal income tax revenue bonds and/or state service contract bonds issued to refinance any of the foregoing, or for any service contract entered into in connection with any line of credit facility, all in accordance with this section.

(e) Notwithstanding any other provision of law to the contrary, for so long as any such line of credit facility shall remain outstanding, the restrictions, limitations and requirements contained in article 5-B of the state finance law shall not apply. In addition, such restrictions, limitations and requirements shall not apply to any state personal income tax revenue bonds and/or state service contract bonds issued to refund such line of credit facility for so long as such state personal

income tax revenue bonds and/or state service contract bonds shall remain outstanding, including any state-supported debt issued to refund such state personal income tax revenue bonds and/or state service contract bonds. Any such line of credit facility, including any extensions or renewals thereof, and any state personal income tax revenue bonds and/or state service contract bonds issued to refund such line of credit facilities shall be deemed to be incurred or issued for an authorized purpose within the meaning of subdivision 2 of section 68-a of the state finance law. As applicable, all of the provisions of the state finance law, the dormitory authority act and the New York state urban development corporation act relating to notes and bonds which are not inconsistent with the provisions of this section shall apply to any issuance of state personal income tax revenue bonds and/or state service contract bonds issued to refinance any line of credit facility authorized by paragraph (b) of this subdivision. The issuance of any state personal income tax revenue bonds and/or state service contract bonds issued to refinance any such line of credit facility shall further be subject to the approval of the director of the division of the budget.

(f) Any draws on a line of credit facility authorized by paragraph (b) of this subdivision shall only be made and the service contract entered into in connection with such line of credit facilities shall only be executed and delivered to the dormitory authority of the state of New York and/or the urban development corporation if the legislature has enacted sufficient appropriation authority to provide for the repayment of all amounts expected to be drawn by the dormitory authority of the state of New York and/or the urban development corporation under such line of credit facility during fiscal year 2021. Amounts repaid under a line of credit facility during fiscal year 2021 may be re-borrowed during such fiscal year provided that the legislature has enacted sufficient appropriation authority to provide for the repayment of any such re-borrowed amounts. Neither the dormitory authority of the state of New York nor the urban development corporation shall have any financial liability for the repayment of draws under any line of credit facility authorized by paragraph (b) of this subdivision beyond the moneys received for such purpose under the service contract authorized by paragraph (g) of this subdivision.

(g) The director of the budget is authorized to enter into one or more service contracts or other agreements, none of which shall exceed 30 years in duration, with the dormitory authority of the state of New York and/or the urban development corporation, upon such terms and conditions as the director of the budget and dormitory authority of the state of New York and/or the urban development corporation shall agree. Any service contract or other agreements entered into pursuant to this paragraph shall provide for state commitments to provide annually to the dormitory authority of the state of New York and/or the urban development corporation a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget and the dormitory authority of the state of New York and/or the urban development corporation, to fund the payment of amounts due under any line of credit facility and any state personal income tax revenue bonds and/or state service contract bonds issued to refinance such line of credit facility. Any such service contract or other agreements shall provide that the obligation of the director of the budget or 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 moneys are available and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

(h) Any service contract or other agreements entered into pursuant to paragraph (g) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority of the state of New York and/or the urban development corporation as security for any related payment obligation it may have with one or more financial institutions in connection with a line of credit facility authorized by paragraph (b) of this subdivision.

(i) In addition to the foregoing, the director of the budget, the dormitory authority of the state of New York and the urban development corporation shall each be authorized to enter into such other agreements and to take or cause to be taken such additional actions as are necessary or desirable to effectuate the purposes of the transactions contemplated by a line of credit facility and the related service contract.

(j) No later than seven days after a draw occurs on the line of credit facility, the director of the budget shall provide notification of such draw to the president pro tempore of the senate and the speaker of the assembly.

(k) The authorization, establishment and use by the dormitory authority of the state of New York and the urban development corporation of a line of credit facility authorized by paragraph (b) of this subdivision, and the execution, sale and issuance of state personal income tax revenue bonds and/or state service contract bonds to refinance any such line of credit facility shall not be deemed an action, as such term is defined in article 8 of the environmental conservation law, for the purposes of such article. Such exemption shall be strictly limited in its application to such financing activities of the dormitory authority of the state of New York and the urban development corporation undertaken pursuant to this section and does not exempt any other entity from compliance with such article.

