

30-Day Amendments  
1999-2000 Omnibus Article VII Bill  
LBD 13001-04-9

TITLE		
Page 10	Title	After "amend" insert the mental hygiene law,
Page 12		after "relating to taxes;" insert (CCC) to amend the tax law, in relation to expanding the alternative fuels credit under article 9-a; (DDD) to amend the public housing law and the tax law, in relation to providing a credit against the articles 9-A, 22, 32 and 33 franchise and income taxes for construction or rehabilitation of low-income housing; (EEE) to amend the tax law, in relation to adding two credits, a qualified emerging technology company employment credit and a qualified emerging technology capital tax credit, to article 22; (FFF) to amend the tax law, in relation to corporate mergers, consolidations and acquisitions and repealing certain provisions of the tax law and the administrative code of the city of New York, relating to the treatment of corporate mergers, consolidations and acquisitions
PART E Page 19	Line 52	Delete <u>either</u> delete <u>or the secretary</u>
PART H Page 45	Line 44	Delete entire line.
PART Y Page 79	Line 18	Delete "7", add <u>1</u>
Page 81	Line 5-6 Line 7 Line 8	Delete "paragraph (b) of" Delete "thirty-one", add <u>fifty-seven</u> Delete "one hundred thousand" Strike out " <u>(\$231,100,000)</u> ", insert <u>(\$257,000,000)</u>
Page 82	Line 1-9	Strike out "Subparagraph (ii) of paragraph (c) of subdivision 2807-d, paragraph (c) of subdivision 11 of section 3614-a and subdivision 11 of section 3614-b of the public health law are REPEALED. §12. Notwithstanding any provision of law, rule or regulation, there shall be no refunds due to any provider of services of

collections or payments made on account of the assessments, additional assessments, or further additional assessments, imposed pursuant to sections 2807-d, 3614-a and 3614-b of the public health law for the period April 1, 1997 through March 31, 1999, whenever collected or paid."

Insert Attached Insert A

Line 10 Strike out "13", insert "12"  
Line 12 Strike out "433", insert "474"  
Line 13 Strike out "1997", insert "1996"  
After "effect" insert:  
and sections nine and ten of this act shall be deemed to have been in full force and effect on the same date as chapter 433 of the laws of 1997 took effect

PART HH  
Page 140

Line 23 After "district", insert  
, or directly or indirectly by a charter school.

Page 145

Line 16 After "district" insert  
, or directly or indirectly by a charter school.

Page 150

Line 49 After "district" insert  
, or directly or indirectly by a charter school.

PART II  
Page 185

Line 38 After line 38 and before line 39 insert  
(3) Any information furnished by the department pursuant to this section shall be deemed confidential and the assessor, any municipal officer or municipal employees are prohibited from disclosing any such information, except for any disclosure necessary in the performance of their official duties in connection with school tax relief (STAR) exemption. Any unauthorized disclosure of such information shall be deemed a violation of section eight hundred five-a of the general municipal law.

PART QQQ  
Page 239

Line 6 Strike out "and (c)" insert , (c) and (d)  
Line 8 After "(b)" insert ,  
Line 9 Strike out "and (c)" insert (c) and (d)  
Page 240 Line 16 After "generate" strike out "and" insert  
or

Line 24 After "state" insert )  
Line 51 After "regulation" insert and, for a utility supervised by another jurisdiction, such supervision includes rate regulation and such gas or electricity is delivered for ultimate consumption or use outside this state

Line 52 After "generate" strike out "and" insert or

Line 55 After "state" insert where such public authority is primarily engaged in the generation and distribution of electricity or the distribution of electricity or gas and at least ninety-five percent of the assets of which are so devoted

