

# STATE OF NEW YORK

11006

## ASSEMBLY

May 4, 2000

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Farrell,  
Silver, Bragman) -- (at request of the Governor) -- read once and  
referred to the Committee on Ways and Means

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26

### PART II

27 Section 1. Declaration of policy and statement of purposes. It is the  
28 policy of New York state to encourage the construction, rehabilitation  
29 and maintenance of buildings in this state in such a manner as to:

30 1. promote better environmental standards for the construction, reha-  
31 bilitation and maintenance of buildings in the state;

32 2. improve energy efficiency and increase generation of energy through  
33 renewable and clean energy technologies;

34 3. increase the demand for environmentally preferable building materi-  
35 als, finishes and furnishings;

36 4. improve the environment by decreasing the discharge of pollutants  
37 from buildings;

38 5. create industry and public awareness of new technologies that can  
39 improve the quality of life for building occupants; and

40 6. improve the health and productivity of building occupants.

41 In order to facilitate the foregoing policies, the legislature hereby  
42 creates a franchise and income tax credit to promote the construction,  
43 rehabilitation and maintenance of buildings that meet the criteria set  
44 forth in this act.

45 § 2. The tax law is amended by adding a new section 19 to read as  
46 follows:

47 § 19. Green building credit. (a) Allowance of credit. (1) General.  
48 (A) Green building credit. A taxpayer subject to tax under article nine,  
49 nine-A, twenty-two, thirty-two or thirty-three of this chapter shall be  
50 allowed a green building credit against such tax, pursuant to the  
51 provisions referenced in subdivision (f) of this section. Provided,  
52 however, no credit shall be allowed under this section unless the  
53 taxpayer has complied with the applicable requirements of paragraph two  
54 of subdivision (d) of this section (relating to reports to DEC). The

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1 amount of the credit shall be the sum of the credit components specified  
2 in paragraphs two through seven of this subdivision. Provided, however,  
3 the amount of each such credit component shall not exceed the limit set  
4 forth in the initial credit component certificate obtained pursuant to  
5 subdivision (c) of this section. In the determination of such credit  
6 components, no cost paid or incurred by the taxpayer shall be the basis  
7 for more than one such component.

8 (B) Credit to successor owner. If a credit is allowed to a building  
9 owner pursuant to this subdivision with respect to property, and such  
10 property (or an interest therein) is sold, the credit for the period  
11 after the sale which would have been allowable under this subdivision to  
12 the prior owner had the property not been sold shall be allowable to the  
13 new owner. Credit for the year of sale shall be allocated between the  
14 parties on the basis of the number of days during such year that the  
15 property or interest was held by each.

16 (C) Credit to successor tenant. If a credit is allowed to a tenant  
17 pursuant to this subdivision with respect to property, and if such  
18 tenancy is terminated but such property remains in use in the building  
19 by a successor tenant, the credit for the period after such termination  
20 which would have been allowable under this subdivision to the prior  
21 tenant had the tenancy not been terminated shall be allowable to the  
22 successor tenant. Credit for the year of termination shall be allocated  
23 between the parties on the basis of the number of days during such year  
24 that the property was used by each.

25 (D) Notwithstanding any other provision of law to the contrary, in the  
26 case of allowance of credit under this section to a successor owner or  
27 tenant, as provided in subparagraph (B) or (C) of this paragraph, the  
28 commissioner shall have the authority to reveal to the successor owner  
29 or tenant any information, with respect to the credit of the prior owner  
30 or tenant, which is the basis for the denial in whole or in part of the  
31 credit claimed by such successor owner or tenant.

32 (2) Green whole-building credit component. The green whole-building  
33 credit component shall be equal to the applicable percentage of the  
34 allowable costs paid or incurred by the taxpayer (whether owner or  
35 tenant), for either the construction of a green building or the rehabil-  
36 itation of a building which is not a green building to be a green build-  
37 ing. Provided, however, the credit component shall not exceed the maxi-  
38 mum amount specified in the initial credit component certificate. The  
39 applicable percentage shall be 1.4 percent, except that if the building  
40 is located in an economic development area, the applicable percentage  
41 shall be 1.6 percent. The credit component amount so determined shall be  
42 allowed for the credit allowance year, but only if (A) the taxpayer has  
43 obtained and filed both an initial credit component certificate and an  
44 eligibility certificate issued pursuant to subdivision (c) of this  
45 section, (B) a certificate of occupancy for the building has been issued  
46 and (C) where the credit allowance year is a year described in subpara-  
47 graph (B) of paragraph two-a of subdivision (b) of this section, the  
48 green building or rehabilitation remains in service during such year.  
49 Such credit component amount shall be allowed also for each of the next  
50 four succeeding taxable years with respect to which the taxpayer has  
51 obtained and filed an eligibility certificate pursuant to subdivision  
52 (c) of this section. Provided, further, the allowable costs may not  
53 exceed, in the aggregate, one hundred fifty dollars per square foot with  
54 respect to the portion of the building which comprises the base building  
55 and seventy-five dollars per square foot with respect to the portion of  
56 the building which comprises the tenant space.

1 (3) Green base building credit component. The green base building  
2 credit component shall be equal to the applicable percentage of the  
3 allowable costs paid or incurred by the taxpayer, if the owner, for  
4 either the construction of a green base building or for the rehabili-  
5 tation of a base building which is not a green base building to be a  
6 green base building. Provided, however, the credit component shall not  
7 exceed the maximum amount specified in the initial credit component  
8 certificate. The applicable percentage shall be one percent, except  
9 that if the building is located in an economic development area, the  
10 applicable percentage shall be 1.2 percent. The credit component amount  
11 so determined shall be allowed for the credit allowance year, but only  
12 if (A) the taxpayer has obtained and filed both an initial credit compo-  
13 nent certificate and an eligibility certificate issued pursuant to  
14 subdivision (c) of this section, (B) a certificate of occupancy for the  
15 building has been issued and (C) where the credit allowance year is a  
16 year described in subparagraph (B) of paragraph two-a of subdivision (b)  
17 of this section, the green base building or rehabilitation of a base  
18 building remains in service during such year. Such credit component  
19 amount shall be allowed also for each of the next four succeeding taxa-  
20 ble years with respect to which the taxpayer has obtained and filed an  
21 eligibility certificate pursuant to subdivision (c) of this section.  
22 Provided, further, the allowable costs for the base building may not  
23 exceed, in the aggregate, one hundred fifty dollars per square foot.