(l) Nothing contained in this section shall be construed to limit the abilities of the director of the budget and the authorized issuers of state-supported debt to perform their respective obligations on existing service contracts or other agreements entered into prior to April 1, 2020.

2. Effect of inconsistent provisions. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this act shall be controlling.

3. Severability; construction. The provisions of this section shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this section to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this section or remainder thereof, as the case may be, to any other person or circumstance, 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.

§ 55-a. Line of credit facilities; 2022. 1. Findings and declaration of need. (a) The state of New York finds and determines that the global spread of the COVID-19 pandemic has had and is expected to continue to have a significant adverse impact on the health and welfare of individuals in the state as well as to the financial condition of the state during the state's 2021 and 2022 fiscal years and beyond. The anticipated shortfalls and deferrals in the state's financial plan receipts caused by the COVID-19 pandemic has required the state, to adopt policies, regulations and procedures that suspend various legal requirements and address state budgetary pressures, some of which require certain fiscal management authorization measures to be legislatively authorized and established.

(b) Definitions. When used in this subdivision "related expenses and fees" shall mean interest costs, commitment fees and other costs, expenses and fees incurred in connection with a line of credit facility and/or a service contract or other agreement of the state securing such line of credit facility that contractually obligates the state to pay debt service subject to an appropriation.

(c) Notwithstanding any other provision of law to the contrary, including, specifically, the provisions of chapter 59 of the laws of 2000 and section 67-b of the state finance law, the dormitory authority of the state of New York and the urban development corporation are authorized until March 31, 2022 to: (i) enter into commitments with financial institutions for the establishment of one or more line of credit facilities and other similar revolving financing arrangements not in excess of two billion dollars in aggregate principal amount; (ii) draw, at one or more times at the direction of the director of the budget, upon such line of credit facilities and provide to the state the amounts so drawn for the purpose of assisting the state to temporarily finance its budgetary needs; provided, however, that the total amount of such draws shall not exceed two billion dollars; and (iii) secure repayment of such draws under such line of credit facilities, together with related expenses and fees, which payment obligation thereunder 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 moneys are available and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such payment obligation is subject to annual appropriation by the legislature. Any line of credit facility agreements entered by the dormitory authority of the state of New York and/or the urban development corporation with financial institutions pursuant to this section may contain such provisions that the dormitory authority of the state of New York and/or the urban development corporation deem necessary or desirable for the establishment of such credit facilities. The maximum term of any line of credit facility shall be one year from the date of incurrence; provided however that no draw on any such line of credit facility shall occur after March 31, 2022, and provided further that any such line of credit facility whose term extends beyond March 31, 2022, shall be supported by sufficient appropriation authority enacted by the legislature that provides for the repayment of all amounts drawn and remaining unpaid as of March 31, 2022, together with related expenses and fees incurred and to become due and payable by the dormitory authority of the state of New York and/or the urban development corporation.

(d) Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the general fund, all amounts provided by the dormitory authority of the state of New York and/or the urban development corporation to the state from draws made on any line of credit facility authorized by paragraph (c) of this subdivision.

(e) Notwithstanding any other provision of law to the contrary, including specifically the provisions of subdivision 3 of section 67-b of the state finance law, no capital work or purpose shall be required for any indebtedness incurred in connection with any line of credit facility authorized by paragraph (c) of this subdivision, or for any service contract or other agreement entered into in connection with any such line of credit facility, all in accordance with this section.

(f) Notwithstanding any other provision of law to the contrary, for so long as any such line of credit facility shall remain outstanding, the restrictions, limitations and requirements contained in article 5-B of the state finance law shall not apply. Any such line of credit facility

shall be deemed to be incurred or issued for (i) an authorized purpose within the meaning of subdivision 2 of section 68-a of the state finance law for all purposes of article 5-C of the state finance law and section 92-z of the state finance law, and/or (ii) an authorized purpose within the meaning of subdivision 2 of section 69-m of the state finance law for all purposes of article 5-F of the state finance law and section 92-h of the state finance law, as the case may be. As applicable, all of the provisions of the state finance law, the dormitory authority act and the New York state urban development corporation act relating to notes and bonds which are not inconsistent with the provisions of this section shall apply to any line of credit facility and other similar revolving financing arrangement established in accordance with the authorization contained in paragraph (c) of this subdivision.