Page 241 Line 49 After "whatsoever;" insert (d) the words "gross operating income" mean and include receipts received in or by reason of any sale, condition or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water or refrigeration, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water or refrigerator service in this state, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid; or any other expenses whatsoever. Provided, however, there shall be excluded from gross operating income receipts representing the amount received from the resale of the transportation, transmission or distribution of gas or electricity in this state where such transportation, transmission or distribution being resold is provided by a utility subject to tax under paragraph (b) of subdivision 1 of this section; the receipts representing the amount received from resale of such transportation, transmission or distribution shall be the amount received for such transportation, transmission or distribution by such utility which initially provided such transportation, transmission or distribution. Provided, further, sales of gas, electricity, steam, water or refrigeration or gas, electric, steam, water or refrigerator service to a landlord that is a person as defined in this subdivision for resale by such landlord to a tenant, for consumption by

such tenant as an incident to such landlord's activity of renting premises to such tenant, shall be subject to the tax imposed under this section even though such sales are not for ultimate consumption by such landlord. Provided, further, receipts derived by a landlord from the resale of such gas, electricity, steam, water or refrigeration or furnishing gas, electric, steam, water or refrigerator service to such tenant shall be conclusively presumed to be equal to such landlord's cost of the same, and, if the tax under this section was imposed on the sale to such landlord, no additional tax under this section shall be owing on the sale by such landlord to such tenant. If the tax under this section was not imposed on such sale to the landlord, then such landlord on the sale to its tenant shall file a return hereunder based on such landlord's cost (including any associated transportation cost) of such gas, electricity, steam, water or refrigeration or gas, electric, steam, water or refrigerator service;

- |          |         |  |
|----------|---------|--|
|          | Line 54 | Strike out "2 and 4" insert 2, 4 and 10  |
|          | Line 55 | Strike out "and (c)" insert , (c) and (d)  |
| Page 242 | Line 1  | Strike out "and"   |
|          | Line 2  | After "1998" insert and subdivision 10 as amended by chapter 757 of the laws of 1989   |
| Page 243 | Line 15 | After " <u>generate</u> " strike out " <u>and</u> " insert <u>or</u>   |
|          | Line 23 | After "state" insert )   |
|          | Line 53 | After " <u>generate</u> " strike out " <u>and</u> " insert <u>or</u>   |
| Page 244 | Line 40 | Strike out " <u>subdivision</u> " insert <u>paragraph</u>  |
|          | Line 53 | Strike out " <u>means</u> " insert <u>mean</u>   |
| Page 245 | Line 12 | After " <u>generate</u> " strike out " <u>and</u> " insert <u>or</u>   |
|          | Line 40 | After "er." insert (d) the words "gross operating income" mean and include receipts received in or by reason of any sale, condition or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water or refrigeration, or in or by reason |

of the furnishing for such consumption or use of gas, electric, steam, water or refrigerator service in this state, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid; or any other expenses whatsoever. Provided, however, there shall be excluded from gross operating income receipts representing the amount received from the resale of the transportation, transmission or distribution of gas or electricity in this state where such transportation, transmission or distribution being resold is provided by a utility subject to tax under paragraph (b) of subdivision 1 of this section; the receipts representing the amount received from resale of such transportation, transmission or distribution shall be the amount received for such transportation, transmission or distribution by such utility which initially provided such transportation, transmission or distribution. Provided, further, sales of gas, electricity, steam, water or refrigeration or gas, electric, steam, water or refrigerator service to a landlord that is a person as defined in this subdivision for resale by such landlord to a tenant, for consumption by such tenant as an incident to such landlord's activity of renting premises to such tenant, shall be subject to the tax imposed under this section even though such sales are not for ultimate consumption by such landlord. Provided, further, receipts derived by a landlord from the resale of such gas, electricity, steam, water or refrigeration or furnishing gas, electric, steam, water or refrigerator service to such tenant shall be conclusively presumed to be equal to such landlord's cost of the same, and, if the tax under this section was imposed on the sale to such landlord, no additional tax under this section shall be owing on the sale by such landlord to such tenant. If the tax under this section was not imposed on such sale to the landlord, then such landlord on the sale to its tenant shall file a return hereunder based on such landlord's cost (including any associated transportation cost) of such gas, electricity, steam, water or refrigeration or gas, electric, steam,



Line 33 After "period" insert and (B) the sales tax imposed and reported under section eleven hundred seven or eleven hundred nine of this chapter or pursuant to the authority of article twenty-nine of this chapter on the receipts from the sales of the transportation, transmission or distribution of gas or electricity, where the gas or electricity being so transported, transmitted or distributed was sold by the taxpayer to customers for residential purposes during such aforesated period and such transportation, transmission or distribution is also provided during such period

Line 44 Strike out "amount" insert amounts, separately identifying the amounts described in subparagraphs (A) and (B) of this subsection,