24 (4) Green tenant space credit component. The green tenant space credit  
25 component shall be equal to the applicable percentage of allowable costs  
26 for tenant improvements paid or incurred by the taxpayer (whether owner  
27 or tenant) in constructing (including completing) tenant space, or reha-  
28 bilitating tenant space which is not green tenant space to be green  
29 tenant space. Provided, however, the credit component shall not exceed  
30 the maximum amount specified in the initial credit component certifi-  
31 cate. The applicable percentage shall be one percent, except that if  
32 the building is located in an economic development area the applicable  
33 percentage shall be 1.2 percent. Provided, however, that the owner, or a  
34 tenant who occupies fewer than ten thousand square feet, shall qualify  
35 for such green tenant space credit component only in the event that the  
36 base building is a green base building. The credit component amount so  
37 determined shall be allowed for the credit allowance year, but only if  
38 (A) the taxpayer has obtained and filed an initial credit component  
39 certificate and an eligibility certificate issued pursuant to subdivi-  
40 sion (c) of this section and (B) where the credit allowance year is a  
41 year described in subparagraph (B) of paragraph two-a of subdivision (b)  
42 of this section, the construction, completion or rehabilitation remains  
43 in service during such year. Such credit component amount shall be  
44 allowed also for each of the next four succeeding taxable years with  
45 respect to which the taxpayer has obtained and filed an eligibility  
46 certificate pursuant to subdivision (c) of this section. Provided,  
47 however, the allowable costs for tenant space shall not exceed, in the  
48 aggregate, seventy-five dollars per square foot. In the event that both  
49 an owner and tenant incur such costs for tenant space with respect to  
50 the same tenant space and such costs in the aggregate exceed seventy-  
51 five dollars per square foot, the owner shall have priority as to costs  
52 constituting the basis for the green tenant space credit component.

53 (5) Fuel cell credit component. A fuel cell credit component shall be  
54 allowed for the installation of a fuel cell which is a qualifying alter-  
55 nate energy source, installed to serve a green building, green base  
56 building or green tenant space. The amount of the credit component shall

1 be six percent of the sum of the capitalized costs paid or incurred by  
2 the taxpayer with respect to each fuel cell installed to serve such  
3 building or space, including the cost of the foundation or platform and  
4 the labor cost associated with installation, such capitalized costs not  
5 to exceed one thousand dollars per kilowatt of installed DC rated capac-  
6 ity. Provided, however, the credit component shall not exceed the maxi-  
7 mum amount specified in the initial credit component certificate. The  
8 fuel cell credit component amount so determined shall be allowed for the  
9 credit allowance year, but only if (A) the taxpayer has obtained and  
10 filed an initial credit component certificate and an eligibility certifi-  
11 cate issued pursuant to subdivision (c) of this section and (B) where  
12 the credit allowance year is a year described in subparagraph (B) of  
13 paragraph two-a of subdivision (b) of this section, the fuel cell  
14 remains in service during such year. Such credit component amount shall  
15 be allowed also with respect to each of the four taxable years next  
16 following during which the fuel cell remains in service. Provided,  
17 however, that the amount of any federal, state or local grant received  
18 by the taxpayer and used for the purchase and/or installation of such  
19 fuel cell and which was not included in the federal gross income of the  
20 taxpayer shall be subtracted from the amount of such cost.

21 (6) Photovoltaic module credit component. A photovoltaic module credit  
22 component shall be allowed for the installation of photovoltaic modules  
23 which constitute a qualifying alternate energy source installed to serve  
24 a green building, green base building or green tenant space. The amount  
25 of the credit component shall be twenty percent of the incremental cost  
26 paid or incurred by the taxpayer for building-integrated photovoltaic  
27 modules and five percent of the cost of non-building-integrated photo-  
28 voltaic modules, in either case such cost not to exceed the product of  
29 (i) three dollars and (ii) the number of watts included in the DC rated  
30 capacity of the photovoltaic modules. Provided, however, the credit  
31 component shall not exceed the maximum amount specified in the initial  
32 credit component certificate. The credit component amount so determined  
33 shall be allowed for the credit allowance year, but only if (A) the  
34 taxpayer has obtained and filed an initial credit component certificate  
35 and an eligibility certificate issued pursuant to subdivision (c) of  
36 this section and (B) where the credit allowance year is a year described  
37 in subparagraph (B) of paragraph two-a of subdivision (b) of this  
38 section, the modules remain in service during such year. Such credit  
39 amount shall be allowed also for the four taxable years next following  
40 during which the modules remain in service. Provided, however, that the  
41 amount of any federal, state or local grant received by the taxpayer and  
42 used for the purchase and/or installation of such photovoltaic equipment  
43 and which was not included in the federal gross income of the taxpayer  
44 shall be subtracted from the amount of such cost.

45 (7) Green refrigerant component. A green refrigerant component shall  
46 be allowed for new air conditioning equipment (including chillers and  
47 absorption chillers, water or air cooled unitary equipment, water-cooled  
48 heat pumps, packaged terminal heat pumps, air conditioners, and other  
49 similar air conditioning equipment) that uses an EPA-approved non-ozone  
50 depleting refrigerant installed to serve a green building, green base  
51 building or green tenant space. The amount of the credit component shall  
52 be two percent of the cost of such air conditioning equipment. The  
53 commissioner of environmental conservation, in consultation with NYSER-  
54 DA, shall promulgate regulations concerning the eligibility of other  
55 EPA-approved refrigerants to receive a credit pursuant to this para-  
56 graph. Provided, however, the credit component shall not exceed the

1 maximum amount specified in the initial credit component certificate.  
2 The green refrigerant component amount so determined shall be allowed  
3 for the credit allowance year, but only if (A) the taxpayer has obtained  
4 and filed an initial credit component certificate and an eligibility  
5 certificate issued pursuant to subdivision (c) of this section, and (B)  
6 where the credit allowance year is a year described in subparagraph (B)  
7 of paragraph two-a of subdivision (b) of this section, the air condi-  
8 tioning equipment remains in service. Such credit component amount shall  
9 be allowed also with respect to each of the four taxable years next  
10 following during which the air conditioning equipment remains in  
11 service.