(g) Each draw on a line of credit facility authorized by paragraph (c) of this subdivision shall only be made if the service contract or other agreement entered into in connection with such line of credit facility is supported by sufficient appropriation authority enacted by the legislature to repay the amount of the draw, together with related expenses and fees to become due and payable. Amounts repaid under a line of credit facility may be re-borrowed under the same or another line of credit facility authorized by paragraph (c) of this subdivision provided that the legislature has enacted sufficient appropriation authority that provides for the repayment of any such re-borrowed amounts, together with related expenses and fees to become due and payable. Neither the dormitory authority of the state of New York nor the urban development corporation shall have any financial liability for the repayment of draws under any line of credit facility authorized by paragraph (c) of this subdivision beyond the moneys received for such purpose under any service contract or other agreement authorized by paragraph (h) of this subdivision.

(h) The director of the budget is authorized to enter into one or more service contracts or other agreements, none of which shall exceed one year in duration, with the dormitory authority of the state of New York and/or the urban development corporation, upon such terms and conditions as the director of the budget and dormitory authority of the state of New York and/or the urban development corporation shall agree. Any service contract or other agreement entered into pursuant to this

paragraph shall provide for state commitments to provide annually to the dormitory authority of the state of New York and/or the urban development corporation a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget and the dormitory authority of the state of New York and/or the urban development corporation, to fund the payment of all amounts to become due and payable under any line of credit facility. Any such service contract or other agreement shall provide that the obligation of the director of the budget or 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 moneys are available and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

(i) Any service contract or other agreement entered into pursuant to paragraph (h) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority of the state of New York and/or the urban development corporation as security for any related payment obligation it may have with one or more financial institutions in connection with a line of credit facility authorized by paragraph (c) of this subdivision.

(j) In addition to the foregoing, the director of the budget, the dormitory authority of the state of New York and the urban development corporation shall each be authorized to enter into such other agreements and to take or cause to be taken such additional actions as are necessary or desirable to effectuate the purposes of the transactions contemplated by a line of credit facility and the related service contract or other agreement.

(k) No later than seven days after a draw occurs on a line of credit facility, the director of the budget shall provide notification of such draw to the president pro tempore of the senate and the speaker of the assembly.

(l) The authorization, establishment and use by the dormitory authority of the state of New York and the urban development corporation of a line of credit facility authorized by paragraph (c) of this subdivision shall not be deemed an action, as such term is defined in

article 8 of the environmental conservation law, for the purposes of such article. Such exemption shall be strictly limited in its application to such financing activities of the dormitory authority of the state of New York and the urban development corporation undertaken pursuant to this section and does not exempt any other entity from compliance with such article.

(m) Nothing contained in this section shall be construed to limit the abilities of the director of the budget and the authorized issuers of state personal income tax revenue bonds, state sales tax revenue bonds or service contract bonds to perform their respective obligations with respect to existing service contracts or other agreements.

2. Effect of inconsistent provisions. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this act shall be controlling.

3. Severability; construction. The provisions of this section shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this section to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this section or remainder thereof, as the case may be, to any other person or circumstance, 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.

§ 56. State-supported debt; 2021. 1. In light of the significant impact that the global spread of the COVID-19 coronavirus disease is having and is expected to continue to have on the health and welfare of individuals in the state as well as on the financial condition of the state, and notwithstanding any other provision of law to the contrary, the dormitory authority of the state of New York and the urban development corporation are each authorized to issue state-supported

debt pursuant to article 5-C of the state finance law to assist the state to manage its financing needs during its 2021 fiscal year, without regard to any restrictions, limitations and requirements contained in article 5-B of the state finance law, other than subdivision 4 of section 67-b of such article, and such state-supported debt shall be deemed to be issued for an authorized purpose within the meaning of subdivision 2 of section 68-a of the state finance law for all purposes of article 5-C of the state finance law. Furthermore, any bonds issued directly by the state during the state's 2021 fiscal year shall be issued without regard to any restrictions, limitations and requirements contained in article 5-B of the state finance law, other than subdivision 4 of section 67-b of such article. For so long as any state-supported debt issued during the state's 2021 fiscal year shall remain outstanding, including any state-supported debt issued to refund state-supported debt issued during such fiscal year, the restrictions, limitations and requirements contained in article 5-B of the state finance law, other than subdivision 4 of section 67-b of such article, shall not apply.

2. Effect of inconsistent provisions. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this act shall be controlling.

3. Severability; construction. The provisions of this section shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this section to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this section or remainder thereof, as the case may be, to any other person or circumstance, 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.

