

STATE OF NEW YORK

2811--B

IN SENATE

February 1, 2011

PART T - Reinstates the "qualified emerging technology company facilities, operations and training" tax credit, which was set to expire for tax years beginning on or after 1/1/12.

17 Section 1. Paragraph (h) of subdivision 12-G of section 210 of the tax
18 law is REPEALED.

19 § 2. This act shall take effect immediately.

PART X -Provides that any nonrefundable business tax credits earned during 2010, 2011 and 2012 tax years that are subject to the state's three year credit deferral can be claimed in 2013 and/or treated as a refundable overpayment of tax in 2013

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1 Section 1. Section 34 of the tax law, as added by section 2 of part Y
2 of chapter 57 of the laws of 2010, is amended to read as follows:

3 § 34. Temporary deferral payout credits. 1. The amounts of nonrefunda-
4 ble credits that are deferred pursuant to section thirty-three of this
5 article, as added by part Y of chapter fifty-seven of the laws of two
6 thousand ten, in taxable years beginning on or after January first, two
7 thousand ten and before January first, two thousand thirteen shall be
8 accumulated and constitute the taxpayer's temporary deferral nonrefunda-
9 ble payout credit.

10 2. Earned nonrefundable temporary deferral payout credit shall mean
11 the amount of credits allowable in taxable years beginning on or after
12 January first, two thousand ten and before January first, two thousand
13 thirteen, which are not carried over from tax years beginning prior to
14 January first, two thousand ten, to which subdivision three of section
15 thirty-three of this article would apply. The taxpayer may first claim
16 this credit in the taxable year beginning on or after January first, two
17 thousand thirteen and before January first, two thousand fourteen. The
18 taxpayer shall be allowed to claim this credit until the accumulated
19 amounts are exhausted. The credit shall be allowed against the taxpay-
20 er's tax as provided in the provisions referenced in paragraph (a) of
21 subdivision [~~three~~] four of this section.

22 [~~2.~~] 3. The amounts of refundable credits that are deferred pursuant
23 to section thirty-three of this article, as added by part Y of chapter
24 fifty-seven of the laws of two thousand ten, in taxable years beginning
25 on or after January first, two thousand ten and before January first,
26 two thousand thirteen shall be accumulated and constitute the taxpayer's
27 temporary deferral refundable payout credit. In the taxable year begin-
28 ning on or after January first, two thousand thirteen and before January
29 first, two thousand fourteen, the taxpayer shall be allowed to claim a
30 credit equal to fifty percent of the amount accumulated. In the taxable
31 year beginning on or after January first, two thousand fourteen and

32 before January first, two thousand fifteen, the taxpayer shall be
33 allowed to claim a credit equal to seventy-five percent of the balance
34 of the amount accumulated. In the taxable year beginning on or after
35 January first, two thousand fifteen and before January first, two thou-
36 sand sixteen, the taxpayer shall be allowed to claim a credit equal to
37 the remaining balance of the amount accumulated. The credit shall be
38 allowed against the taxpayer's tax as provided in the provisions refer-
39 enced in paragraph (b) of subdivision ~~[three]~~ **four** of this section.

40 ~~[3.]~~ **4.** (a) For application of the temporary deferral nonrefundable
41 payout credit, see the following provisions of this chapter:

42 (1) Article 9: section ~~[187-0]~~ **187-o**

43 (2) Article 9-A: section 210(41)

44 (3) Article 22: section 606(qq)

45 (4) Article 32: section 1456(v)

46 (5) Article 33: section 1511(y)

47 (b) For application of the temporary deferral refundable payout cred-
48 it, see the following provisions of this chapter:

49 (1) Article 9: section 187-p

50 (2) Article 9-A: section 210(42)

51 (3) Article 22: section 606(rr)

52 (4) Article 32: section 1456(w)

53 (5) Article 33: section 1511(z)

54 §2. Subdivision 41 of section 210 of the tax law, as added by section
55 4 of part Y of chapter 57 of the laws of 2010, is amended to read as
56 follows:

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1 41. Temporary deferral nonrefundable payout credit. (a) Allowance of
2 credit. A taxpayer shall be allowed a credit, to be computed as provided
3 in subdivision one of section thirty-four of this chapter, against the
4 tax imposed by this article.

5 (b) Application of credit. The credit allowed under this subdivision
6 for any taxable year shall not reduce the tax due for that year to less
7 than ~~[the amount prescribed in paragraph (d) of subdivision one of this~~
8 ~~section] zero~~. However, if the amount of credit allowed under this
9 subdivision for any taxable year reduces the tax to ~~[such amount] zero~~,
10 any amount of credit thus not deductible in such taxable year **shall be:**
11 **(1) if the amount of earned nonrefundable temporary deferral payout**
12 **credits is zero then the credit not deductible in such taxable year** may
13 be carried over to the following year or years and may be deducted from
14 the taxpayer's tax for such year or years; **or (2) if the amount of**
15 **earned nonrefundable temporary deferral payout credits is greater than**
16 **zero then the taxpayer may treat an amount equal to the lesser of the**
17 **earned nonrefundable temporary deferral payout credits and the amount of**
18 **credit not deductible in such taxable year as an overpayment of tax.**

19 §3. This act shall take effect immediately.