12 (b) Definitions. As used in this section, the following terms shall  
13 have the following meanings:

14 (1) "Allowable costs" means amounts properly chargeable to capital  
15 account (other than for land), which are paid or incurred on or after  
16 June first, nineteen hundred ninety-nine, for: construction or rehabil-  
17 itation; commissioning costs; interest paid or incurred during the  
18 construction or rehabilitation period; legal, architectural, engineering  
19 and other professional fees allocable to construction or rehabilitation;  
20 closing costs for construction, rehabilitation or mortgage loans;  
21 recording taxes and filing fees incurred with respect to construction or  
22 rehabilitation; site costs (such as temporary electric wiring, scaffold-  
23 ing, demolition costs, and fencing and security facilities); and costs  
24 of furniture, carpeting, partitions, walls and wall coverings, ceilings,  
25 drapes, blinds, lighting, plumbing, electrical wiring and ventilation;  
26 provided that such costs shall not include the cost of telephone systems  
27 and computers (other than electrical wiring costs) and shall not include  
28 the cost of fuel cells or photovoltaic modules (including installation)  
29 or the cost of new air conditioning equipment using an EPA-approved  
30 non-ozone depleting refrigerant or other EPA-approved refrigerant  
31 approved by the commissioner of environmental conservation (excluding  
32 installation).

33 (2) "Base building" means all areas of a building not intended for  
34 occupancy by a tenant or owner, including but not limited to the struc-  
35 tural components of the building, exterior walls, floors, windows,  
36 roofs, foundations, chimneys and stacks, parking areas, mechanical rooms  
37 and mechanical systems, and owner-controlled and/or operated service  
38 spaces, sidewalks, main lobby, shafts and vertical transportation mech-  
39 anisms, stairways and corridors.

40 (2-a) "Credit allowance year" means the later of (A) the taxable year  
41 during which the property, construction, completion or rehabilitation  
42 referred to in paragraphs two through seven of subdivision (a) of this  
43 section has been placed in service or has received a final certificate  
44 of occupancy or (B) the first taxable year with respect to which the  
45 credit may be claimed pursuant to the initial credit component certifi-  
46 cate issued pursuant to subdivision (c) of this section.

47 (3) "Commissioning" means the testing and fine-tuning of heat, venti-  
48 lating and air conditioning and other systems to assure proper function-  
49 ing and adherence to design criteria and the preparation of system oper-  
50 ation manuals and instruction of maintenance personnel.

51 (4) "DEC" means the New York state department of environmental conser-  
52 vation. "DOH" means the New York state department of health. "EPA" means  
53 the United States environmental protection agency.

54 (5) "Economic development area" means an area which is designated (A)  
55 an economic development zone pursuant to article eighteen-B of the

1 general municipal law or (B) an empowerment zone or enterprise community  
2 pursuant to section 1391 of the Internal Revenue Code.

3 (6) "Eligible building" means a building located in this state which  
4 is :

5 (A) classified B2, B3, B4, C1, C2, C5, or C6 for purposes of the New  
6 York state uniform fire prevention and building code or similarly clas-  
7 sified under any subsequent code; provided that any such building  
8 contains at least twenty thousand square feet of interior space, or

9 (B) a residential multi-family building with at least twelve dwelling  
10 units that contain at least twenty thousand square feet of interior  
11 space, or

12 (C) one or more residential multi-family buildings with at least two  
13 dwelling units that are part of a single or phased construction project  
14 that contains, in the aggregate, at least twenty thousand square feet of  
15 interior space; provided that in any single phase of such project at  
16 least ten thousand square feet of interior space is under construction  
17 or rehabilitation, or

18 (D) any combination of buildings described in subparagraphs (A), (B)  
19 and (C) of this paragraph, and

20 (E) is not a building located on freshwater wetlands or tidal wetlands  
21 the construction of which requires a permit under section 24-0701 or  
22 25-0403, respectively, of the environmental conservation law, or on  
23 wetlands such that the construction thereof requires a permit pursuant  
24 to section 404 of the federal clean water act (33 U.S.C. § 1344).

25 (7) "Energy code" means the New York state energy conservation  
26 construction code.

27 (8) "Fuel cell" means a device that produces electricity directly from  
28 hydrogen or hydrocarbon fuel through a non-combustive electro-chemical  
29 process.

30 (9) "Green base building" means a base building which is part of an  
31 eligible building and which meets the following standards:

32 (A) Energy and energy efficiency. (i) Energy use is no more than  
33 sixty-five percent (in the case of new construction of a base building)  
34 or seventy-five percent (in the case of rehabilitation of a base build-  
35 ing) of the use permitted under the energy code or, in the event such  
36 standard is revised or superseded, energy use shall meet such other  
37 energy efficiency standards that DEC, in consultation with NYSERDA,  
38 shall establish in regulations promulgated pursuant to paragraph one of  
39 subdivision (e) of this section, in effect at the time the base building  
40 or rehabilitation thereof is placed in service.

41 (ii) All appliances and any heating, cooling and water heating equip-  
42 ment used in the base building and subject to the regulations promulgat-  
43 ed by DEC, in consultation with NYSERDA, pursuant to paragraph one of  
44 subdivision (e) of this section, shall meet the standards established by  
45 such regulations in effect at the time the base building or rehabili-  
46 tation thereof is placed in service.

47 (B) Zoning, indoor air quality, building materials, finishes and  
48 furnishings. (i) The base building shall comply with all applicable  
49 zoning, land use and erosion control requirements, stormwater management  
50 ordinances, building code requirements and environmental regulations. In  
51 the case of the rehabilitation of an existing building, all existing  
52 environmental hazards shall be identified and managed in accordance with  
53 applicable laws, regulations and industry guidelines.

54 (ii) Buildings classified B2, B3, B4, C1, C2, C5, or C6, for purposes  
55 of the New York state uniform fire prevention and building code, or

1 similarly classified under any subsequent code, shall meet the following  
2 indoor air quality requirements:

3 (I) ventilation and exchange of indoor/outdoor air shall meet the  
4 standards established by regulations promulgated by DEC, in consultation  
5 with DOH and NYSERDA, pursuant to paragraph two of subdivision (e) of  
6 this section;

7 (II) if smoking is permitted in specific areas of the building, sepa-  
8 rate air ventilation and circulation shall be provided for smoking and  
9 non-smoking areas;

10 (III) the ventilation system shall include an air purging system that  
11 is capable of replacing one hundred percent of the air on any floor, on  
12 a minimum of two floors at a time. The air shall be purged for a period  
13 of one week on every floor immediately prior to initial occupancy and on  
14 any floor that undergoes renovation immediately prior to re-occupancy;  
15 provided that, if a taxpayer obtains certification from a licensed  
16 architect, engineer, certified industrial hygienist, or other licensed  
17 or certified professional whom the commissioner of environmental conser-  
18 vation shall approve, pursuant to regulations, verifying that off-gass-  
19 ing and any other contamination can be reduced to comparable levels in  
20 less than one week, the period of purging may be shortened. The taxpayer  
21 shall maintain a copy of such certification in accordance with the  
22 provisions of subdivision (d) of this section.