§ 56-a. State-supported debt; 2022. 1. In light of the continuing adverse impact that the COVID-19 pandemic is expected to have on the health and welfare of individuals in the state as well as to the financial condition of the state during the state's 2022 fiscal year, and notwithstanding any other provision of law to the contrary, the dormitory authority of the state of New York, the urban development corporation, and the New York state thruway authority are each authorized to issue state-supported debt pursuant to article 5-B, article 5-C and article 5-F of the state finance law to assist the state to manage its financing needs during its 2022 fiscal year, without regard to any restrictions, limitations and requirements contained in article 5-B of the state finance law, other than subdivision 4 of section 67-b of such article, and such state-supported debt shall be deemed to be issued for (i) an authorized purpose within the meaning of subdivision 2 of section 68-a of the state finance law for all purposes of article 5-C of the state finance law and section 92-z of the state finance law, or (ii) an authorized purpose within the meaning of subdivision 2 of section 69-m of the state finance law for all purposes of article 5-F of the state finance law and section 92-h of the state finance law, as the case may be. Furthermore, any bonds issued directly by the state during the state's 2022 fiscal year shall be issued without regard to any restrictions, limitations and requirements contained in article 5-B of the state finance law, other than subdivision 4 of section 67-b of such article. For so long as any state-supported debt issued during the state's 2022 fiscal year shall remain outstanding, including any state-supported debt issued to refund state-supported debt issued during such fiscal year, the restrictions, limitations and requirements contained in article 5-B of the state finance law, other than subdivision 4 of section 67-b of such article, shall not apply.

2. Effect of inconsistent provisions. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this act shall be controlling.

3. Severability; construction. The provisions of this section shall be severable, and if the application of any clause, sentence, paragraph,

subdivision, section or part of this section to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this section or remainder thereof, as the case may be, to any other person or circumstance, 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.

§ 57. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the Empire Station Complex project, and such project shall be deemed a capital work or purpose for purposes of subdivision 3 of section 67-b of the state finance law. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed one billion three hundred million dollars \$1,300,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development 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 the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs for the Empire Station Complex project, the director of the budget is hereby

authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided 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 monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

*** § 58. Gateway project.** 1. Findings and declaration of need. The state of New York finds and determines that providing funding for the passenger rail transportation project commonly known as the gateway project, is needed to preserve and improve the functionality and strengthen the resiliency of long-distance and commuter rail infrastructure between the state of New York and the state of New Jersey.

2. Definitions. When used in this section:

(a) "Commission" shall mean the gateway development commission, a bi-state commission and a body corporate and politic established by the state of New Jersey and the state of New York, acting in the public interest and exercising essential governmental functions in accordance with the Gateway development commission act, and any successor thereto.

(b) "Federal transportation loan" shall mean one or more loans made to the commission to finance the Hudson tunnel project under or pursuant to any U.S. Department of Transportation program or act, including but not

limited to the Railroad Rehabilitation & Improvement Financing Program or the Transportation Infrastructure Finance and Innovation Act, which loan or loans are related to the state capital commitment.

(c) "Gateway development commission act" shall mean chapter 108 of the laws of New York, 2019, as amended.

(d) "Gateway project" shall mean the Hudson tunnel project.

(e) "Hudson tunnel project" shall mean the project consisting of construction of a tunnel connecting the states of New York and New Jersey and the completion of certain ancillary facilities including construction of concrete casing at Hudson Yards in Manhattan, New York and the rehabilitation of the existing North River Tunnels.

(f) "State capital commitment" shall mean (i) an aggregate principal amount not to exceed \$2,850,000,000, plus (ii) any interest costs, including capitalized interest, and (iii) related expenses and fees, all of which shall be payable by the state of New York to, or at the direction of, the commission under one or more service contracts or other agreements pursuant to this section, as well as any expenses of the state incurred in connection therewith.

(g) "Related expenses and fees" shall mean commitment fees, servicing and monitoring costs, credit risk premium payments and similar charges, administrative fees and other ancillary costs, expenses and fees incurred, and to become due and payable, by the commission in connection with the Federal transportation loan, or by the state in connection with any service contract.

3. Notwithstanding any other provision of law to the contrary, in order to provide for the payment for the state capital commitment, the director of the budget is hereby authorized to enter into one or more service contracts or other agreements with the commission, none of which shall exceed the maximum duration of the Federal transportation loan, upon such terms and conditions as the director of the budget and commission agree, so as to provide to or at the direction of the commission, for each state fiscal year, a sum not to exceed the amount required to be paid as principal and interest under the Federal transportation loan for such fiscal year, plus related expenses and fees for such fiscal year. Any such service contract or other agreement shall provide that the obligation of the state to pay the amount therein

provided 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 monies available, that no liability shall be incurred by the state beyond the monies available for such purpose, and that such obligation is subject to annual appropriation by the legislature. Any such service contract or other agreement and any payments made or to be made thereunder may be assigned and pledged by the commission as security for the repayment by the commission of the Federal transportation loan.

4. The director of the budget is also authorized to enter into such other agreements and to take or cause to be taken such additional actions as are necessary or desirable to effectuate the purposes of the transactions contemplated by the state capital commitment provided for herein and the service contract or other agreement authorized by subdivision 3 of this section.

5. On or before the beginning of each quarter, the director of the budget shall certify to the state comptroller the estimated amount of monies that shall be reserved in the general debt service fund for payment pursuant to any service contract authorized by subdivision 3 of this section payable by such fund during each month of the state fiscal year. Such certificate may be periodically updated, as necessary. Notwithstanding any provision of law to the contrary, the state comptroller shall reserve in the general debt service fund the amount of monies identified on such certificate as necessary for payment pursuant to any service contract authorized by subdivision 3 of this section during the current or next succeeding quarter of the state fiscal year. Such monies so reserved shall not be available for any other purpose. Such certificate shall be reported to the chairpersons of the Senate Finance Committee and the Assembly Ways and Means Committee.

* NB There are 2 § 58's

§ 58. Reporting. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Economic development benefits" shall mean:

(i) available state funds including, but not limited to, state grants, loans, loan guarantees, loan interest subsidies, and subsidies; and

(ii) tax credits, tax exemptions, reduced tax rates or other tax incentives which are applied for and preapproved or certified by a state agency.

(a-1) "Empire state economic development benefits" shall mean those economic development benefits made available to the urban development corporation or the department of economic development to award such benefits to qualified recipients.

(a-2) "Additional state benefits for empire state development projects" shall mean those benefits provided by other state agencies for the same project receiving empire state economic development benefits.

(a-3) "Other state agency economic development benefits" shall mean those economic development benefits made available to a state agency to award such benefits to qualified recipients for economic development projects, provided such information regarding such awards is required to be submitted to the urban development corporation or the department of economic development per subdivision 6 of this section.

(a-4) "Aggregate economic development benefits" shall mean those benefits provided for in paragraphs (a-1), (a-2) and (a-3) of this subdivision and displayed separately in the database created pursuant to subdivision 2 of this section.

(b) "Qualified participant" shall mean an individual, business, limited liability corporation or any other entity that has applied for and received benefits as defined in paragraphs (a-1) through (a-4) of this subdivision.

(c) "State agency" shall mean any state department, board, bureau, division, commission, committee, state authority, public corporation, council, office or other state governmental entity performing a governmental or proprietary function for the state, as well as entities created by any of the preceding or that are governed by a board of directors or similar body with a majority of members designated by one or more state officials;

(d) "Full-time equivalent" shall mean a unit of measure which is equal to one filled, full-time, annual-salaried position.

(e) "Project hires" shall mean a job in which an individual is hired for a season or for a limited period of time.

(f) "Part-time job" shall mean a job in which an individual is employed by a qualified participant for less than thirty-five hours a week.

2. Notwithstanding any laws to the contrary, the corporation, in cooperation with the department of economic development, shall create a searchable database, or modify an existing one, displaying empire state economic development benefits that a qualified participant has been awarded. Such database shall also display additional state agency benefits that a qualified participant has been awarded in connection with an empire state development project such qualified participant has received. Such database shall also display other state agency economic development benefits that a qualified participant has been awarded, to the extent that such data has been made available to and is received by the corporation in the form and manner prescribed by the corporation.

3. Data related to paragraphs (a-2) and (a-3) of subdivision 1 of this section shall be analyzed for quality and accuracy by the agency or authority providing such funding to qualified recipients and managing the contracts related thereto. Upon submission of such other state agency economic development benefit data to the corporation for inclusion in the database, all awarding agencies and authorities shall certify to the corporation that each field of project data accurately summarizes economic development project investments made by the other agency or authority. Such searchable database shall include, at a minimum, the following features and functionality to the extent practicable:

(a) the ability to search the database by each of the reported information fields;

(b) the ability to be searchable, downloadable, and updated quarterly, and posted on a New York state maintained website as well as referenced on the empire state development website, with a direct link to the database;

(c) for projects started on or after January 1, 2018, the following information shall be included:

(i) a qualified participant's name and project, project location, the project's complete address, including the postal code in a separate and

searchable field, and the economic region of the state;

(ii) the time span over which a qualified participant is to receive or has received aggregate economic development benefits;

(iii) the type of such aggregate economic development benefits provided to a qualified participant, including the name of the program or programs through which aggregate economic development benefits are provided, and details as to whether such programs are grants or tax credit programs as a separate and searchable field. Such data shall be provided for other state agency benefits, to the extent practicable, and such requirement shall be applied to contracts initiated six months after the effective date of this section;

(iv) the total number of employees at all sites utilizing such aggregate economic development benefits at the time of the agreement, including the number of full-time equivalents, provided that any project hires or part-time jobs converted to full-time equivalents shall be displayed in separate fields and denoted as such, to the extent practicable, and such requirements shall be applied to contracts initiated six months after the effective date of this section;

(v) for any aggregate economic development benefit that provides for job retention or job creation that a qualified participant is receiving, the total job creation commitments, job retention commitments, job creation actual number, and the job retention actual number, displayed in terms of full-time equivalents and part-time jobs, shall each be displayed as separate and searchable fields;

(vi) the amount of aggregate economic development benefits received by a qualified participant to date;

(vii) for all projects associated with utilization goals related to minority and women-owned businesses, per article 15-A of the executive law, such goals and progress towards such goals shall be included to the extent practicable, and such requirement shall be applied to contracts initiated twelve months after the effective date of this section;

(viii) the total public-private investment made to the project, total state funding received by a project, and project status;

(ix) details related to individual project compliance indicating whether, during the current reporting quarter, the corporation or other entity managing the award has reduced, cancelled, or recaptured aggregate economic development benefits from a qualified participant,

and, if so, the total amount of the reduction, cancellation, or recapture. Separately, a notation of penalties assessed shall be displayed in a separate and searchable field, as well as the reasons therefor in another separate and searchable field;

(x) the ability to digitally select defined individual fields corresponding to any of the reported information from qualified participants to create unique database views;

(xi) the ability to download the database in its entirety, or in part, in a common machine readable format;

(xii) a definition or description of terms for fields in the database;

(xiii) a summary of each aggregate economic development benefit awarded to qualified participants;

(xiv) a user-friendly guide to outline the features and functionality of the database; and

(xv) a dedicated email account for the public to direct questions related to the database.

4. Upon request the corporation shall provide, or direct to a source providing, in an electronically accessible and downloadable form, any contracts or award agreements for projects included in paragraphs (a-1), (a-2), or (a-3) of subdivision 1 of this section, to the extent such contracts or award agreements are available to the public pursuant to article 6 of the public officers law. Provided however that only contract documents and award agreements related to projects defined in paragraph (a-1) of subdivision 1 of this section shall be shared by the corporation, and all contract documents and award agreements related to projects defined in paragraphs (a-2) and (a-3) of subdivision 1 of this section shall be shared, upon request, by the agency or authority holding and managing such contract;

5. The corporation may request any data from qualified participants which is necessary and required in developing, updating, and maintaining the searchable database. Such qualified participants shall provide any such information requested by the corporation.

6. The corporation shall prescribe the form and manner in which a state agency or authority awarding other state agency economic

development benefits shall submit information and data regarding other state agency benefits as required for developing, updating, and maintaining the database and publish guidelines as needed to facilitate receipt of such data to comply with the provisions of this section, including the submission provisions included in subdivision 3 of this section. The corporation, to the extent practicable, shall note on the database where a state agency or authority failed to submit the required data.

§ 59. The dormitory authority of the state of New York, the New York state urban development corporation, and the New York state thruway authority are hereby authorized to issue bonds in one or more series under either article 5-C or article 5-F of the state finance law for the purpose of refunding obligations of the power authority of the state of New York to fund energy efficiency projects at state agencies including, but not limited to, the state university of New York, city university of New York, the New York state office of general services, New York state office of mental health, state education department, and New York state department of agriculture and markets. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed four hundred seventy-five million dollars (\$475,000,000), excluding bonds issued to pay costs of issuance of such bonds and to refund or otherwise repay such bonds. Such bonds issued by the dormitory authority of the state of New York, the New York state urban development corporation, and New York state thruway authority 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 the state under article 5-C or article 5-F of the state finance law, as applicable.