Line 45 Strike out "tax" insert taxes

Strike out "the sale" insert such person's sales

Lines 51-52 Strike out "section eleven hundred thirty-six" insert articles twenty-eight and twenty-nine

Line 53 Strike out "seller" insert taxpayer

Line 55 Strike out "sellers" insert taxpayers

Page 256 Line 53 Strike out ", " insert [,]

Line 54 After "and" insert to

Line 55 After "sections" insert one hundred eighty-six and one hundred eighty-six-b

Page 259 Line 12 Strike out "electrical" insert electric

Line 20 After "including" insert gas or

Page 265 Line 15 After "sale" insert or use

Page 266 Line 4 Strike out "six" insert five

Line 18 Strike out "or" insert [or],

Line 31 After "or" insert of the service, including

Line 32 Strike out "," insert or

After "service" insert ,

Page 267

Lines 43-44 Strike out ", and a credit against the tax imposed under section 189-a of the tax law"

Line 44 Strike out "(i)"

Line 45 After "1998" insert ;

Strike out "(ii)" insert there shall be allowed a credit against the tax imposed under section 189 of the tax law and the tax imposed under section 189-a of the tax law to account for (i)

Line 47 After "act" insert , and (ii) the rate reduction which occurred on January 1, 1999, with respect to certain gross income under subparagraph 2 of paragraph (b) of subdivision 1 of section 186-a of the tax law, as amended by section four of this act

Line 48 After "such" insert October 1, 1998,

After "and" insert with

Line 49 After "186" insert and the amendment of such section 186-a,

Line 53 After "1998" insert ,

Strike out "one" insert 1.65

After "commencing" insert January 1, 1999,

Line 54 After "186" insert and the amendment of section 186-a

After "apply" insert beginning January 1, 1999,

Page 268

Line 1 After "section." insert The amount of the credit shall first be offset against any liability owing by the taxpayer under section one hundred eighty-nine or section one hundred eighty-nine-a. Such offset shall be made by a public utility required to collect the tax imposed by such sections against any tax liability under such sections collected by such utility on and after the date this act shall have become a law. Such utility shall provide information to each such taxpayer regarding the amount offset with respect to such taxpayer and the amount of the excess credit, if any, due such taxpayer so that each such taxpayer can file a claim for refund with the commissioner of



taxation and finance for any such excess credit.

Line 30 Strike out "tax" insert sections

Line 43 After "receipt" insert or consideration

Strike out "tax" insert sections

PART RR  
Page 269

Line 32 After "and two thousand" insert ,

PART SS  
Page 271

Line 34-45 Strike out "Where the taxpayer is described in subparagraph one or two of paragraph (i) of subdivision twelve of section two hundred ten of this chapter, it shall not be allowed the credit where such allowance would result in a credit being allowed twice for a particular increase in, or maintenance of, urban employment, as the case may be, or would otherwise be contrary to the intent and purpose of this provision. In addition, where the composition of the taxpayer is the result of a merger, consolidation, or other reorganization, the employment figures for the taxpayer shall be computed as if the employment figures for the entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable years"

insert Where the composition of the taxpayer is the result of a merger, consolidation or other reorganization, or of the incorporation of an unincorporated business, the employment figures for the taxpayer shall be computed as if the employment figures for the businesses or entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable year, to the extent necessary to effectuate the intent and purposes of this section.

Page 272

Line 1 strike out "Subdivision 25 of"

strike out "section" insert Section

after "of the tax law" insert is amended

by

- Lines 1-3            strike out "as renumbered by section 128 of part A of chapter 389 of the laws of 1997, is renumbered subdivision 26 and
- Line 3                strike out "25" insert 26
- Line 4                strike out "is added"  
                      strike out "25" insert 26
- Page 273            Lines 3-14            Strike out "Where the taxpayer is described in subparagraph one or two of paragraph (i) of subdivision twelve of this section, it shall not be allowed the credit where such allowance would result in a credit being allowed twice for a particular increase in, or maintenance of, urban employment, as the case may be, or would otherwise be contrary to the intent and purpose of this provision. In addition, where the composition of the taxpayer is the result of a merger, consolidation, or other reorganization, the employment figures for the taxpayer shall be computed as if the employment figures for the entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable years"
- insert Where the composition of the taxpayer is the result of a merger, consolidation or other reorganization, or of the incorporation of an unincorporated business, the employment figures for the taxpayer shall be computed as if the employment figures for the businesses or entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable year, to the extent necessary to effectuate the intent and purposes of this subdivision.
- Page 274            Line 40                after "applicable credit" insert base
- Line 42                strike out "(q)" insert (r)
- Line 43                strike out "five" insert six
- Line 47                strike out "Subsections (q) and (r) of section" insert Section
- after "of the tax law" insert is amended

by adding

Lines 47-49 strike out "as relettered by chapter 142 of the laws of 1997, are relettered subsections (r) and (s) and

Line 49 strike out "(q) insert (r)

Line 50 strike out "(q)" insert (r)

Page 275 & 276

Lines 47-55 and  
Lines 1-4

Strike out "Where the taxpayer is either a sole proprietorship or a member of a partnership described in subparagraph (B) of paragraph ten of subsection (a) of this section, such taxpayer shall not be allowed the credit where such allowance would result in a credit being allowed twice for a particular increase in, or maintenance of, urban employment, as the case may be, or would otherwise be contrary to the intent and purposes of this provision. In addition, where the composition of the business of which such a taxpayer is the owner or partner is the result of an amalgamation of the operations of the entities or of other such businesses, the employment figures for the business of which such taxpayer is the owner or partner shall be computed as if the employment figures for the entities or businesses so amalgamated were those of the business of which such taxpayer is the owner"

insert Where the taxpayer is a sole proprietor or a member of a partnership and where the composition of such business is the result of an amalgamation of the operations of other businesses or entities, or of the liquidation of a corporation, the employment figures for the business of which the taxpayer is the owner or partner shall be computed as if the employment figures for the entities or businesses so amalgamated, or the corporation so liquidated, were those of the business of which the taxpayer is the owner or partner, to the extent necessary to effectuate the intent and purposes of this subsection.

Page 277

Line 13-24

Strike out "Where the taxpayer is described in subparagraph (A) or (B) of paragraph eight of subsection (i) of this section, it shall not be allowed the credit where such allowance would result in a credit being allowed twice for a

particular increase in, or maintenance of, urban employment, as the case may be, or would otherwise be contrary to the intent and purpose of this provision. In addition, where the composition of the taxpayer is the result of a merger, consolidation, or other reorganization, the employment figures for the taxpayer shall be computed as if the employment figures for the entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable years"

insert Where the composition of the taxpayer is the result of a merger, consolidation or other reorganization, or of the incorporation of an unincorporated business, the employment figures for the taxpayer shall be computed as if the employment figures for the businesses or entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable year, to the extent necessary to effectuate the intent and purposes of this subsection.

Page 278

Line 40-51

Strike out "Where the taxpayer is described in subparagraph one or two of paragraph (i) of subdivision twelve of section two hundred ten of this chapter, it shall not be allowed the credit where such allowance would result in a credit being allowed twice for a particular increase in, or maintenance of, urban employment, as the case may be, or would otherwise be contrary to the intent and purpose of this provision. In addition, where the composition of the taxpayer is the result of a merger, consolidation, or other reorganization, the employment figures for the taxpayer shall be computed as if the employment figures for the entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable years"

insert Where the composition of the taxpayer is the result of a merger, consolidation or other reorganization, or of the incorporation of an unincorporated business, the employment figures for the taxpayer shall be computed as if the

employment figures for the businesses or entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable year, to the extent necessary to effectuate the intent and purposes of this subdivision.

PART VV  
Page 285

Before line 29, insert: Attached Insert C

Line 29 Strike out "1", insert 3  
Line 46 Strike out "2", insert 4

Page 286

Line 14 Strike out "3", insert 5  
Line 29 Strike out "4", insert 6  
Line 44 Strike out "5", insert 7

Page 287

Line 18 Strike out "6", insert 8  
Line 48 Strike out "7", insert 9

Page 288

Line 6 Strike out "8", insert 10  
Line 19 Strike out "9", insert 11  
Line 31 Strike out "10", insert 12  
Line 43 Strike out "11", insert 13  
Line 54 Strike out "12", insert 14

PART BBB  
Page 304

Line 54 after "immediately."  
insert attached "PART CCC"  
insert attached "PART DDD"  
insert attached "PART EEE"  
insert attached "PART FFF"