23 (C) Building fresh air intake shall be located a minimum of twenty-  
24 five feet away from loading areas, building exhaust fans, cooling towers  
25 and other point sources of contamination.

26 (D) During construction or rehabilitation, the ventilation system  
27 components and pathways shall be protected from contamination in accord-  
28 ance with an indoor air quality management plan for the construction or  
29 rehabilitation process that meets the standards established in regu-  
30 lations promulgated by DEC, in consultation with DOH and NYSERDA, pursu-  
31 ant to paragraph two of subdivision (e) of this section. In the event  
32 that such areas are not protected from contamination in accordance with  
33 such standards, they shall be cleaned prior to occupancy.

34 (E) A licensed engineer, certified industrial hygienist, or other  
35 licensed or certified professional whom the commissioner of environ-  
36 mental conservation shall approve, pursuant to regulations, shall  
37 conduct indoor air quality testing with respect to the entire building  
38 immediately following occupancy, if any, and on an annual basis, to  
39 monitor supply and return air and ambient air for carbon monoxide,  
40 carbon dioxide, total volatile organic compounds, radon, and particulate  
41 matter. Provided, however, once radon measurements have been found to  
42 be satisfactory, subsequent annual testing is not required. The taxpay-  
43 er shall record baseline readings immediately following occupancy, if  
44 any, and annually thereafter. In the event that the taxpayer does not  
45 establish that during a taxable year during which any part of the build-  
46 ing is occupied, indoor air quality met the standards established in  
47 regulations promulgated by DEC, in consultation with DOH and NYSERDA,  
48 pursuant to paragraph two of subdivision (e) of this section, the base  
49 building shall not constitute a green base building.

50 (F) The mechanical plant of the building shall be commissioned in  
51 accordance with the standards established in regulations promulgated by  
52 DEC, in consultation with NYSERDA, pursuant to subparagraph (D) of para-  
53 graph one of subdivision (e) of this section, which standards shall be  
54 informed by documents such as ASHRAE G-1 and the United States general  
55 services administration "Model Commissioning Plan and Guide Specifica-  
56 tions". For purposes of this subparagraph the term "ASHRAE" means the

1 American society of heating, refrigerating and air conditioning engi-  
2 neers.

3 (G) Separate waste disposal chutes or a carousel compactor system for  
4 recyclable materials shall be provided for the recycling of waste by  
5 occupants, or recycling shall be otherwise facilitated by, at a minimum,  
6 providing a readily accessible designated collection area or areas with  
7 sufficient space to store recyclable materials separately between  
8 collection dates.

9 (H) All plumbing fixtures in the public areas of the building shall  
10 meet the plumbing fixture requirements of the energy policy act of 1992  
11 or any successor provision in effect at the time the building or reha-  
12 bilitation is placed in service.

13 (I) Prior to initial occupancy and upon request, the owner of the  
14 building shall provide each tenant with (1) written notification of the  
15 opportunity to apply for a tax credit pursuant to this section and (2)  
16 written guidelines regarding opportunities to improve the energy effi-  
17 ciency and air quality of tenant space and to reduce and recycle waste  
18 streams.

19 (J) All building materials, finishes and furnishings used in the base  
20 building and subject to the regulations promulgated by DEC, in consulta-  
21 tion with NYSERDA, pursuant to subparagraph (A) of paragraph three of  
22 subdivision (e) of this section, shall meet the standards established by  
23 such regulations in effect at the time the building or rehabilitation is  
24 placed in service; provided further that with respect to furnishings,  
25 this requirement shall apply only to newly purchased items.

26 (K) All tenant space in the building occupied by the owner must be  
27 green tenant space.

28 (10) "Green building" means a building wherein the base building is a  
29 green base building and all tenant space is green tenant space.

30 (11) "Green tenant space" means tenant space in a building if such  
31 building is an eligible building and if such tenant space complies with  
32 the following requirements:

33 (A) Energy and energy efficiency. (i) Energy use for tenant space is  
34 no more than sixty-five percent (in the case of new construction) or  
35 seventy-five percent (in the case of rehabilitation) of the use permit-  
36 ted under the energy code or, in the event such standard is revised or  
37 superseded, energy use shall meet such other energy efficiency standards  
38 that DEC, in consultation with NYSERDA, shall establish in regulations  
39 promulgated pursuant to paragraph one of subdivision (e) of this  
40 section, in effect at the time the improvements with respect to which a  
41 tax credit is claimed are placed in service.

42 (ii) All appliances and any heating, cooling and water heating equip-  
43 ment used in the tenant space and subject to the regulations promulgated  
44 by DEC, in consultation with NYSERDA, pursuant to paragraph one of  
45 subdivision (e) of this section shall meet the standards established by  
46 such regulations or, in the event that such standards are revised, the  
47 standards in effect at the time the improvements with respect to which a  
48 tax credit is claimed are placed in service.

49 (B) Code requirements, indoor air quality, building materials,  
50 finishes and furnishings. (i) The tenant space shall comply with all  
51 applicable building code requirements and environmental regulations and,  
52 with respect to projects other than new construction, all existing envi-  
53 ronmental hazards shall be identified and managed in accordance with  
54 applicable laws, regulations and industry guidelines.

55 (ii) In the case of buildings classified B2, B3, B4, C1, C2, C5, or  
56 C6, for purposes of the New York state uniform fire prevention and



1 building code, or similarly classified under any subsequent code, venti-  
2 lation and exchange of indoor/outdoor air shall meet the standards  
3 established in regulations promulgated by DEC, in consultation with DOH  
4 and NYSERDA, pursuant to paragraph two of subdivision (e) of this  
5 section.

6 (iii) For buildings in which smoking is permitted, the taxpayer shall  
7 ensure that, if smoking is permitted in the tenant space, it is permit-  
8 ted only in areas in which the air ventilation and circulation is sepa-  
9 rate from that for non-smoking areas.