**PART Z - Extends the financial services investment tax credit to tangible property
used by certain portfolio management services**

31 Section 1. Subparagraph (i) of paragraph (b) of subdivision 12 of
32 section 210 of the tax law, as amended by chapter 637 of the laws of
33 2008, is amended to read as follows:

34 (i) A credit shall be allowed under this subdivision with respect to
35 tangible personal property and other tangible property, including build-
36 ings and structural components of buildings, which are: depreciable

37 pursuant to section one hundred sixty-seven of the [~~internal revenue~~
38 ~~code~~] Internal Revenue Code, have a useful life of four years or more,
39 are acquired by purchase as defined in section one hundred seventy-nine
40 (d) of the [~~internal revenue code~~] Internal Revenue Code, have a situs
41 in this state and are (A) principally used by the taxpayer in the
42 production of goods by manufacturing, processing, assembling, refining,
43 mining, extracting, farming, agriculture, horticulture, floriculture,
44 viticulture or commercial fishing, (B) industrial waste treatment facil-
45 ities or air pollution control facilities, used in the taxpayer's trade
46 or business, (C) research and development property, (D) principally used
47 in the ordinary course of the taxpayer's trade or business as a broker
48 or dealer in connection with the purchase or sale (which shall include
49 but not be limited to the issuance, entering into, assumption, offset,
50 assignment, termination, or transfer) of stocks, bonds or other securi-
51 ties as defined in section four hundred seventy-five (c)(2) of the
52 Internal Revenue Code, or of commodities as defined in section four
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1 hundred seventy-five (e) of the Internal Revenue Code, (E) principally
2 used in the ordinary course of the taxpayer's trade or business of
3 providing investment advisory services for a regulated investment compa-
4 ny as defined in section eight hundred fifty-one of the Internal Revenue
5 Code, or lending, loan arrangement or loan origination services to
6 customers in connection with the purchase or sale (which shall include
7 but not be limited to the issuance, entering into, assumption, offset,
8 assignment, termination, or transfer) of securities as defined in
9 section four hundred seventy-five (c)(2) of the Internal Revenue Code,
10 (E-1) principally used in the ordinary course of the taxpayer's trade or
11 business of providing investment advisory services, or the service of
12 managing investment portfolios to achieve specific investment objectives
13 for accounts over one million dollars of accredited investors (as that
14 term is defined in rule 501 of regulation D of the Securities Act of
15 1933), if the taxpayer satisfies the following criteria: (I) the taxpay-
16 er is a regulated broker or dealer or an affiliate of a regulated broker
17 or dealer, (II) the taxpayer is registered as an investment adviser
18 under section two hundred three of the Investment Adviser Act of 1940,
19 as amended, and (III) at least one client of the taxpayer is a regulated
20 investment company as defined in section eight hundred fifty-one of the
21 Internal Revenue Code that has assets in excess of one hundred million
22 dollars, (F) principally used in the ordinary course of the taxpayer's
23 business as an exchange registered as a national securities exchange
24 within the meaning of sections 3(a)(1) and 6(a) of the Securities
25 Exchange Act of 1934 or a board of trade as defined in section
26 1410(a)(1) of the New York Not-for-Profit Corporation Law or as an enti-
27 ty that is wholly owned by one or more such national securities
28 exchanges or boards of trade and that provides automation or technical
29 services thereto, or (G) principally used as a qualified film production
30 facility including qualified film production facilities having a situs
31 in an empire zone designated as such pursuant to article eighteen-B of
32 the general municipal law, where the taxpayer is providing three or more
33 services to any qualified film production company using the facility,
34 including such services as a studio lighting grid, lighting and grip
35 equipment, multi-line phone service, broadband information technology
36 access, industrial scale electrical capacity, food services, security
37 services, and heating, ventilation and air conditioning. For purposes of
38 clauses (D), (E), (E-1) and (F) of this subparagraph, property purchased
39 by a taxpayer affiliated with a regulated broker, dealer, registered
40 investment adviser, national securities exchange or board of trade, is
41 allowed a credit under this subdivision if the property is used by its

42 affiliated regulated broker, dealer, registered investment adviser,
43 national securities exchange or board of trade in accordance with this
44 subdivision. For purposes of determining if the property is principally
45 used in qualifying uses, the uses by the taxpayer described in clauses
46 (D) [~~and~~], (E), and (E-1) of this subparagraph may be aggregated. In
47 addition, the uses by the taxpayer, its affiliated regulated broker,
48 dealer, and registered investment adviser under [~~either or both~~] any
49 of those clauses may be aggregated. Provided, however, a taxpayer shall
50 not be allowed the credit provided by clauses (D), (E), (E-1) and (F) of
51 this subparagraph unless (I) eighty percent or more of the employees
52 performing the administrative and support functions resulting from or
53 related to the qualifying uses of such equipment are located in this
54 state or (II) the average number of employees that perform the adminis-
55 trative and support functions resulting from or related to the qualify-
56 ing uses of such equipment and are located in this state during the
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1 taxable year for which the credit is claimed is equal to or greater than
2 ninety-five percent of the average number of employees that perform
3 these functions and are located in this state during the thirty-six
4 months immediately preceding the year for which the credit is claimed,
5 or (III) the number of employees located in this state during the taxa-
6 ble year for which the credit is claimed is equal to or greater than
7 ninety percent of the number of employees located in this state on
8 December thirty-first, nineteen hundred ninety-eight or, if the taxpayer
9 was not a calendar year taxpayer in nineteen hundred ninety-eight, the
10 last day of its first taxable year ending after December thirty-first,
11 nineteen hundred ninety-eight. If the taxpayer becomes subject to tax in
12 this state after the taxable year beginning in nineteen hundred ninety-
13 eight, then the taxpayer is not required to satisfy the employment test
14 provided in the preceding sentence of this subparagraph for its first
15 taxable year. For purposes of clause (III) of this subparagraph the
16 employment test will be based on the number of employees located in this
17 state on the last day of the first taxable year the taxpayer is subject
18 to tax in this state. If the uses of the property must be aggregated to
19 determine whether the property is principally used in qualifying uses,
20 then either each affiliate using the property must satisfy this employ-
21 ment test or this employment test must be satisfied through the aggre-
22 gation of the employees of the taxpayer, its affiliated regulated
23 broker, dealer, and registered investment adviser using the property.
24 For purposes of this subdivision, the term "goods" shall not include
25 electricity.

26 § 2. Subparagraph (A) of paragraph 2 of subsection (a) of section 606
27 of the tax law, as amended by chapter 637 of the laws of 2008, is
28 amended to read as follows:

29 (A) A credit shall be allowed under this subsection with respect to
30 tangible personal property and other tangible property, including build-
31 ings and structural components of buildings, which are: depreciable
32 pursuant to section one hundred sixty-seven of the internal revenue
33 code, have a useful life of four years or more, are acquired by purchase
34 as defined in section one hundred seventy-nine (d) of the internal
35 revenue code, have a situs in this state and are (i) principally used by
36 the taxpayer in the production of goods by manufacturing, processing,
37 assembling, refining, mining, extracting, farming, agriculture, horti-
38 culture, floriculture, viticulture or commercial fishing, (ii) indus-
39 trial waste treatment facilities or air pollution control facilities,
40 used in the taxpayer's trade or business, (iii) research and development
41 property, (iv) principally used in the ordinary course of the taxpayer's
42 trade or business as a broker or dealer in connection with the purchase
43 or sale (which shall include but not be limited to the issuance, enter-

44 ing into, assumption, offset, assignment, termination, or transfer) of
45 stocks, bonds or other securities as defined in section four hundred
46 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as
47 defined in section 475(e) of the Internal Revenue Code, (v) principally
48 used in the ordinary course of the taxpayer's trade or business of
49 providing investment advisory services for a regulated investment compa-
50 ny as defined in section eight hundred fifty-one of the Internal Revenue
51 Code, or lending, loan arrangement or loan origination services to
52 customers in connection with the purchase or sale (which shall include
53 but not be limited to the issuance, entering into, assumption, offset,
54 assignment, termination, or transfer) of securities as defined in
55 section four hundred seventy-five (c)(2) of the Internal Revenue Code,
56 or (vi) principally used in the ordinary course of the taxpayer's trade
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1 or business of providing investment advisory services, or the service of
2 managing investment portfolios to achieve specific investment objectives
3 for accounts over one million dollars of accredited investors (as that
4 term is defined in rule 501 of regulation D of the Securities Act of
5 1933), if the taxpayer satisfies the following criteria: (I) the taxpay-
6 er is a regulated broker or dealer or an affiliate of a regulated broker
7 or dealer, (II) the taxpayer is registered as an investment adviser
8 under section two hundred three of the Investment Adviser Act of 1940,
9 as amended, and (III) at least one client of the taxpayer is a regulated
10 investment company as defined in section eight hundred fifty-one of the
11 Internal Revenue Code that has assets in excess of one hundred million
12 dollars, (vii) principally used as a qualified film production facility
13 including qualified film production facilities having a situs in an
14 empire zone designated as such pursuant to article eighteen-B of the
15 general municipal law, where the taxpayer is providing three or more
16 services to any qualified film production company using the facility,
17 including such services as a studio lighting grid, lighting and grip
18 equipment, multi-line phone service, broadband information technology
19 access, industrial scale electrical capacity, food services, security
20 services, and heating, ventilation and air conditioning. For purposes of
21 clauses (iv) [~~and~~], (v) and (vi) of this subparagraph, property
22 purchased by a taxpayer affiliated with a regulated broker, dealer, or
23 registered investment adviser is allowed a credit under this subsection
24 if the property is used by its affiliated regulated broker, dealer or
25 registered investment adviser in accordance with this subsection. For
26 purposes of determining if the property is principally used in qualify-
27 ing uses, the uses by the taxpayer described in clauses (iv) and (v) of
28 this subparagraph may be aggregated. In addition, the uses by the
29 taxpayer, its affiliated regulated broker, dealer and registered invest-
30 ment adviser under either or both of those clauses may be aggregated.
31 Provided, however, a taxpayer shall not be allowed the credit provided
32 by clauses (iv) [~~and~~], (v) and (vi) of this subparagraph unless (I)
33 eighty percent or more of the employees performing the administrative
34 and support functions resulting from or related to the qualifying uses
35 of such equipment are located in this state, or (II) the average number
36 of employees that perform the administrative and support functions
37 resulting from or related to the qualifying uses of such equipment and
38 are located in this state during the taxable year for which the credit
39 is claimed is equal to or greater than ninety-five percent of the aver-
40 age number of employees that perform these functions and are located in
41 this state during the thirty-six months immediately preceding the year
42 for which the credit is claimed, or (III) the number of employees
43 located in this state during the taxable year for which the credit is
44 claimed is equal to or greater than ninety percent of the number of

45 employees located in this state on December thirty-first, nineteen
46 hundred ninety-eight or, if the taxpayer was not a calendar year taxpay-
47 er in nineteen hundred ninety-eight, the last day of its first taxable
48 year ending after December thirty-first, nineteen hundred ninety-eight.
49 If the taxpayer becomes subject to tax in this state after the taxable
50 year beginning in nineteen hundred ninety-eight, then the taxpayer is
51 not required to satisfy the employment test provided in the preceding
52 sentence of this subparagraph for its first taxable year. For the
53 purposes of clause (III) of this subparagraph the employment test will
54 be based on the number of employees located in this state on the last
55 day of the first taxable year the taxpayer is subject to tax in this
56 state. If the uses of the property must be aggregated to determine
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1 whether the property is principally used in qualifying uses, then either
2 each affiliate using the property must satisfy this employment test or
3 this employment test must be satisfied through the aggregation of the
4 employees of the taxpayer, its affiliated regulated broker, dealer, and
5 registered investment adviser using the property. For purposes of this
6 subsection, the term "goods" shall not include electricity.

7 § 3. Paragraph 2 of subsection (i) of section 1456 of the tax law, as
8 amended by chapter 637 of the laws of 2008, is amended to read as
9 follows:

10 (2) A credit shall be allowed under this subsection with respect to
11 tangible personal property and other tangible property, including build-
12 ings and structural components of buildings, which are: depreciable
13 pursuant to section one hundred sixty-seven of the Internal Revenue
14 Code, have a useful life of four years or more, are acquired by purchase
15 as defined in section one hundred seventy-nine (d) of the Internal
16 Revenue Code, have a situs in this state and are (A) principally used in
17 the ordinary course of the taxpayer's trade or business as a broker or
18 dealer in connection with the purchase or sale (which shall include but
19 not be limited to the issuance, entering into, assumption, offset,
20 assignment, termination, or transfer) of stocks, bonds or other securi-
21 ties as defined in section four hundred seventy-five (c) (2) of the
22 Internal Revenue Code, or of commodities as defined in section four
23 hundred seventy-five (e) of the Internal Revenue Code, or (B) principal-
24 ly used in the ordinary course of the taxpayer's trade or business of
25 providing investment advisory services for a regulated investment compa-
26 ny as defined in section eight hundred fifty-one of the Internal Revenue
27 Code, or lending, loan arrangement or loan origination services to
28 customers in connection with the purchase or sale (which shall include
29 but not be limited to the issuance, entering into, assumption, offset,
30 assignment, termination, or transfer) of securities as defined in
31 section four hundred seventy-five (c) (2) of the Internal Revenue Code
32 or (C) principally used in the ordinary course of the taxpayer's trade
33 or business of providing investment advisory services, or the service of
34 managing investment portfolios to achieve specific investment objectives
35 for accounts over one million dollars of accredited investors (as that
36 term is defined in rule 501 of regulation D of the Securities Act of
37 1933), if the taxpayer satisfies the following criteria: (I) the taxpay-
38 er is a regulated broker or dealer or an affiliate of a regulated broker
39 or dealer, (II) the taxpayer is registered as an investment adviser
40 under section two hundred three of the Investment Adviser Act of 1940,
41 as amended, and (III) at least one client of the taxpayer is a regulated
42 investment company as defined in section eight hundred fifty-one of the
43 Internal Revenue Code that has assets in excess of one hundred million
44 dollars. For purposes of subparagraphs (A) [~~and~~], (B) and (C) of this
45 paragraph, property purchased by a taxpayer affiliated with a regulated

46 broker, dealer, or registered investment adviser is allowed a credit
47 under this subsection if the property is used by its affiliated regu-
48 lated broker, dealer, or registered investment adviser in accordance
49 with this subsection. For purposes of determining if the property is
50 principally used in qualifying uses, the uses by the taxpayer described
51 in subparagraphs (A) [~~and~~], (B) and (C) of this paragraph may be aggre-
52 gated. In addition, the uses by the taxpayer, its affiliated regulated
53 broker, dealer and registered investment adviser under either or both of
54 such subparagraphs may be aggregated.
55 § 4. This act shall take effect immediately.

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PART AA - Accelerates the sunset date of the PSC Section 18-a assessment on electric
and gas utilities by two years, to 3/31/12

2 Section 1. Paragraph (a) of subdivision 6 of section 18-a of the
3 public service law, as added by section 4 of part NN of chapter 59 of
4 the laws of 2009, is amended to read as follows:
5 (a) Notwithstanding any provision of law to the contrary, and subject
6 to the exceptions provided for in paragraph (b) of this subdivision, for
7 the state fiscal year beginning on April first, two thousand nine and
8 [~~four~~] two state fiscal years thereafter, a temporary annual assessment
9 (hereinafter "temporary state energy and utility service conservation
10 assessment") is hereby imposed on public utility companies (including
11 for the purposes of this subdivision municipalities other than munici-
12 palities as defined in section eighty-nine-1 of this chapter), corpo-
13 rations (including for purposes of this subdivision the Long Island
14 power authority), and persons subject to the commission's regulation
15 (hereinafter such public utility companies, corporations, and persons
16 are referred to collectively as the "utility entities") to encourage the
17 conservation of energy and other resources provided through utility
18 entities, to be assessed in the manner provided in this subdivision;
19 provided, however, that such assessment shall not be imposed upon tele-
20 phone corporations as defined in subdivision seventeen of section two of
21 this article.
22 § 2. Section 6 of part NN of chapter 59 of the laws of 2009 amending
23 the public service law relating to financing operations of the depart-
24 ment of public service is amended to read as follows:
25 § 6. This act shall take effect immediately; provided, however, that
26 subdivision 6 of section 18-a of the public service law, as added by
27 section four of this act shall take effect April 1, 2009 and shall
28 expire and be deemed repealed March 31, [~~2014~~] 2012; and provided,
29 further, that if section four of this act shall become law after April
30 1, 2009, it shall take effect immediately and shall be deemed to have
31 been in full force and effect on and after April 1, 2009.
32 § 3. This act shall take effect immediately and shall be deemed to
33 have been in full force and effect on the same date and in the same
34 manner as part NN of chapter 59 of the laws of 2009 took effect;
35 provided that the amendment to paragraph (a) of subdivision 6 of section
36 18-a of the public service law made by section one of this act shall not
37 affect the expiration and repeal of such subdivision 6 and shall expire
38 and be deemed repealed therewith.

PART FF - Creates a "community transformation program credit," for businesses in a town or city within three miles of a closed correctional facility. Credits include sale tax refunds, a new jobs credit of up to \$5,000 per job for five years, a 5 percent investment tax credit for tangible property investments (can be taken in addition to existing ITC), and a five year real property tax credit. Eligible businesses are all business located within an eligible town or city but exclude retail and medical services unless they are located on former correctional services property.

18 Section 1. The tax law is amended by adding a new section 35 to read
19 as follows:

20 § 35. Community transformation program credit. (a) Definitions. As
21 used in this section, the following terms shall have the following mean-
22 ings:

23 (1) "Transformation community" means a town or a city located within
24 three miles of a correctional facility, as defined in paragraph (a) of
25 subdivision four of section two of the correction law subject to closure
26 pursuant to a recommendation of the prison efficiency task force or a
27 secure facility as defined in section five hundred four-a of the execu-
28 tive law subject to closure pursuant to a chapter of the laws of two
29 thousand eleven.

30 (2) "Base employment" means the average number of full time employees
31 or full time equivalent employees in the state during the base year,
32 where the base year is two thousand eleven. For a new business, base
33 employment shall be zero.

34 (3) "Net new job" means any full time employee or full time equivalent
35 employee that causes the total number of employees to increase above
36 base employment.

37 (4) "Qualified business entity" means a business entity that shall
38 operate within a transformation community, provided, however, a quali-
39 fied business entity shall not include retail establishments or offices
40 of professions required to be licensed by the state unless such retail
41 establishments or offices of professions are to be located on the prop-
42 erty of the correctional facility or secure facility described in para-
43 graph one of this section.

44 (5) "Qualified investment" means an investment in tangible property
45 (including a building or a structural component of a building) owned by
46 a qualified business entity which:

47 (i) is depreciable pursuant to section one hundred sixty-seven of the
48 internal revenue code;

49 (ii) has a useful life of four years or more;

50 (iii) is acquired by purchase as defined in section one hundred seven-
51 ty-nine (d) of the internal revenue code;

52 (iv) has a situs in the transformation community; and

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1 (v) is placed in service in the transformation community on or after
2 the date of the closure of the correctional facility or secured facili-
3 ty.

4 (6) "Tax benefit period" means (i) for the tax credit established
5 pursuant to paragraph one of subdivision (b) of this section, five taxa-
6 ble years starting with the year in which net new job creation occurs or
7 in which the property constituting a qualified investment project is
8 first placed in service or (ii) for the credit established pursuant to
9 paragraph two of subdivision (b) of this section, sixty consecutive
10 months.

11 (7) "Withholding" means the withholding required under section six

12 hundred seventy-one of this chapter calculated using the employee's
13 applicable wage and filing status with one exemption.

14 (b) General. (1) A qualified business entity that is subject to tax
15 under article nine-A, twenty-two, thirty-two or thirty-three of this
16 chapter shall be allowed a credit against such tax, pursuant to the
17 provisions referenced in this section. The amount of the credit, allow-
18 able for the tax benefit period, is the sum of the following three cred-
19 it components:

- 20 (i) community transformation jobs credit;
- 21 (ii) community transformation investment tax credit; and
- 22 (iii) community transformation real property tax credit.

23 (2) A qualified business entity that makes purchases that are subject
24 to tax under article twenty-eight or twenty-nine of this chapter shall
25 be eligible to claim the credit or refund described in subdivisions (a)
26 and (d) of section eleven hundred nineteen of this chapter or any like
27 credit or refund imposed pursuant to the authority of article twenty-
28 nine of this chapter.

29 (c) Notification. The department of correctional services and the
30 office of children and family services shall notify the department with-
31 in ten days subsequent to the recommendation of the prison efficiency
32 task force or the determination by the office of children and family
33 services. Such notification shall include the name of the facility to be
34 closed, the location of such facility, and the name of any town or city
35 located within three miles of such facility. The department shall make
36 the information provided in such notification available to taxpayers.

37 (d) Community transformation jobs credit component. A qualified busi-
38 ness entity shall be eligible to claim a credit for each net new job it
39 creates in a transformation community. The amount of the credit allowed
40 under this section shall be equal to the amount of withholding remitted
41 to the state for each new employee. The credit shall not be more than
42 five thousand dollars for any new employee for one full year of employ-
43 ment; if a new employee has been hired for less than a full tax year
44 this amount shall be prorated and apportioned to each tax year but shall
45 in no way decrease the full five years of credit eligibility. The
46 taxpayer may claim this credit for each new employee for a period of
47 five years of employment. The taxpayer may offset quarterly estimated
48 returns with the amount of this credit earned in any previous quarter.

49 (e) Community transformation investment tax credit component. A quali-
50 fied business entity shall be eligible to claim a credit on qualified
51 investments within the transformation community. The credit shall be
52 equal to five percent of the cost or other basis for federal income tax
53 purposes of the qualified investment. Provided, however, if the quali-
54 fied investment is made with respect to the redevelopment of the correc-
55 tional facility or secure facility, the credit shall be equal to ten

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1 percent of the cost or other basis for federal income tax purposes of
2 the qualified investment.

3 A qualified business entity may claim both the community transforma-
4 tion investment tax credit component and the investment tax credit set
5 forth in subdivision twelve of section two hundred ten, subsection (a)
6 of section six hundred six, or subsection (i) of section fourteen
7 hundred fifty-six of this chapter for the same property in any taxable
8 year. Expenses incurred prior to the effective date of this section are
9 not eligible to be included in the calculation of the credit.

10 (f) Community transformation real property tax credit. A qualified

11 business entity shall be eligible to claim a credit for a period of five
12 years. The credit shall be equal to fifty percent of the eligible real
13 property taxes on the real property located in the transformation commu-
14 nity that were assessed and paid. In the remaining years the credit
15 shall be computed according to the following schedule: Year two: forty
16 percent of eligible real property taxes on the real property located in
17 the transformation community that were assessed and paid; Year three:
18 thirty percent of eligible real property taxes on the real property
19 located in the transformation community that were assessed and paid;
20 Year four: twenty percent of eligible real property taxes on real prop-
21 erty located in the transformation community that were assessed and
22 paid; and Year five: ten percent of eligible real property taxes on the
23 real property located in the transformation community that were assessed
24 and paid. Provided, however, if the real property consists of the
25 correctional facility or the secure facility, the credit shall be equal
26 to one hundred percent of the eligible real property taxes on the real
27 property that were assessed and paid. In the remaining years the credit
28 shall be computed according to the following schedule: Year two: eighty
29 percent of eligible real property taxes on the real property that were
30 assessed and paid; Year three: sixty percent of eligible real property
31 taxes on the real property that were assessed and paid; Year four: forty
32 percent of eligible real property taxes on real property that were
33 assessed and paid; and Year five: twenty percent of eligible real prop-
34 erty taxes on the real property located in the transformation community
35 that were assessed and paid.

36 For purposes of this credit, the term "eligible real property taxes"
37 shall have the same meaning as in subdivision (e) of section fifteen of
38 this chapter, provided that such subdivision shall be read as if it
39 specifically referenced the community transformation program and partic-
40 ipants in that program.

41 (g) Cross-references. For application of the credit provided for in
42 this section, see the following provisions of this chapter:

43 (1) article 9-A: section 210: subdivision 43.

44 (2) article 22: section 606: subsection (ss).

45 (3) article 32: section 1456: subsection (x).

46 (4) article 33: section 1511: subdivision (aa).

47 § 2. Section 210 of the tax law is amended by adding a new subdivision
48 43 to read as follows:

49 43. Community transformation program credit. (a) Allowance of credit.
50 A taxpayer will be allowed a credit, to be computed as provided in
51 section thirty-five of this chapter, against the tax imposed by this
52 article.

53 (b) Application of credit. The credit allowed under this subdivision
54 for any taxable year may not reduce the tax due for such year to less
55 than the higher of the amounts prescribed in paragraphs (c) and (d) of
56 subdivision one of this section. However, if the amount of credit

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1 allowed under this subdivision for any taxable year reduces the tax to
2 such amount, any amount of credit thus not deductible in such taxable
3 year will be treated as an overpayment of tax to be credited or refunded
4 in accordance with the provisions of section one thousand eighty-six of
5 this chapter. Provided, however, the provisions of subsection (c) of
6 section one thousand eighty-eight of this chapter notwithstanding, no
7 interest will be paid thereon.

8 § 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
9 of the tax law is amended by adding a new clause (xxxii) to read as

10 follows:

11 <u>(xxxii) Community transformation</u>	<u>Amount of credit under</u>
12 <u>program credit under subsection</u>	<u>subdivision forty-three</u>
13 <u>(ss)</u>	<u>of section two hundred ten</u>
14	<u>or under subsection (x)</u>
15	<u>of section fourteen hundred</u>
16	<u>fifty-six</u>

17 § 4. Section 606 of the tax law is amended by adding a new subsection
18 (ss) to read as follows:

19 (ss) Community transformation program credit. (1) A taxpayer will be
20 allowed a credit, to the extent allowed under section thirty-one of this
21 chapter, against the tax imposed by this article.

22 (2) Application of credit. If the amount of the credit allowed under
23 this subsection for any taxable year exceeds the taxpayer's tax for such
24 year, the excess will be treated as an overpayment of tax to be credited
25 or refunded in accordance with the provisions of section six hundred
26 eighty-six of this article, provided, however, that no interest will be
27 paid thereon.

28 § 5. Subdivision (a) of section 1119 of the tax law, as amended by
29 chapter 686 of the laws of 1986, and as further amended by section 15 of
30 part GG of chapter 63 of the laws of 2000, is amended to read as
31 follows:

32 (a) Subject to the conditions and limitations provided for herein, a
33 refund or credit shall be allowed for a tax paid pursuant to subdivision
34 (a) of section eleven hundred five or section eleven hundred ten (1) on
35 the sale or use of tangible personal property if the purchaser or user,
36 in the performance of a contract, later incorporates that tangible
37 personal property into real property located outside this state, (2) on
38 the sale or use of tangible personal property purchased in bulk, or any
39 portion thereof, which is stored and not used by the purchaser or user
40 within this state if that property is subsequently reshipped by such
41 purchaser or user to a point outside this state for use outside this
42 state, (3) on the sale to or use by a contractor or subcontractor of
43 tangible personal property if that property is used by him solely in the
44 performance of a pre-existing lump sum or unit price construction
45 contract, (4) on the sale or use within this state of tangible personal
46 property, not purchased for resale, if the use of such property in this
47 state is restricted to fabricating such property (including incorporat-
48 ing it into or assembling it with other tangible personal property),
49 processing, printing or imprinting such property and such property is
50 then shipped to a point outside this state for use outside this state,
51 (5) on the sale to or use by a veterinarian of drugs or medicine if such
52 drugs or medicine are used by such veterinarian in rendering services,
53 which are exempt pursuant to subdivision (f) of section eleven hundred
54 fifteen of this chapter, to livestock or poultry used in the production
55 for sale of tangible personal property by farming or if such drugs or
56 medicine are sold to a person qualifying for the exemption provided for
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1 in paragraph (6) of subdivision (a) of section eleven hundred fifteen of
2 this chapter for use by such person on such livestock or poultry, [~~or~~]
3 (6) on the sale of tangible personal property purchased for use in
4 constructing, expanding or rehabilitating industrial or commercial real
5 property (other than property used or to be used exclusively by one or
6 more registered vendors primarily engaged in the retail sale of tangible
7 personal property) located in an area designated as an empire zone
8 pursuant to article eighteen-B of the general municipal law, but only to
9 the extent that such property becomes an integral component part of the
10 real property, or (7) on the sale of tangible personal property

11 purchased for use in constructing, expanding or rehabilitating indus-
12 trial or commercial real property (other than property used or to be
13 used exclusively by one or more registered vendors primarily engaged in
14 the retail sale of tangible personal property) located in an area desig-
15 nated as transformation community pursuant to section thirty-five of
16 this chapter, but only to the extent that such property becomes an inte-
17 gral component part of the real property. (For the purpose of clause
18 (3) of the preceding sentence, the term "pre-existing lump sum or unit
19 price construction contract" shall mean a contract for the construction
20 of improvements to real property under which the amount payable to the
21 contractor or subcontractor is fixed without regard to the costs
22 incurred by him in the performance thereof, and which (i) was irrevoca-
23 bly entered into prior to the date of the enactment of this article or
24 the enactment of a law increasing the rate of tax imposed under this
25 article, or (ii) resulted from the acceptance by a governmental agency
26 of a bid accompanied by a bond or other performance guaranty which was
27 irrevocably submitted prior to such date.) Where the tax on the sale or
28 use of such tangible personal property has been paid to the vendor, to
29 qualify for such refund or credit, such tangible personal property must
30 be incorporated into real property as required in clause (1) above,
31 reshipped as required in clause (2) above, used in the manner described
32 in clauses (3), (4), (5) [~~and~~], (6) and (7) above within three years
33 after the date such tax was payable to the tax commission by the vendor
34 pursuant to section eleven hundred thirty-seven. Where the tax on the
35 sale or use of such tangible personal property was paid by the applicant
36 for the credit or refund directly to the tax commission, to qualify for
37 such refund or credit, such tangible personal property must be incorpo-
38 rated into real property as required in clause (1) above, reshipped as
39 required in clause (2) above, used in the manner described in clauses
40 (3), (4), (5) [~~and~~], (6) and (7) above within three years after the date
41 such tax was payable to the tax commission by such applicant pursuant to
42 this article. An application for a refund or credit pursuant to this
43 section must be filed with such commission within the time provided by
44 subdivision (a) of section eleven hundred thirty-nine. Such application
45 shall be in such form as the tax commission may prescribe. Where an
46 application for credit has been filed, the applicant may immediately
47 take such credit on the return which is due coincident with or imme-
48 diately subsequent to the time that he files his application for credit.
49 However, the taking of the credit on the return shall be deemed to be
50 part of the application for credit and shall be subject to the
51 provisions in respect to applications for credit in section eleven
52 hundred thirty-nine as provided in subdivision (e) of such section. With
53 respect to a sale or use described in clause (3) above where a pre-ex-
54 isting lump sum or unit price construction contract was irrevocably
55 entered into prior to the date of the enactment of this article or the
56 bid accompanied by the performance guaranty was irrevocably submitted to
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1 the governmental agency prior to such date, the purchaser or user shall
2 be entitled to a refund or credit only of the amount by which the tax on
3 such sale or use imposed under this article plus any tax imposed under
4 the authority of article twenty-nine exceeds the amount computed by
5 applying against such sale or use the local rate of tax, if any, in
6 effect at the time such contract was entered into or such bid was
7 submitted.
8 In the case of the enactment of a law increasing the rate of tax
9 imposed by this article, the purchaser or user shall be entitled only to
10 a refund or credit of the amount by which the increased tax on such sale
11 or use imposed under this article plus any tax imposed under the author-
12 ity of article twenty-nine exceeds the amount computed by applying

13 against such sale or use the state and local rates of tax in effect at
14 the time such contract was entered into or such bid was submitted.

15 § 6. Paragraphs 1 and 2 of subdivision (d) of section 1119 of the tax
16 law, as added by section 31 of part S-1 of chapter 57 of the laws of
17 2009, are amended to read as follows:

18 (1) Subject to the conditions and limitations provided for in this
19 section, a refund or credit will be allowed for taxes imposed on the
20 retail sale of tangible personal property described in subdivision (a)
21 of section eleven hundred five of this article, and on every sale of
22 services described in subdivisions (b) and (c) of such section, and
23 consideration given or contracted to be given for, or for the use of,
24 such tangible personal property or services, where such tangible
25 personal property or services are sold to a qualified empire zone enter-
26 prise or qualified business entity, as defined in paragraph four of
27 subdivision (a) of section thirty-five of this chapter, provided that
28 (A) such tangible personal property or tangible personal property upon
29 which such a service has been performed or such service (other than a
30 service described in subdivision (b) of section eleven hundred five of
31 this article) is directly and predominantly, or such a service described
32 in clause (A) or (D) of paragraph one of such subdivision (b) of section
33 eleven hundred five of this article is directly and exclusively, used or
34 consumed by such enterprise or business entity in an area designated as
35 an empire zone pursuant to article eighteen-B of the general municipal
36 law with respect to which such enterprise is certified pursuant to such
37 article eighteen-B or in a transformation community as defined in para-
38 graph one of subdivision (a) of section thirty-five of this chapter, or
39 (B) such a service described in clause (B) or (C) of paragraph one of
40 subdivision (b) of section eleven hundred five of this article is deliv-
41 ered and billed to such enterprise or business entity at an address in
42 such empire zone or transformation community, or (C) the enterprise's or
43 entity's place of primary use of the service described in paragraph two
44 of such subdivision (b) of section eleven hundred five is at an address
45 in such empire zone or transformation community; provided, further,
46 that, in order for a motor vehicle, as defined in subdivision (c) of
47 section eleven hundred seventeen of this article, or tangible personal
48 property related to such a motor vehicle to be found to be used predomi-
49 nantly in such a zone or community, at least fifty percent of such motor
50 vehicle's use shall be exclusively within such zone or community or at
51 least fifty percent of such motor vehicle's use shall be in activities
52 originating or terminating in such zone or community, or both; and
53 either or both such usages shall be computed either on the basis of
54 mileage or hours of use, at the discretion of such enterprise or entity.
55 For purposes of this subdivision, tangible personal property related to
56 such a motor vehicle shall include a battery, diesel motor fuel, an
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1 engine, engine components, motor fuel, a muffler, tires and similar
2 tangible personal property used in or on such a motor vehicle.

3 (2) Subject to the conditions and limitations provided for in this
4 section, a refund or credit will be allowed for taxes imposed on the
5 retail sale of, and consideration given or contracted to be given for,
6 or for the use of, tangible personal property sold to a contractor,
7 subcontractor or repairman for use in (A) erecting a structure or build-
8 ing of a qualified empire zone enterprise or qualified business entity,
9 (B) adding to, altering or improving real property, property or land of
10 such an enterprise or entity or (C) maintaining, servicing or repairing
11 real property, property or land of such an enterprise or entity, as the
12 terms real property, property or land are defined in the real property
13 tax law; provided, however, no credit or refund will be allowed under

14 this paragraph unless such tangible personal property is to become an
15 integral component part of such structure, building, real property,
16 property or land located in an area designated as an empire zone pursu-
17 ant to article eighteen-B of the general municipal law in, and with
18 respect to which such enterprise is certified pursuant to such article
19 eighteen-B or in a transformation community as defined in paragraph one
20 of subdivision (a) of section thirty-five of this chapter.

21 § 7. Section 1456 of the tax law is amended by adding a new subsection
22 (x) to read as follows:

23 (x) Community transformation program credit. (1) Allowance of credit.
24 A taxpayer will be allowed a credit, to be computed as provided in
25 section thirty-five of this chapter, against the tax imposed by this
26 article.

27 (2) The credit allowed under this subsection for any taxable year will
28 not reduce the tax due for such year to less than the minimum tax fixed
29 by paragraph three of subsection (b) of section fourteen hundred fifty-
30 five of this article. However, if the amount of credit allowed under
31 this subsection for any taxable year reduces the tax to such amount, any
32 amount of credit thus not deductible in such taxable year will be treat-
33 ed as an overpayment of tax to be credited or refunded in accordance
34 with the provisions of section one thousand eighty-six of this chapter.
35 Provided, however, the provisions of subsection (c) of section one thou-
36 sand eighty-eight of this chapter notwithstanding, no interest will be
37 paid thereon.

38 § 8. Section 1511 of the tax law is amended by adding a new subdivi-
39 sion (aa) to read as follows:

40 (aa) Community transformation program credit. (1) Allowance of credit.
41 A taxpayer will be allowed a credit, to be computed as provided in
42 section thirty-five of this chapter, against the taxes imposed by this
43 article.

44 (2) Application of credit. The credit allowed under this subdivision
45 for any taxable year will not reduce the tax due for such year to less
46 than the minimum tax fixed by this article. However, if the amount of
47 credit allowed under this subdivision for any taxable year reduces the
48 tax to such amount, any amount of credit thus not deductible in such
49 taxable year will be treated as an overpayment of tax to be credited or
50 refunded in accordance with the provisions of section one thousand
51 eighty-six of this chapter. Provided, however, the provisions of
52 subsection (c) of section one thousand eighty-eight of this chapter
53 notwithstanding, no interest will be paid thereon.

54 § 9. This act shall take effect immediately.