10 (iv) During construction or rehabilitation, the ventilation system  
11 components and pathways shall be protected from contamination in accord-  
12 ance with an indoor air quality management plan for the construction or  
13 rehabilitation process that meets the standards established in regu-  
14 lations promulgated by DEC, in consultation with DOH and NYSERDA, pursu-  
15 ant to paragraph two of subdivision (e) of this section. In the event  
16 that such areas are not protected from contamination in accordance with  
17 such standards, they shall be cleaned prior to occupancy.

18 (v) A licensed engineer, certified industrial hygienist, or other  
19 licensed or certified professional whom the commissioner of environ-  
20 mental conservation shall approve, pursuant to regulations, shall  
21 conduct indoor air quality testing with respect to the tenant space  
22 immediately following occupancy, if any, and on an annual basis, to  
23 monitor supply and return air and ambient air for carbon monoxide,  
24 carbon dioxide, total volatile organic compounds, radon, and particulate  
25 matter. Provided, however, once radon measurements have been found to  
26 be satisfactory, subsequent annual testing is not required. The taxpay-  
27 er shall record baseline readings immediately following occupancy, if  
28 any, and annually thereafter. In the event that the taxpayer does not  
29 establish that during a taxable year during which the tenant space is  
30 occupied, indoor air quality met the standards established in regu-  
31 lations promulgated by DEC, in consultation with DOH and NYSERDA, pursu-  
32 ant to paragraph two of subdivision (e) of this section, the tenant  
33 space shall not constitute green tenant space.

34 (vi) All plumbing fixtures in the tenant space shall meet the plumbing  
35 fixture requirements of the energy policy act of 1992 or successor  
36 provision in effect at the time the improvements with respect to which a  
37 tax credit is claimed are placed in service.

38 (vii) All building materials, finishes and furnishings selected for  
39 use in the tenant space and subject to the regulations promulgated by  
40 DEC, in consultation with NYSERDA, pursuant to subparagraph (A) of para-  
41 graph three of subdivision (e) of this section, shall meet the standards  
42 established by such regulations or, in the event that such standards are  
43 revised, the standards in effect at the time the improvements with  
44 respect to which a tax credit is claimed are placed in service, provided  
45 that, with respect to furnishings, this requirement shall apply only to  
46 newly purchased items.

47 (12) "Incremental cost of building-integrated photovoltaic modules"  
48 means:

49 (A) the cost of building-integrated photovoltaic modules and any asso-  
50 ciated inverter, additional wiring or other electrical equipment or  
51 additional mounting or structural materials, less the cost of spandrel  
52 glass or other building material that would have been used in the event  
53 that building-integrated photovoltaic modules were not installed,

54 (B) incremental labor costs properly allocable to on-site preparation,  
55 assembly and original installation of photovoltaic modules, and

1 (C) incremental architectural and engineering services and designs and  
2 plans directly related to the construction or installation of photovol-  
3 taic modules.

4 (13) "NYSERDA" means the New York state energy research and develop-  
5 ment authority.

6 (14) "Qualifying alternate energy sources" means building-integrated  
7 and non-building-integrated photovoltaic modules and fuel cells  
8 installed to serve the base building or tenant space which have the  
9 capability to monitor their AC output, and which are validated upon  
10 installation, and annually thereafter, to ensure that such systems meet  
11 their design specifications.

12 (15) "Tenant improvements" means improvements which are necessary or  
13 appropriate to support or conduct the business of a tenant or occupying  
14 owner.

15 (16) "Tenant space" means the portion of a building intended for occu-  
16 pancy by a tenant or occupying owner.

17 (c) Certifications. (1) Initial credit component certificate. Upon  
18 application by a taxpayer, DEC shall issue an initial credit component  
19 certificate where the taxpayer has made a showing that the taxpayer is  
20 likely within a reasonable time to place in service property which would  
21 warrant the allowance of a credit under this section. Such certificate  
22 shall state the first taxable year for which the credit may be claimed  
23 and an expiration date, and shall apply only to property placed in  
24 service by such expiration date. Such expiration date may be extended at  
25 the discretion of DEC, in order to avoid unwarranted hardship. Such  
26 certificates may be issued in years 2000-2004. Such certificates shall  
27 state the maximum amount of credit component allowable for each of the  
28 five taxable years for which the credit component is allowed, under  
29 paragraphs two through seven of subdivision (a) of this section. Such  
30 certificates shall not be issued, in the aggregate, for more than twen-  
31 ty-five million dollars worth of credit components. In addition, such  
32 certificates shall be limited in their applicability, as follows:

<u>Credit components in the aggregate</u>	<u>With respect to taxable</u>
<u>shall not be allowed for more than:</u>	<u>years beginning in:</u>
<u>\$ 1 million</u>	<u>2001</u>
<u>\$ 2 million</u>	<u>2002</u>
<u>\$ 3 million</u>	<u>2003</u>
<u>\$ 4 million</u>	<u>2004</u>
<u>\$ 5 million</u>	<u>2005</u>
<u>\$ 4 million</u>	<u>2006</u>
<u>\$ 3 million</u>	<u>2007</u>
<u>\$ 2 million</u>	<u>2008</u>
<u>\$ 1 million</u>	<u>2009</u>

33 Provided, however, that if as of the end of a calendar year, certif-  
34 icates for credit component amounts totalling less than the amount  
35 permitted with respect to taxable years commencing in such calendar year  
36 have been issued, then the amount permitted with respect to taxable  
37 years commencing in the subsequent calendar year shall be augmented by  
38 the amount of such shortfall.

39 (2) Eligibility certificate. For each taxable year for which a taxpay-  
40 er claims a credit under this section with respect to a green building,  
41 green base building or green tenant space, a fuel cell, or photovoltaic  
42 modules, or air conditioning equipment using an EPA-approved non-ozone  
43 depleting refrigerant or other EPA-approved refrigerant approved by the  
44

1 commissioner of environmental conservation, the taxpayer shall obtain  
2 from an architect or professional engineer licensed to practice in this  
3 state an eligibility certificate. Such certificate shall consist of a  
4 certification, under the seal of such architect or engineer, that the  
5 building, base building or tenant space with respect to which the credit  
6 is claimed is a green building, green base building or green tenant  
7 space, respectively, that the fuel cell or photovoltaic modules consti-  
8 tute qualifying alternate energy sources and that the air conditioning  
9 equipment uses an EPA-approved non-ozone depleting refrigerant or other  
10 EPA-approved refrigerant approved by the commissioner of environmental  
11 conservation and remains in service. Such certification shall be made  
12 in accordance with the standards and guidelines in effect at the time  
13 the property which is the basis for the credit was placed in service.  
14 Such certification shall set forth the specific findings upon which the  
15 certification was based. The taxpayer shall file such certificate, and  
16 the associated initial credit component certificate, with the claim for  
17 credit and shall file duplicate copies with DEC. Such certificate shall  
18 include sufficient information to identify each building or space, and  
19 such other information as DEC and the commissioner shall prescribe.

20 (3) Wrongful certification. If DEC has reason to believe that an  
21 architect or professional engineer, in making any certification under  
22 this subdivision, engaged in professional misconduct, then DEC shall so  
23 inform the education department.

24 (d) Other requirements; miscellaneous. (1) Record keeping. Each  
25 taxpayer shall, for any taxable year for which the green building credit  
26 provided for under this section is claimed, maintain records of the  
27 following information:

28 (A) annual energy consumption for building, base building or tenant  
29 space;

30 (B) annual results of air monitoring;

31 (C) annual confirmation that the building, base building or tenant  
32 space continues to meet requirements regarding smoking areas, if  
33 provided;

34 (D) tenant guidelines referred to in subparagraph (I) of paragraph  
35 nine of subdivision (b) of this section, if applicable;

36 (E) all written notification of tenants and requests to remedy any  
37 indoor air quality problems;

38 (F) initial and annual (by month) results of validation of performance  
39 of photovoltaic modules and fuel cells; and

40 (G) certifications as to off-gassing and other contamination, as  
41 prescribed in subclause (III) of clause (ii) of subparagraph (B) of  
42 paragraph nine of subdivision (b) of this section, where applicable.

43 (2) Reporting to DEC. Each taxpayer shall also provide to DEC the  
44 information described in paragraph one of this subdivision, in the form  
45 and at the time prescribed by DEC, such time to be determined in consul-  
46 tation with the commissioner. Such information shall be provided to DEC  
47 with respect to each taxable year with respect to which the taxpayer  
48 claims a credit under this section.

49 (3) Regulations. The commissioner, the commissioner of environmental  
50 conservation and the commissioner of education are hereby authorized to  
51 promulgate and adopt regulations necessary to the implementation of this  
52 section. Such regulations shall construe the provisions of this section  
53 in such a manner as to encourage the development of green buildings,  
54 green base buildings and green tenant space and to maintain high but  
55 commercially reasonable standards for obtaining tax credits hereunder.  
56 Such regulations shall establish a reasonable time or period of time for

1 submission of applications, and shall establish a method for allocating  
2 initial credit component certificates among eligible applicants. Regu-  
3 lations, standards or requirements adopted pursuant to this section  
4 shall apply only to a "green base building" as defined in paragraph nine  
5 of subdivision (b) of this section, a "green building" as defined in  
6 paragraph ten of subdivision (b) or "green tenant space" as defined in  
7 paragraph eleven of subdivision (b) of this section.

8 (4) Report. On or before April first, two thousand eight, the commis-  
9 sioner and the commissioner of DEC, jointly and in consultation with  
10 NYSERDA, shall submit a written report regarding the number of certifi-  
11 fications and taxpayers claiming the credit provided for under this  
12 section; the amount of the credits claimed, the geographical distrib-  
13 ution of the credits claimed; and any other such available information  
14 DEC may deem meaningful and appropriate. A preliminary version of such  
15 report shall be so issued by April first, two thousand five. The  
16 commissioner and the commissioner of DEC shall ensure that the informa-  
17 tion is presented and/or classified in a manner consistent with the  
18 secrecy requirements of this chapter. DEC shall also make recommenda-  
19 tions regarding the establishment of a permanent green building tax  
20 credit program. Recommendations may include methods to enhance the  
21 effectiveness, simplicity or other aspects of the program. The report  
22 shall be submitted to the governor, the temporary president of the  
23 senate, the speaker of the assembly, the chairman of the senate finance  
24 committee and the chairman of the assembly ways and means committee.

25 (e) Standards and regulations. (1) Energy standards: base buildings.  
26 Within six months of the effective date of this section, DEC, in consul-  
27 tation with NYSERDA, shall promulgate the following, with respect to  
28 base buildings:

29 (A) regulations establishing standards for energy use for eligible  
30 buildings. DEC, in consultation with NYSERDA shall review and update  
31 such regulations at least every two years from the date on which such  
32 regulations are promulgated.

33 (B) regulations establishing standards for appliances and heating,  
34 cooling and water heating equipment that, on the effective date of this  
35 section, are covered by specifications from organizations such as the  
36 United States department of energy or environmental protection agency.  
37 The development of such regulations shall be informed by such specifica-  
38 tions. DEC, in consultation with NYSERDA shall review and update such  
39 regulations at least every two years from the date on which such regu-  
40 lations are promulgated.

41 (C) regulations indicating the methodology by which a taxpayer shall  
42 demonstrate compliance with subparagraph (A) of paragraph nine of subdivi-  
43 sion (b) of this section. Such regulations shall include, at a mini-  
44 imum, a requirement to conduct hourly computer modeling for one full  
45 year.

46 (D) regulations establishing standards for the commissioning of build-  
47 ings.

48 (2) Indoor air standards: base buildings. Within six months of the  
49 effective date of this section, DEC, in consultation with DOH and NYSER-  
50 DA, shall promulgate regulations establishing standards, with respect to  
51 base buildings, for (A) ventilation and exchange of indoor/outdoor air,  
52 (B) indoor air quality management plans for the construction or rehabil-  
53 itation process, and (C) indoor air quality with respect to levels of  
54 carbon monoxide, carbon dioxide and total volatile organic compounds,  
55 radon and particulate matter.

1     (3) Standards for materials, water conservation, drainage: base  
2 buildings. Within one year of the effective date of this section, DEC,  
3 in consultation with NYSERDA, shall promulgate the following, with  
4 regard to base buildings:

5     (A) regulations establishing standards for building materials,  
6 finishes and furnishings regarding minimum percentages of recycled  
7 content and renewable source material and maximum levels of toxicity and  
8 volatile organic compounds and any other standards that the DEC deems  
9 appropriate. Standards shall be developed for building materials,  
10 finishes and furnishings, including but not limited to concrete and  
11 concrete masonry units; wood and wood products; millwork substrates;  
12 insulation; ceramic, ceramic/glass and cementitious tiles; ceiling tiles  
13 and panels; flooring and carpet; paints, coatings, sealants and adhe-  
14 sives; and furniture. The development of such standards shall be  
15 informed by the LEED rating system. The DEC shall review and update such  
16 regulations at least every two years from the date on which such regu-  
17 lations are promulgated. For purposes of this clause, "LEED rating  
18 system" means the leadership in energy and environmental design green  
19 building rating system criteria being developed by the United States  
20 green building council.

21     (B) regulations establishing standards for buildings located in areas  
22 where water use is not metered, which regulations shall require, at a  
23 minimum, that the building include one of the following features:

24     (i) a gray water system that recovers non-sewage waste water or uses  
25 roof or ground storm water collection systems, or recovers ground water  
26 from sump pumps;

27     (ii) for buildings with a cooling tower system, such system shall be  
28 designed with delimiters to reduce drift and evaporation; or

29     (iii) for buildings with exterior plants, all such plants shall be  
30 tolerant of climate, soils and natural water availability and shall not  
31 receive watering from municipal potable water after a period of estab-  
32 lishment is complete.

33     (C) regulations establishing standards for buildings located in areas  
34 that do not have sewers or that have designated storm sewers, which  
35 regulations shall require, at a minimum, that the building shall include  
36 one of the following features:

37     (i) an oil grit separator or water quality pond for pretreatment of  
38 runoff from any surface parking areas; or

39     (ii) at least fifty percent of nonlandscaped areas (including road-  
40 ways, surface parking, plazas and pathways), if any, shall be comprised  
41 of pervious paving materials.

42     (D) regulations indicating the methodology by which taxpayers shall  
43 demonstrate compliance with subparagraphs (B) and (C) of paragraph nine  
44 of subdivision (b) of this section.

45     (4) Energy standards: tenant space. Within six months of the effective  
46 date of this section, DEC, in consultation with NYSERDA, shall promul-  
47 gate regulations, with respect to tenant space, indicating the methodol-  
48 ogy by which taxpayers shall demonstrate compliance with subparagraph  
49 (A) of paragraph eleven of subdivision (b) of this section.

50     (5) Standards for indoor air quality, building materials, finishes and  
51 furnishings: tenant space. Within one year of the effective date of this  
52 section, DEC, in consultation with DOH and NYSERDA, shall promulgate  
53 regulations, with respect to tenant space, indicating the methodology by  
54 which taxpayers shall demonstrate compliance with subparagraph (B) of  
55 paragraph eleven of subdivision (b) of this section.

1 (f) Cross-references. For application of the credit provided for in  
2 this section, see the following provisions of this chapter:

3 (1) Article nine: Section one hundred eighty-seven-d;

4 (2) Article nine-A: Subdivision thirty-one of section two hundred ten;

5 (3) Article twenty-two: Subsections (i) and (y) of section six hundred  
6 six;

7 (4) Article thirty-two: Subsection (m) of section fourteen hundred  
8 fifty-six;

9 (5) Article thirty-three: Subdivision (o) of section fifteen hundred  
10 eleven.

11 § 3. The tax law is amended by adding a new section 187-d to read as  
12 follows:

13 § 187-d. Green building credit. 1. Allowance of credit. A taxpayer  
14 shall be allowed a credit, to be computed as provided in section nine-  
15 teen of this chapter, against the taxes imposed by sections one hundred  
16 eighty-three, one hundred eighty-four, one hundred eighty-five and one  
17 hundred eighty-six of this article. Provided, however, that the amount  
18 of such credit allowable against the tax imposed by section one hundred  
19 eighty-four of this article shall be the excess of the amount of such  
20 credit over the amount of any credit allowed by this section against the  
21 tax imposed by section one hundred eighty-three of this article.

22 2. Carryovers. In no event shall the credit under this section be  
23 allowed in an amount which will reduce the tax payable to less than the  
24 applicable minimum tax fixed by section one hundred eighty-three, one  
25 hundred eighty-five or one hundred eighty-six of this article. If,  
26 however, the amount of credit allowable under this section for any taxa-  
27 ble year reduces the tax to such amount, any amount of credit not deduc-  
28 tible in such taxable year may be carried over to the following year or  
29 years and may be deducted from the taxpayer's tax for such year or  
30 years.

31 § 4. Section 210 of the tax law is amended by adding a new subdivision  
32 31 to read as follows:

33 31. Green building credit. (a) Allowance of credit. A taxpayer shall  
34 be allowed a credit, to be computed as provided in section nineteen of  
35 this chapter, against the tax imposed by this article.

36 (b) Carryovers. The credit and carryovers of such credit allowed under  
37 this subdivision for any taxable year shall not, in the aggregate,  
38 reduce the tax due for such year to less than the higher of the amounts  
39 prescribed in paragraphs (c) and (d) of subdivision one of this section.  
40 However, if the amount of credit or carryovers of such credit, or both,  
41 allowed under this subdivision for any taxable year reduces the tax to  
42 such amount, any amount of credit or carryovers of such credit thus not  
43 deductible in such taxable year may be carried over to the following  
44 year or years and may be deducted from the tax for such year or years.

45 § 5. Paragraph 1 of subsection (i) of section 606 of the tax law, as  
46 amended by section 2 of part J of chapter 407 of the laws of 1999, is  
47 amended to read as follows:

48 (1) For purposes of determining the application under this section of  
49 the credit provisions enumerated in the following table, a shareholder  
50 of a New York S corporation:

51 (A) shall be treated as the taxpayer with respect to his or her pro  
52 rata share of the corresponding credit base of such corporation, deter-  
53 mined for the corporation's taxable year ending with or within the  
54 shareholder's taxable year and

55 (B) shall be treated as the owner of a new business with respect to  
56 such share if the corporation qualifies as a new business pursuant to

1 paragraph (j) of subdivision twelve of section two hundred ten of this  
2 chapter, unless the shareholder has previously received a refund by  
3 reason of the application of this subparagraph, or this subsection as it  
4 was in effect for taxable years beginning before nineteen hundred nine-  
5 ty-four.

6		The corporation's
7	With respect to the	credit base under
8	following credit	section two hundred ten
9	under this section:	or section fourteen
10		hundred fifty-six of this
11		chapter is:
12	Investment tax credit	Investment credit base
13	under subsection (a)	or qualified
14		rehabilitation
15		expenditures under
16		subdivision twelve of
17		section two hundred ten
18	Economic development	Cost or other basis
19	zone investment tax credit	under subdivision
20	under subsection (j)	twelve-B
21		of section two hundred
22		ten
23	Economic development	Eligible wages under
24	zone wage tax credit	subdivision nineteen of
25	under subsection (k)	section two hundred ten
26		or subsection (e) of
27		section fourteen hundred
28		fifty-six
29	Economic development zone	Qualified investments
30	capital tax credit	and contributions under
31	under subsection (l)	subdivision twenty of
32		section two hundred ten
33		or subsection (d) of
34		section fourteen hundred
35		fifty-six
36	Agricultural property tax	Allowable school
37	credit under subsection (n)	district property taxes under
38		subdivision twenty-two of
39		section two hundred ten
40	Credit for employment	Qualified first-year wages or
41	of persons with dis-	qualified second-year wages
42	abilities under	under subdivision
43	subsection (o)	twenty-three of section
44		two hundred ten
45		or subsection (f)
46		of section fourteen
47		hundred fifty-six

1	Employment incentive	Applicable investment credit
2	credit under subsec-	base under subdivision
3	tion (a-1)	twelve-D <u>of section two</u>
4		<u>hundred ten</u>
5	Economic develop-	Applicable investment
6	ment zone employ-	credit under sub-
7	ment incentive credit under	division twelve-C
8	subsection (j-1)	
9	Alternative fuels credit	Cost under subdivision
10	under subsection (p)	twenty-four <u>of section two</u>
11		<u>hundred ten</u>
12	Qualified emerging	Applicable credit base
13	technology company	under subdivision twelve-E
14	employment credit	of section two hundred ten
15	under subsection (q)	
16	Qualified emerging	Qualified investments under
17	technology company	subdivision twelve-F of
18	capital tax credit	section two hundred ten
19	under subsection (r)	
20	Credit for purchase of an	Cost of an automated
21	automated external defibrillator	external defibrillator under
22	under subsection (s)	subdivision twenty-five of
23		section two hundred ten
24		or subsection (j) of section
25		fourteen hundred fifty-six
26	<u>Green building credit</u>	<u>Amount of green building credit</u>
27	<u>under subsection (y)</u>	<u>under subdivision thirty-one</u>
28		<u>of section two hundred ten</u>
29		<u>or subsection (m) of section</u>
30		<u>fourteen hundred fifty-six</u>
31	§ 6. Section 606 of the tax law is amended by adding a new subsection	
32	(y) to read as follows:	
33	<u>(y) Green building credit. (1) Allowance of credit. A taxpayer shall</u>	
34	<u>be allowed a credit, to be computed as provided in section nineteen of</u>	
35	<u>this chapter, against the tax imposed by this article.</u>	
36	<u>(2) Carryovers. If the amount of the credit and carryovers of such</u>	
37	<u>credit allowed under this subsection for any taxable year shall exceed</u>	
38	<u>the taxpayer's tax for such year, the excess, as well as any part of the</u>	
39	<u>credit or carryovers of such credit, or both, may be carried over to the</u>	
40	<u>following year or years and may be deducted from the taxpayer's tax for</u>	
41	<u>such year or years.</u>	
42	§ 7. Section 1456 of the tax law is amended by adding a new subsection	
43	(m) to read as follows:	
44	<u>(m) Green building credit. (1) Allowance of credit. A taxpayer shall</u>	
45	<u>be allowed a credit, to be computed as provided in section nineteen of</u>	
46	<u>this chapter, against the tax imposed by this article.</u>	
47	<u>(2) Carryover. The credit and carryovers of such credit allowed under</u>	
48	<u>this subsection for any taxable year shall not, in the aggregate, reduce</u>	
49	<u>the tax due for such year to less than the minimum tax fixed by</u>	
50	<u>subsection (b) of section fourteen hundred fifty-five of this article.</u>	



1 However, if the amount of credit or carryovers of such credit, or both,  
2 allowed under this subsection for any taxable year reduces the tax to  
3 such amount, then any amount of credit or carryovers of such credit thus  
4 not deductible in such taxable year may be carried over to the following  
5 year or years and may be deducted from the taxpayer's tax for such year  
6 or years.

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

9 (o) Green building credit. (1) Allowance of credit. A taxpayer shall  
10 be allowed a credit, to be computed as provided in section nineteen of  
11 this chapter, against the taxes imposed by this article.

12 (2) Carryover. The credit and carryovers of such credit allowed under  
13 this subdivision for any taxable year shall not, in the aggregate,  
14 reduce the tax due for such year to less than the minimum fixed by para-  
15 graph four of subdivision (a) of section fifteen hundred two of this  
16 article. However, if the amount of credit or carryovers of such credit,  
17 or both, allowed under this subdivision for any taxable year reduces the  
18 tax to such amount, then any amount of credit or carryovers of such  
19 credit thus not deductible in such taxable year may be carried over to  
20 the following year or years and may be deducted from the taxpayer's tax  
21 for such year or years.

22 § 9. Section 6509 of the education law is amended by adding a new  
23 subdivision 12 to read as follows:

24 (12) In the event that the department of environmental conservation  
25 has reported to the department alleged misconduct by an architect or  
26 professional engineer in making a certification under section nineteen  
27 of the tax law (relating to the green building tax credit) the board of  
28 regents, upon a hearing and a finding of willful misconduct, may revoke  
29 the license of such professional or prescribe such other penalty as it  
30 determines to be appropriate.

31 § 10. This act shall take effect immediately and shall apply to prop-  
32 erty placed in service or that has received a final certificate of occu-  
33 pancy in taxable years beginning on or after January 1, 2001.

34 PART JJ

35 Section 1. Section 229 of the racing, pari-mutuel wagering and breed-  
36 ing law is amended by adding a new subdivision 5 to read as follows:

37 5. Notwithstanding any inconsistent provision of this chapter, whenever  
38 a non-profit racing association operates the Breeder's Cup Meet at  
39 one of its racing facilities, such non-profit racing association shall  
40 not be required to pay to the department of taxation and finance pursu-  
41 ant to this section the pari-mutuel tax on the pari-mutuel pool of such  
42 non-profit racing association's races during the Breeder's Cup Meet. For  
43 the purposes of this subdivision, the Breeder's Cup Meet shall consist  
44 of three days: the day on which the Breeder's Cup races are conducted,  
45 the day preceding such races and the day subsequent to such races.

46 § 2. This act shall take effect immediately and shall be deemed  
47 repealed on December 31, 2002.

48 PART KK

49 Section 1. The ninth undesignated paragraph of section 1005 of the  
50 public authorities law, as amended by chapter 316 of the laws of 1997,  
51 and paragraph b as amended by chapter 386 of the laws of 1998, is  
52 amended to read as follows:

