Empire State Development

NEW YORK
STATE
DEPARTMENT
OF TAXATION
AND FINANCE

Governor's Task Force on New Media and the Internet

Report to Governor George E. Pataki

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EXECUTIVE SUMMARY

Introduction

The Internet and the new media industry which provides content and other electronic and on-line services for the Internet is one of the fastest growing sectors of the economy. New media companies combine elements of computing technology, telecommunications and creative design to create products and services that can be used interactively by consumers and business users. These industries are particularly important to New York State because New York already is a center for advertising, publishing, software, finance and education sectors that have strong relationships to the Internet and its related industries.

In many ways, New York City is already recognized as a leader in the new media industry. "Silicon Alley," the area in Manhattan below 41st Street, is the hub of new media activity. A recent study of the new media industry by Coopers & Lybrand indicated that the new media industry in New York State is a $5.8 billion industry which has added over 30,000 jobs since 1995. Although Silicon Alley is responsible for much of this economic benefit, areas such as Buffalo, Rochester, Syracuse, Albany and Long Island have also experienced increases in new media businesses.

Governor Pataki immediately recognized the importance of the Internet and new media when the New York State Department of Taxation and Finance released its study of telecommunications taxes in January 1997, entitled *"Improving New York State's Telecommunications Taxes: Final Report and Recommendations."* One of the most important results of the study was the pronouncement that New York State regards Internet access charges not subject to tax. Until that point, many states had taken the opposite approach by considering Internet access to be a taxable telecommunications, information or data processing service.

Another important outcome of the telecommunications study was Governor Pataki's appointment (by Executive Order No. 59—See Appendix) of the Governor's Task Force on New Media and the Internet. The group was co-chaired by former Tax Commissioner Michael Urbach and Empire State Development (ESD) Commissioner Charles Gargano to continue to work toward establishing a State policy that will facilitate the growth of the new media industry and the use of the Internet in New York. In June 1998, 40 representatives of new media companies, telecommunications backbone providers, on-line service companies, various trade associations and government agencies met in New York City to begin the work of the Task Force.

At the first meeting, it was decided that issues to be developed for policy recommendations needed to be separated into four sub-groups including taxation, marketing, economic development/workforce development and infrastructure. The goals of each working group were as follows:

Taxation: To develop a list of tax proposals that provide strong incentives for the growth of the new media industry in New York State.

Marketing: To create greater awareness and recognition that New York is a major high-tech center with many desirable assets and economic advantages for new media and Internet industries.

Economic Development/Workforce Development: To develop effective initiatives that will attract new media businesses to New York, retain existing businesses and workforce and offer assistance to expanding New York companies.

Infrastructure: To examine solutions for providing increased access to bandwidth and improving the underlying cable, telecommunications and wireless systems which make communication possible.

Over the past several months, staff from both the Department of Taxation and Finance and the Empire State Development Corporation have worked with members of the Task Force to identify, analyze and refine the proposals contained in this report for consideration by Governor George E. Pataki.

Taxation Proposals

The taxation sub-group met several times with staff from the Department of Taxation and Finance to develop a list of tax proposals that will provide strong incentives for the growth of the new media industry in New York State. After the initial meeting of the sub-group, it became evident that two distinct constituencies were represented. The first group comprised representatives from what can best be characterized as the "core" new media entities. Their main objective was to find ways to provide direct tax incentives to companies to either locate or expand in New York State.

The second group consisted of the major telecommunications carriers in New York State. Many of these companies argued that tax benefits conferred upon telecommunications carriers would indirectly benefit new media companies in the form of lower business costs and more modern investment in infrastructure necessary to develop the Internet and new media communications systems. In addition, each of these companies provide Internet access service and other Internet-related services.

Listed below are brief summaries of the proposals garnering support from the greatest number of members of each of the two groups. Both lists have a few items in common including the proposal to exempt from the State and local sales tax computer hardware and software used to design web sites, and the proposal to allow a research and development (R&D) expense credit for computer hardware and software. Representatives of the cable television industry supported the use of tax benefits as direct incentives to attract to New York the core, content-producing new media companies that are the focus of the Task Force.

<u>Core New Media Tax Proposals</u>

Extend Emerging Technology Credit to the Income Tax: The emerging technology credit currently only applies to corporate franchise taxpayers. The proposal would extend the benefit to individuals and partnerships. In addition, the proposed credit would have an annual cap of $100,000 per year, thereby allowing investors to continue to invest significant amounts of capital over a longer period of time. This proposal is a top priority of the group because it is important for attracting "angel" investment dollars, many of which come from personal income taxpayers. An alternative proposal would revise the existing corporate tax credit such that the 20 percent credit rate applies after only a four year holding period. This would also apply to the income tax credit discussed above. It was felt that the current nine-year holding period for investments in these emerging technology companies was unrealistic.
<u>Revenue Cost:</u> $6 million. Expanding the credit such that the 20 percent rate applies after four years raises the credit cost to $8 million.

Sales Tax Exemption for Computer Hardware and Software used to Design Web Sites: This proposal would exempt computer hardware and software used to design web sites from State and local sales taxes. It would exempt from tax computer system hardware and prewritten software when used by new media companies to design and develop Internet web sites and other new media applications for commercial sale. A commercial "sale" of the web site would include an outright sale of the web site to a final consumer and the use of the web site by its developer in connection with some other form of new media service such as a web site hosting service, an electronic commerce application or a new media marketing application.
<u>Revenue Cost:</u> $10 million State and $10 million in local sales tax.

ITC for Designing and Developing Computer Software: This proposes a new investment tax credit (ITC) for computer hardware and parts used to develop software. The current ITC is only available for tangible personal property used in the production of goods by manufacturing, processing or other production method. There is also a current ITC component dealing with property used in R&D under a strict "laboratory" sense. This proposal would create a new ITC for designing and developing software that is

considered neither manufacturing nor laboratory research and development. Variations on this option would also extend the ITC to include buildings used to house employees involved, equipment used in designing and developing computer software, and to include the cost of wiring commercial buildings by property owners or Internet service providers (ISPs) for purposes of enhanced computer usage or Internet services.
Revenue Cost: $2.5 to $4 million, depending on the option selected.

Credit for R&D Expenses for Computer Software and Hardware: New York currently allows an R&D credit based on qualifying investments in tangible and other property. Other states, including our neighbors of New Jersey, Massachusetts, Connecticut and Pennsylvania offer R&D credits similar to the federal R&D credit for both in-house expenses, such as employees' salaries, and basic research payments. This proposal for an R&D credit for expenses related to designing and developing computer software and hardware would put us more in line with competitor states.
Revenue Cost: $10 to $15 million.

Credit for Training Expenses for Qualified Computer Employees: This proposes a new credit for companies which design and develop computer software and hardware which incur training expenses in connection with the performance of their employees' duties. Task Force members noted the importance of a better trained workforce for new media companies to effectively compete in New York State. Several other states, including Connecticut, have general training expense credits.
Revenue Cost: $3 million.

Total Cost of Core New Media Tax Proposals: $3l.5 million to $40 million in State revenues, $10 million in local revenues.

Telecommunications Carriers Tax Proposals

Sales Tax Exemption for Telecommunications Property: This proposal would replace the existing sales tax exemptions for telephone central office equipment with a broad exemption for all network property used to provide telecommunications services for sale. This would be similar to the current exemption provided in New Jersey. This proposal was recommended in the Tax Department's 1997 telecommunications study. It expands the current exemption beyond the minor amendment that was enacted during the 1998 legislative session.
Revenue Cost: $30 million State and $30 million in local sales tax.

Sales Tax Exemption for Computer Hardware and Software used to Design Web Sites: Same as described above in "core new media" list.
Revenue Cost: $10 million State and $10 million in local sales tax.

Sales Tax Exemption for Purchases by Internet Service Providers (ISPs): This proposal would exempt from State and local sales taxes purchases of computer system hardware, prewritten software, and other tangible personal property used by commercial ISPs.
Revenue Cost: $12.5 million State and $12.5 million in local sales and use tax.

Credit for R&D Expenses for Computer Software and Hardware: Same as described above in “core new media” list.
Revenue Cost: $10 to $15 million.

Total Cost of Telecommunications Carrier Tax Proposals: $62.5 million to $67.5 million in State revenues, $52.5 million in local revenues.

In addition, the telecommunications carriers put forward a proposal to phase out the local real property tax on telecommunications assets such as poles, wires and cables. Revenues to localities would be replaced by the State through increased sales tax collections from telecommunications services. While this proposal was highly favored by most of the telecommunications providers, it was recommended that this issue be addressed in a separate Advisory Task Force. This Task Force should be comprised of appropriate personnel from the Department of Taxation and Finance, Division of the Budget, Office of Real Property Services and the telecommunications industry. To the extent there are other related local tax issues, they could be addressed as well.

Marketing Proposals

The consensus of the Task Force is that more must be done to attract and retain new media and Internet businesses to New York State. After the group reviewed the benefits that New York City and upstate New York offer this industry, it was agreed that a more aggressive marketing plan targeted specifically to this audience was needed to "get the word out" about the improved business climate that has been instituted during Governor Pataki’s administration. Special marketing initiatives that address particular needs within each sub-group are also components of the plan. The group agreed that New York State needs to more effectively tell its story if the State is to be successful in attracting this industry. Following are the key marketing recommendations:

Create A Marketing Attraction and Retention Plan: This recommendation would implement a marketing plan consisting of many components: Creation of a web site and on-line advertising, print media, trade shows, association support, sponsorship opportunities and public relations. The focal point for this plan would be an enhanced world class web site called "NY|Assist" (www.nyassist.com). In the summer of 1998, a prototype version of NY|Assist was launched by Empire State Development in conjunction with New York University and Columbia University to provide on-line business resources for new media companies, Internet-related companies and other related businesses. The NY|Assist web site currently provides information regarding business assistance, including tax information and legislation. Some of the sections that are planned for addition to NY|Assist include information about venture capital, communications infrastructure, New York State new media success stories, a trade association bulletin board, available student internship programs, and international new media businesses that are located in New York.

In addition to the enhanced web site, the print campaign will include ads that feature executives from new media businesses. A wide variety of trade shows and conferences suggested by the working groups of the Task Force will also be planned.

Increase Marketing Budget: The Task Force recommends an increase in Empire State Development's current business marketing budget to implement the full marketing plan. Through April 1999, ESD budgeted $50,000 that will pay for the initial version of the enhanced NY|Assist web site. However, based on the proposed marketing plan, ESD's 1999-2000 budget will need to be at least $500,000 to implement all the components of the strategy to clearly disseminate the message and make an impact in this competitive marketplace. Although the exact data on the spending of competing states for new media and Internet marketing is not known, overall marketing budgets of some of New York's competitors are significantly higher than New York State, including California ($3.24 million), Pennsylvania ($3 million), Ohio ($3 million) and North Carolina ($4.1 million).

Economic Development/Workforce Development Proposals

The purpose of this group was to develop effective initiatives to attract and retain new media and Internet companies. Accessing capital, as well as the issues of training and retaining the highly-trained workforce necessary for this industry were among the top priorities.

Venture Capital

According to the 1998 PricewaterhouseCoopers *"MoneyTree Report,"* New York has slipped in rank with regard to total venture dollars invested in the State. The Task Force suggests that New York needs to focus more on cultivating its investment communities to provide the necessary capital to launch successful new media businesses.

To address this issue, the Task Force identified four areas of concentration with respect to venture capital. These four focus areas include educating companies about the investment process, providing opportunities for investors to meet new media companies in upstate regions, restructuring current New York State venture programs and creating an investor “network” of information.

Enhance NY|Assist Web Site: In response to the education issue, The Task Force proposes that New York State enhance its NY|Assist web site to accommodate a venture capital section. The new section would include information on what investors look for before investing, a contact list of New York State investors, on-line venture forums designed to create a synergy between investors and companies, and a video archive system which allows companies to store individual presentations on the site for review by potential investors. More information about the NY|Assist web site is provided in the "Marketing Proposals" found on Page 37.

Support Conferences and Trade Missions: To provide investors with opportunities to meet with companies, the Task Force suggests that New York State co-sponsor new media trade missions to bring New York State companies to investors around the country. Another suggestion is to co-sponsor a venture capital conference in New York City, which would bring upstate companies to the heart of the investment community in New York City.

Restructuring Small Business Technology Investment Fund: In order to maximize the effectiveness of New York’s existing venture programs, the State should seek to increase the size of the Small Business Technology Investment Fund by identifying additional private sector investments for the fund.

Create Statewide Angel Investor Network: Since a large portion of investments made in new media companies are from angel investors, it was recommended that New York State help fund the development of a statewide angel investor network. The network would allow investors to organize and actively solicit investment proposals from entrepreneurs across the State.

Workforce Development

Maintaining a highly-trained workforce is a problem not only in New York State but throughout the country. The Task Force believes New York has substantial intellectual capital and excellent academic institutions within its borders. Incentives should be targeted to students to attract the younger generation into new media related programs such as computer graphics, design and animation, and other computer science degree programs. In addition, the academic institutions need to collaborate and partner with industry to create programs that meet current technological demands.

Promote Statewide New Media Internship Program: The Task Force proposes that New York State encourage trade associations to develop a statewide new media internship program. This program should be accompanied by a substantial marketing effort that promotes these opportunities to students. Specifically, internships can be a focus of targeted new media marketing efforts that highlight success stories of young new media workers. The NY|Assist web site could be a vehicle for general promotion of internships.

Provide Funds for "Boot Camp" Training Programs: New York needs to help address the large shortage of trained personnel in the software and Internet industries. Some larger software companies have already begun partnerships with local schools to insure that the curricula meet the demands of the industry. Highly focused immersion or "boot camps" are one way to train students and displaced programmers and also to direct them into fields of demand. The Task Force recommends that New York State, the State University system (SUNY), the City University system (CUNY) and the Commission on Independent Colleges and Universities (CICU) work with new media trade organizations to develop "boot camp" programs. Further research should be conducted to determine a funding source for these efforts.

Establish Public/Private Partnership to Create a Scholarship Program: The Task Force recommends that New York create a public/private partnership to develop a scholarship program that will retain more students in New York State before and after college. Scholarships could follow a "ROTC format" under which students get free or reduced tuition in return for working in New York State for a set number of years. Private firms could contribute to a fund that would support the scholarships. As with internships, the scholarships would need to be supplemented by a State-assisted marketing program to maximize student awareness of the program while they are in high school.

Facilitate a Workforce Development Roundtable: The Task Force recommends that Empire State Development encourage formation of a new media workforce roundtable, led by the private sector. Empire State Development, the New York State Department of Labor, SUNY, CUNY, CICU and the State Education Department should also participate in the roundtable. The roundtable could develop a detailed set of skill standards that high schools and higher education institutions could incorporate into their curricula. It also could promote the importance of hardware and software donations to the private sector, as well as the importance of new media internships and sabbaticals for college faculty.

Economic Development

The Task Force believes that increased availability of information on arts-related resources and training programs for new media would stimulate more dynamic interaction among all facets of the industry. There is unsurpassed creative capital in the arts in New York State, and sharing this information in a more efficient manner would encourage economic development in the new media industry.

Inventory Assessment of New Media Arts Facilities: New York State can assist in the economic development of the new media industry by aligning the arts' creative talent with the technology and entrepreneurial innovators. The Task Force suggests co-sponsorship between Empire State Development and the New York State Council on the Arts. The assessment of arts-related resources and training programs would stimulate more interaction between emerging technology industries, cultural and educational institutions. In identifying New York State's leading arts organizations and university programs working with new media, the inventory will map resources and set the framework for a "virtual network" of arts centers. The inventory assessment will cost approximately $75,000 -- $125,000.

Create A Statewide Trade Association Alliance: The Task Force encourages the establishment of a statewide network of new media trade organizations. This proposal addresses the issue of improving communication between new media trade associations around the State to achieve common goals. The alliance could co-sponsor joint marketing and promotional opportunities with New York State. It should also provide the industry continuing government contact to make sure their interests are addressed. The first step should be to undertake a commissioned study to better assess the new media communities in upstate New York.

Infrastructure Proposals

The purpose of this working group was to propose solutions for encouraging "Smart Buildings" and increasing access to competitive telecommunications services, including wireless and cable services, to attract new media and Internet companies to New York State. The group agreed that a more targeted marketing effort should be undertaken to promote the highly developed infrastructure that already exists in locations throughout the State. The Task Force believes that a complete overview of statewide telecommunications services and capabilities should be assembled in both written and electronic formats for easy access by business. This information should be incorporated into the overall new media marketing campaign, utilizing printed materials and the NY|Assist web site.

Following are additional issues reviewed by the working group:

Develop "Smart Buildings" Incentive Program To Encourage New Wiring: The Task Force recognizes a significant need for additional office space that has high-speed connectivity to the Internet and the information technology community. Incentives should be developed to facilitate expansion of building infrastructure in New York State.

Due to the scope of this type of project, it is recommended that a separate study group be formed to examine various types of incentives that can be developed by public, private and joint interests. The Task Force recommends that the study group consider programs such as the Alliance of Downtown New York’s "Plug'n'Go" project and Rudin Management Company’s “wired buildings” initiative as models.

Service Providers' Access to Private Property: Some members of the Task Force recommend that New York State consider monitoring the progress of increasing access to privately owned buildings for the purpose of high-tech telecommunications installation. These members would like to provide access to all types of telecommunications service providers, including traditional telephone, wireless and cable providers. Additional information is provided in the addendum to this document. This proposal would require further study of the wide variety of issues.

Conclusion

The recommendations described in this executive summary, along with additional detail available in the addendum, provide the first step for encouraging the new media and Internet industry to expand in New York State. The Task Force recommends that discussions continue with representatives from the new media and Internet associations and New York State government representatives from Tax and Finance and Empire State Development, to ensure that the State government keeps abreast of the issues and concerns of this important industry sector. This will also allow the group to closely follow the progress of these proposals.

TAXATION PROPOSALS

Taxation Proposals

New York State should encourage investment in new media companies by extending certain existing tax credits to individual investors, and by shortening the required holding period for these investments.

Description of the Proposal:

This proposal would extend the existing corporate franchise tax (Article 9-A) credits available to emerging technology companies to individuals and partnerships under the personal income tax (Article 22). However, this income tax credit would have an annual $100,000 cap, thereby allowing investors to continue to invest significant amounts of capital over a longer period of time. During discussions with the Task Force, it was agreed that the current law (which provides for a nine year holding period needed to receive the higher rate of credit) was unrealistic for investments in emerging technology companies. An alternative proposal would revise the existing Article 9-A emerging technology credit such that the 20 percent credit rate applies after only a four year holding period. In addition, the proposal to extend the emerging technology credit to personal income tax would incorporate this change.

Current New York State Law:

Enacted during 1998, the “New York State Emerging Industry Jobs Act” provides Article 9-A tax credits for qualified emerging technology companies that invest in research and development in New York State. The provisions include an employment tax credit equal to $1,000 for each individual employed full time over a base year level. The new law also establishes two emerging technology capital credits that vary depending on how long the investment is held. The credit for qualified investments held during the four years following the year the credit is first claimed equals 10 percent of the qualified investment. The total amount of the credit allowed for all years is capped at $150,000. For investments held during the nine years following the year in which the credit is first claimed, the credit equals 20 percent. The total amount of the credit allowed for all years is capped at $300,000. The credit provisions apply to tax years beginning on or after January 1, 1999.

Other States’ Programs:

In 1997, New Jersey enacted a high technology business investment tax credit which would provide corporations with business tax credits of 10 percent of investments in these businesses up to $1 million annually. However, their credit does not extend to income taxpayers.

Additional Comments:

Earlier this year the State enacted these credits, but they applied only to corporations. Although the new law did provide for an income tax capital gains deferral when the realized gains are reinvested in a qualified emerging technology investment, the panel believes that extension of the emerging technology credits to personal income taxpayers is important for attracting “angel” investment dollars. New media start-ups rely on funding from venture capitalists, many of whom are individual, partnerships or S corporation shareholders. This proposal would provide tax benefits to these investors and would encourage further investment in emerging technology companies.

Revenue Cost:

The credit enacted during the 1998 Legislative session was estimated at about $10 million once it was fully phased in. Most of the revenue cost was due to the employment credit. Extending the credits to the personal income tax creates a tax cost of approximately $5 million, depending on its utilization. Providing for the annual cap adds about another $1 million for a total cost of approximately $6 million. However, several large investors hitting the cap could increase this estimate by perhaps another million dollars. The alternative proposal, to lower the number of years needed to hold the investment in order to receive the 20 percent rate, would cost an additional $2 million. To the extent that this change creates significant incentives to invest, then the revenue cost would be higher.

Taxation Proposals

> Tax savings should be extended to new media companies by expanding the current "production" sales tax exemption to include the design and creation of Internet web sites.

Description of the Proposal:

This proposal would exempt computer system hardware and prewritten computer software used or consumed directly and predominately by new media companies to design and develop Internet web sites using HTML, JAVA or other computer code for commercial sale. For purposes of the proposed exemption, a commercial "sale" of the web site would include an outright sale of the web site, and the use of the web site by its developer in connection with some other form of new media service such as a web site hosting service, an electronic commerce application or a new media marketing application. Web site design and development services would also include programming, graphic design and scanning.

Current New York State Law:

Recent advisory opinions, such as *Ski Soft* and *K2 Design,* have concluded that web site design and development, as described in those opinions, are services not subject to sales tax. Significantly, the Department concluded that web sites are not taxable software products. This results in Web designers having to pay tax on their purchases of taxable products such as computers and prewritten software. Newly-enacted legislation exempts computer hardware used directly and predominately in designing and developing computer software for sale. Depending on what exactly a new media company does, the new exemption, or other exemptions, may or may not cover its purchases of computer hardware.

Other States' Programs:

Some States, including Connecticut, Virginia and Wisconsin have determined that web site design, hosting and maintenance represent non-taxable service transactions. Consequently, web site developers pay tax on their purchases, unless specifically exempted. Tennessee represents a state which taxes web site development as a software product. As a result, Tennessee's sales tax applies to web site development, including programming, graphic design, and scanning. Similarly, tax applies to charges for maintaining and updating clients' web sites and for the installation and setup of software or hardware.

Additional Comments:

Because web site development can encompass a variety of products and services, a sales and use tax exemption is needed that covers as many cases as possible. It is likely that the combination of current law and the other new media proposals in this package could reach much of this target group. It is important that gaps be filled to make sure that companies receive all the intended tax benefits. This proposal will make sure that companies doing much the same type of work are all able to avail themselves of the sales tax exemption for their purchases of computer hardware and software.

Revenue Cost:

Our preliminary estimate is that this proposal could reduce State sales and use tax revenue by up to $10 million annually and a similar amount in local sales tax.

Taxation Proposals

A new investment tax credit should be provided for equipment purchased for use in the design and development of certain computer software.

Description of the Proposa1:

To create a new investment tax credit (ITC) for property associated with the design and development of computer software. Property used for the design and development of computer software for a company's internal use would not qualify for the credit. The credit could include the following three options. For each option, the credit would be allowed for corporate franchise taxpayers (Article 9-A), personal income taxpayers (Article 22), banks (Article 32) and insurance companies (Article 33). The credit would also be allowed against the franchise taxes paid by telecommunications companies and utilities (Article 9).

Option 1 – Computer Hardware:
A new ITC for the cost of computer system hardware and associated parts that are acquired by purchase and principally used in designing and developing computer software. The credit percentage of the investment base for all affected corporation articles would follow that under the existing ITC allowed for Article 9-A corporations (5 percent). Personal income taxpayers would be allowed the same credit percentage as currently allowed for such taxpayers under the ITC (4 percent).

Revenue Effect: Estimated $2.5 million revenue loss annually.

Option 2 – Computer Hardware and Buildings:
A new ITC for the cost of property allowed in Option 1, including buildings used to house employees involved and equipment used in designing and developing computer software. The credit percentages would be the same as Option 1.

Revenue Effect: Estimated $3.5 million revenue loss annually.

Option 3 – Computer Hardware, Buildings and Prewired Buildings:
A new ITC for the cost of property allowed in Options 1 and 2 and including the cost of wiring commercial buildings by property owners or ISPs for purposes of enhanced computer usage or Internet services. The credit percentages would be the same as Option 1.

Revenue Effect: Estimated $4.0 million revenue loss annually.

Definitions:

Computer System Hardware (as defined under TSB-M-98(5)S: Exemption for Computer System Hardware): Computer system hardware means any organized assembly of physical equipment that is united and regulated by interaction or interdependence to accomplish a set of specific computer system functions. The term includes any connected or directly related device or equipment which enables the computer to store, retrieve or communicate to or from a person, another computer or another device, the results of computer operations, computer programs or computer data. Examples of computer hardware are: microcomputers, minicomputers, main-frame computers, personal computers, external hard drives, portable disk drives, compact disc, read-only memory (CD-ROM) drives, external modems, printers, scanners, servers, monitors, keyboards, mouses, network interfaces, network hubs and network routers.

Associated Press (as defined under TSB-M-98 (5) S: Exemption for Computer System Hardware): A part is any component of, or attachment to, computer system hardware that is used in connection with, and is necessary to, the performance of the hardware's operation. A part cannot accomplish the work for which it is designed independent of the computer hardware for that it is intended to be a component. Examples of parts include: motherboards, daughterboards, central processing units, controller cards, internal hard drives, internal modems, network interface cards, video cards, and network wiring and cables.

Computer Software: Computer software includes software as defined in IRS Revenue Procedure (69-21, 1969-2 C.B. 303); custom software that is code designed and written to satisfy a single client; customized software that is packaged software modified to fit the specific needs of a single user and packaged ("canned"/"off-the-shelf") software. Packaged software consists of systems software, application tools and application solutions. Systems software includes operating systems, operating systems enhancements and data center management. Application tools include data access and retrieval, data management, data manipulation, and program design and development software. Application solutions perform specific industry or business functions.

Designing and developing (as defined under TSB-M-98(5)S: Exemption for Computer System Hardware): Designing and developing includes systems analysis, program design, coding, testing, debugging and documentation that are part of the design and development of computer software.

Current New York State Law:

Current law provides an ITC for tangible personal property (including buildings and structural components of buildings) primarily used in the production of goods by manufacturing, processing or other production method. The manufacturing provisions affect Article 9-A and Article 22 taxpayers. Article 9-A taxpayers are allowed a higher credit percentage than Article 22 taxpayers (generally 5 percent vs. 4 percent of the base.) Other components of the ITC include credit for property used in research and development, industrial waste treatment facilities, and air pollution control facilities. Current law does not allow the ITC for Article 9 companies or Article 33 companies.

The provisions of the ITC were extended in 1998 to the financial services industry (including Articles 9-A 22, and 32) for equipment and buildings principally used in broker/dealer activities and operations. New York also enacted in 1998 an employment credit and a capital investment credit for new, small emerging high technology companies. These credits are currently allowed for Article 9-A companies only.

Option 1 is consistent with the existing exemption under the Sales and Use Tax Law for computer system hardware used in the design and development of computer software for sale.

Other States' Programs:

California recently extended its 6 percent investment tax credit to taxpayers engaged in computer programming services, prepackaged software and computer integrated systems design. Effective for purchases made on or after January 1, 1998, the credit applies to purchases of computers and computer peripheral equipment or capitalized labor used to construct the computers and peripherals. The property must be used primarily to develop or manufacture custom or prepackaged software to the special order of the purchaser. In 1997, New Jersey enacted laws providing beneficial tax treatment for corporations investing in small high technology companies, which includes advanced computing technology. The New Jersey law, effective January 1, 1999, provides a tax credit equal to 10 percent of investments made in these businesses up to $500,000 per year, for three years. The credit may be carried forward fifteen years. Maine also has an investment credit for high technology companies.

Additional Comments:

A tax credit for investment in property used in designing and developing computer software would bring New York to the forefront in an innovative and emerging industry. It could encourage the attraction of new media businesses to New York as well as the expansion and retention of such businesses. It could have a positive impact on business location decisions. With respect to Option 3, there are a number of buildings in New York City that have been renovated to accommodate high technology computer companies with state-of-the-art wiring and computer networking systems. Option 3, which includes a portion of the cost for prewiring buildings, could spur real estate developers and ISPs to make building improvements to attract computer firms. All options, as under the existing ITC, would allow most new businesses a refund of the credit. The credit may also be carried forward. This is important because in the start up years small new media companies may not have the revenue to offset the credit.

Revenue Cost:

Preliminary estimates indicate that this proposal could reduce tax revenues as follows: Option 1: approximately $2.5 million annually, Option 2: approximately $3.5 million annually and Option 3: approximately $4.0 million annually.

Taxation Proposals

A new research and development tax credit should be provided for certain expenses attributable to designing and developing software and computer system hardware.

Description of the Proposal:

This proposal would provide a tax credit for research and development (R&D) expenses attributable to designing and developing computer software and computer system hardware in New York State. The State R&D credit would be modeled after federal R&D credit provisions. (The federal R&D credit was recently extended to June 30, 1999, retroactive to June 30, 1998.) The definition of research and development would have the same meaning as “qualified research” under Section 4l(d) of the Internal Revenue Code. In general, this includes research undertaken to discover information that is technological in nature and intended to be useful in the development of a new or improved business component.

Qualified research expenses would include for example, in-house expenses, such as employees’ salaries and supplies attributable to qualified research; costs for computer use; and contract research expenses. The expenses would also include basic research payments made to qualified organizations. The credit would be allowed for corporation franchise taxpayers (Article 9-A) personal income taxpayers (Article 22), telecommunications and utility companies (Article 9), bulks (Article 32) and insurance companies (Article 33). The rate would equal 10 percent of qualified research expenses and 10 percent of basic research payments. The credit would apply to expenses over a base year. The definition of “computer system hardware” and “designing and developing” would be the same as under TSB-M-98 (5) S applicable to the exemption for computer system hardware. The phrase “computer software” would have the same definition as that under the proposed investment tax credit.

Current New York State Law:

New York currently allows, under the investment tax credit an R&D credit based on qualifying investments in tangible personal property and other property. The credit applies to both corporate franchise and personal income taxpayers at different rates. The R&D credit rate equals 9 percent for corporate taxpayers and 7 percent for personal income taxpayers. New York currently does not have an incentive based upon R&D expenditures similar to that allowed at the federal level and by several other States. It does, however, permit taxpayers to deduct the portion of wages and salaries paid for which a deduction is not allowed under Internal Revenue Code section 280C(c) from federal taxable income in determining entire net income.

Other States' Programs

Many other states, such as New Jersey, Massachusetts, Connecticut, California, Pennsylvania and North Carolina, offer R&D credits similar to the federal credit for both in-house expenses and basic research payments. New Jersey allows a credit equal to 10 percent of increased research expenses and 10 percent for basic research payments. Massachusetts allows a 10 percent credit for excess research payments over a base year and 15 percent of basic research payments. Connecticut's credit equals 1 percent for basic research payments of $50 million or less, to 6 percent for expenses over $200 million. A separate credit of 20 percent applies to increased research expenses over a base year. No state expresses its credit simply as a percentage of the federal credit.

Additional Comments:

Enactment of an R&D credit for expenditures for designing and developing computer software and hardware would make New York more competitive with other states, especially New Jersey and Massachusetts, which currently allow credits for R&D expenditures. This credit could attract new businesses to New York in an industry that offers quality employment opportunities.

Revenue Cost:

It is estimated that this proposal could reduce revenues by approximately $10-$15 million annually.

Taxation Proposals

> To encourage the creation of jobs in the new media industry, a new tax credit for training expenses should be created for appropriate costs incurred by companies that develop computer software and hardware.

Description of the Proposal:

This proposal would provide a new tax credit to companies which design and develop computer software and computer systems hardware for training expenses incurred in connection with the performance of employees' duties. Similar to the federal deduction for education expenses, the training expenses would qualify if the training undertaken maintains or improves a skill required by the individual in the individual's employment or if the training is required to retain salary status or employment. The credit would include costs for training employees out of state, but working from a New York office. Training expenses that would prepare an employee for a new trade or business would not qualify.

The credit would apply to corporate franchise taxpayers (Article 9-A), personal income taxpayers (Article 22), telecommunications companies and utilities (Article 9), banks (Article 32), and insurance companies (Article 33). The tax credit would equal 25 percent of total qualified training expenses. The phrase "designing and developing" and "computer hardware" would have the same definition as under TSB-M-98 (5) S applicable to the exemption for computer system hardware. The phrase "computer software" would have the same definition as that under the proposed investment tax credit.

Current New York State Law:

Current law does not allow a tax credit for training expenses.

Other States' Programs:

North Carolina, Kansas and Illinois provide tax credits for employee training. As part of its Quality Jobs and Business Expansion Program, North Carolina allows a credit for worker training for five or more employees equal to 50 percent of expenditures. The credit is capped depending on the location of the position. Kansas provides a tax credit equal to the portion of the company's investment in training that exceeds 2 percent of its total payroll cost. The maximum credit is $50,000 per year. Illinois allows a credit equal to 1.6 percent of training expenses. It applies to persons employed in Illinois and Illinois residents employed outside the State. Other states, such as Colorado, Connecticut, Louisiana and Mississippi allow tax credits for training targeted groups. Connecticut, which repealed its tax credit for nontargeted employee training January 1, 1998, rolled the provisions into a general business credit. The credit is now the Human Capital Investment Tax Credit equal to 3 percent of qualified expenses (beginning in 1998) for job training, work education programs and similar activities. The credit increases to 5 percent after 1999. Prior to that, Connecticut had allowed a tax credit of 20 percent of a corporation's expenses over a base year.

Additional Comments:

This proposal would provide New York companies a competitive advantage in a highly technical, rapidly changing environment. It would provide an incentive to encourage the training of employees so that these businesses remain at the forefront of new media technology. The Task Force noted the importance of a better-trained workforce for companies to compete in New York State. This proposal will enhance New York's ability to attract and retain new media companies and the highly skilled workforce such companies' desire. In the start up years, small new media companies may not have the revenue to offset the credit. However, this proposal would allow new businesses a refund of the credit. The credit may also be carried forward.

Revenue Cost:

This proposal could reduce revenues by approximately $3 million annually.

Taxation Proposals

The current New York State sales tax exemption for “telephone central office equipment” should be expanded to include all types of network property used to provide telecommunications services.

Description of the Proposal:

This proposal would replace New York’s existing sales and use tax exemption for telephone central office equipment with a broad exemption for all network property used directly and predominately to provide telecommunications services for sale. The new exemption would be similar to a current exemption provided in New Jersey.

Current New York State Law:

The sales tax exempts “...telephone central office equipment or station apparatus or comparable telegraph equipment for use directly and predominately in receiving at destination or initiating and switching telephone or telegraph communication...” Only vendors of telephone or telegraph services qualify for the exemption. However, the exemption is not limited to “telephone companies.” Recent legislation, which took effect September 1, 1998, modified this exemption so that it includes central office equipment or station apparatus used to receive, amplify, process, transmit and re-transmit telephone or telegraph signals.

Other State’s Programs:

New Jersey
New Jersey exempts telephones, telephone lines, cables, central office equipment or station apparatus, or other machinery, equipment or apparatus, or comparable telegraph equipment purchased by a service provider subject to the jurisdiction of the New Jersey Board of Public Utilities or the Federal Communications Commission. This equipment must be used directly and primarily in receiving at destination or initiating, transmitting and switching telephone, telegraph or interactive telecommunications for sale to the public.

Ohio
Ohio exempts tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, two-way electromagnetic communications including voice, image. data and information through the use of any medium including but not limited to poles, wires, cables, switching equipment, computers, record storage devices and media.

Additional Comments:

Existing sales tax exemptions for telephone equipment are insufficient, according to certain members of the Task Force. Even with the recent change, the exemptions fail to cover necessary machinery and equipment used by today's telecommunications service providers. In addition, continued ambiguity and resulting uncertainty do not provide an environment conducive to fostering growth in this industry. The recent change provides the first step in this direction, The Tax Department's January 1997 telecommunications report, *Improving New York State Telecommunication Taxes*, recommended providing the broader exemption package. A broad exemption would assist new media industries by providing incentives for improved communications infrastructure, vitally important to the growth of these industries in New York. It would also improve New York State's competitive position compared with New Jersey.

Revenue Cost:

Enacting an exemption similar to New Jersey's would reduce State sales and use tax revenues by approximately $30 million. The exemption would reduce local sales tax revenues by a similar amount.

Taxation Proposals

The current sales tax exemption for computer hardware used to design software should be expanded to also exempt pre-written ("canned") software used for the same purpose.

Description of the Proposal:

This proposal would exempt from sales and use tax prewritten computer software used or consumed directly and predominately to design and develop software for sale.

Current New York State Law:

Chapter 56 of the Laws of 1998 exempts from New York State and local sales and compensating use taxes purchases, leases or rentals of computer system hardware used or consumed directly and predominantly in designing and developing computer software for sale. The exemption, provided for under Tax Law §1115(a)(35), took effect June 1, 1998.

The recent exemption does not cover prewritten computer software used to design and develop computer software for sale. As tangible personal property, prewritten computer software is exempt when used directly and predominately in research and development. Prewritten software is also exempt when used directly and predominately to produce prewritten software, or other tangible personal property, for sale.

Custom software is not subject to sales tax.

Other States' Programs:

Virginia
Virginia exempts from sales taxes tangible personal property used directly and exclusively in research and development activities. In the computer industry, exempt research and development activities are those that have as their ultimate goal the advancement of computer software technology, the development of new computer software products, the improvement of existing computer software products, or the development of new uses for existing computer software products. An example of exempt tangible personal property used in a research and development activity is computer hardware and software used in programming and other developmental activities with respect to new computer software products, including the testing of such new products.

Oklahoma
Since July 1, 1992, Oklahoma has provided sales and use tax exemptions to certain qualified new and expanding businesses primarily engaged in computer and data processing services or

research and development. The exemption applies to computers, data processing equipment, related peripherals, and telephone, telegraph, or telecommunications services and equipment. To be eligible for the exemption, a business must be primarily engaged in computer services and data processing (which covers prepackaged software, computer integrated systems design, data processing and preparation, and information retrieval) or research and development.

Ohio
Ohio provides a partial sales tax refund for electronic information service providers. The refund equals 25 percent of the sales and use taxes paid by an electronic information service provider on purchases of computers, computer peripherals, software, telecommunications equipment and similar tangible personal property primarily used to acquire, process or store information for use by business customers or to transmit or disseminate information to such customers and related services. Ohio's state sales tax rate is 5 percent and its highest combined state and local rate is 8 percent. Thus, the refund would range from 1.25 percent to 2 percent.

New Jersey
New Jersey does not have a specific exemption for computer software. However, New Jersey has relative narrow taxation of computer software products in general. New Jersey also has generous "enterprise zone" exemptions authorized in twenty-seven communities.

Additional Comments:

This proposal benefits all software publishers, whether or not involved in new media. However, the *2nd New York New Media Industry Survey* reports that over 20 percent of the new media companies have programming and software development as their primary business activity. According to the U.S. Department of Commerce, to keep pace with ever-shorter product life cycles driven by rapid technological change, software suppliers are increasing their investment in research and development, including software design and development. The U.S. Department of Commerce reports that the U.S. packaged software industry increased research and development spending in 1997 by 20 percent over the prior year to $10.3 billion. The purchase of prewritten computer software represents a significant cost in the design and development of new computer software products. This proposal will supplement existing research and development exemptions to continue to help reduce the costs of software publishers located in New York.

Revenue Cost:

This proposal would reduce State sales tax revenue by an estimated $8 million. Local governments imposing sales tax would experience a similar revenue loss.

Taxation Proposals

A new sales tax exemption for computer system hardware and prewritten ("canned") software should be created for Internet access providers.

Description of the Proposal:

This proposal would provide a new sales and use tax exemption for purchases of computer system hardware, prewritten computer software and other tangible personal property used or consumed directly and predominately in providing Internet access service for sale.

Current New York State Law:

Internet service providers are considered the retail consumers of any taxable sales or services used to provide Internet services. New York exempts certain purchases by telephone service providers and utility service providers. However, in general, purchases of tangible personal property and taxable services by service providers are subject to sales tax.

Other States' Programs:

New Jersey
New Jersey exempts broadcasting equipment used by cable and satellite television service providers.

Ohio
Ohio provides a partial sales tax refund for electronic information service providers. The refund equals 25 percent of the sales and use taxes paid by an electronic information service provider on purchases of computers, computer peripherals, software, telecommunications equipment and similar tangible personal property primarily used to acquire, process or store information for use by business customers or to transmit or disseminate information to such customers and related services. Ohio's state sales tax rate is 5 percent, and its highest combined state and local rate is 8 percent. Thus, the refund would range from 1.25 percent to 2 percent.

Oklahoma
Since July 1, 1992, Oklahoma has provided sales and use tax exemptions to certain qualified new and expanding businesses primarily engaged in computer and data processing services or research and development. The exemption applies to computers, data processing equipment, related peripherals, telephone, telegraph, telecommunications services and equipment. To be eligible for the exemption, a business must be primarily engaged in computer services and data processing (which covers prepackaged software, computer integrated systems design, data processing, preparation and information retrieval) or research and development.

Additional Comments:

This type of proposal was examined in the Tax Department's January 1997 report *Improving New York State's Telecommunications Taxes*. In that report, the Department recommended new sales tax exemptions for telecommunications-related industries, including cable television service providers and Internet access service providers. Such exemptions were found to nullify impending equity concerns raised by the convergence of communications technologies and would promote New York's regional competitiveness.

Revenue Cost:

An exemption for property used in providing Internet access service for sale would have an annual State revenue cost of about $12.5 million. A broader exemption for property used to provide cable and satellite television programming for sale would have an additional annual State revenue cost of approximately $10 million. Local governments would have similar revenue losses under either option.

Other Taxation Issues

New York State should phase out the local property tax on certain telecommunications network assets.

Description of the Proposal:

This proposal would phase out the tax on telecommunications network assets, such as poles, wires, cables and conduits that are considered personal property in most other states. However, in New York State these assets are treated as real property for purposes of section 102(12)(d) and section 102(17) of the Real Property Tax Law. The phase out period would be at least five years and the tax revenues lost to the local municipalities would be guaranteed by New York State out of the incremental increases in sales tax collections from the telecommunications industry.

Current New York State Law:

Currently, the New York real property tax includes certain personal property owned by telecommunications companies as taxable "real estate". The same type of personal property is not taxed if owned by a cable television company. New York State does not impose a tax on personal property for general types of businesses.

Other State's Programs:

Most States treat telecommunications assets as personal property. As such, where personal property is taxable for all businesses, the telecommunication companies are treated similarly. The bordering state of Pennsylvania does not impose a tax on this type of property. In New Jersey, there is currently proposed legislation to eliminate the personal property tax on telecommunications companies very similar to this proposal. The proposal is for the state to dedicate sales tax revenues from the telecommunications industry as the base grows over the next several years, and guarantee each town what it receives today in personal property tax collections. This will secure a stable revenue supply into the future for the local municipalities and will eliminate an unfair tax on certain telecommunications providers. New York State could consider a similar proposal, providing the local governments with a stable revenue supply and provide relief to all telecommunications companies that are land lined based.

Additional Comments:

This proposal will eliminate a costly and extremely discriminatory tax on the land line telephone companies. It will secure a stable revenue stream to the local municipalities into the future, which has been declining over the last five years, due primarily to technological advances. It will keep New York State competitive with its neighboring states of New Jersey and Pennsylvania, while also providing tax parity within an industry that is changing very quickly.

Revenue Cost:

This proposal would be revenue neutral to the local municipalities and would cost the State only the incremental sales tax revenue in future years derived from the telecommunications industry. The total amount paid on this tax today is around $200 million. The phase out will be over a period of at least five years, but could be longer depending on the results of a sales tax revenue forecast study. Therefore, the maximum impact of this proposal would be $40 million per year.

Other Taxation Issues

> New York State should expand the current tax credit for investments in certified capital companies ("CAPCO's") to include investments in new media companies and to extend the credit to corporate and individual taxpayers.

Description of the Proposal:

This proposal would extend the existing credit for investments in certified capital companies (CAPCOs). The credit would be allowed for corporate franchise taxpayers (Article 9-A) and personal income taxpayers (Article 22). The proposal would also expand the definition of "qualified businesses" to include new media activities.

The current statewide cap on the total amount of investments for which the credit may be claimed would increase from $100 million to $200 million. That is, the cap that currently applies to insurance corporations ($100 m.) would be increased by an additional $100 million which would apply to Article 9-A and Article 22 taxpayers. Taxpayers would claim the credit over 10 years, at a rate of 10 percent each year, for tax years beginning on or after January 1, 2000. In addition, in total, Article 9-A and Article 22 taxpayers would not be allowed to claim credits of more than $10 million in any taxable year.

Current New York State Law:

Current law allows insurance franchise taxpayers (Article 33) to claim a credit for 100 percent of the amount invested in certified capital companies (CAPCOs) effective for taxable years beginning after 1998, although the credits may be earned before 1999. Taxpayers may claim the credit over ten years, at a rate of 10 percent each year. There is a statewide cap of $100 million on the total amount of investments for which credits may be claimed (no more than $50 million for 1999). In addition, insurance companies may not claim credits of more than $10 million in any taxable year.

The New York State Insurance Department administers the current CAPCO program. Insurers are limited with regard to the amount of individual and aggregate investments in CAPCOs.

CAPCOs are for-profit venture capital firms that directly invest in new small-to-mid-size businesses. A CAPCO must be located and headquartered in New York State and its primary business activity must be investing in qualified businesses via equity purchases, debt instruments or hybrid debt/equity instruments. CAPCOs are required to invest in "qualified businesses." The criteria for "qualified businesses" include being located and headquartered in New York, having fewer than 200 employees; and being engaged in a business that develops and manufactures products and systems. CAPCOs that fail to invest in qualified businesses up to specified limits may be decertified. Certain types of businesses are excluded from the definition of qualified businesses (i.e.. real estate, real estate development, insurance and businesses predominantly engaged in professional services provided by accountants, lawyers or physicians). Credits claimed by insurers for investments made in decertified CAPCOs are subject to recapture.

Other States' Programs:

Louisiana's CAPCO credit for insurers was originally scheduled to expire in 1997, but has been extended to the year 2000. Legislation to extend Missouri's CAPCO credit (which currently applies only to insurers) to banks was introduced during the most recent session. It did not reach the floor for a vote, which was attributed to the fact that the credit has only been in effect for one to two years. Legislation is pending in North Carolina to allow insurance companies to claim a CAPCO credit.

Additional Comments:

Expanding the pool of taxpayers that can invest in CAPCOs will attract more venture capital commitments to New York State. This will increase the amount of capital available to small new businesses, including media companies, thereby enhancing economic development in the State.

Revenue Cost:

The expansion of this credit will result in an annual $10 million increase in the cost of the credit.

Other Taxation Issues

The gross receipts tax rate paid by telecommunications companies should be lowered.

Description of the Proposal:

This proposal would further reduce the tax rate under Tax Law, Article 9 section 186-e. This is the excise tax, based on gross receipts from telecommunications, paid by any provider of telecommunication services.

Current New York State Law:

Beginning October 1, 1998, the tax rate was reduced from 3.5 percent to 3.25 percent. In the year 2000, the rate is scheduled to be lowered again to 2.5 percent. In addition to the telecommunications excise tax, companies principally engaged in telecommunications pay franchise tax under section 183 based on dividends paid or capital stock. Local telephone companies also pay an additional franchise tax under section 184. This tax is based on gross receipts from all sources and its rate is currently 0.75 percent. The section 184 rate is scheduled to drop to 0.375 percent in the year 2000.

Other States' Programs:

Most states impose a net income tax on telecommunications providers. The Tax Department's recent telecommunications study showed that over forty states have such a tax. Only twenty states still have some form of gross receipts tax, imposed mainly on the local exchange carriers.

Additional Comments:

New media companies would benefit from such a reduction as the tax is generally passed through to consumers of telecommunications. During the preparation of the Department's study, much thought was given to a proposal to move telecommunications providers from a tax based on gross receipts to one based on net income. There was no consensus among the providers to make such a move, so the Department recommended reductions in the gross receipt tax. The Governor and Legislature enacted these reductions last year (see above).

Revenue Cost:

Each 0.25 percentage point reduction in the gross receipt tax for telecommunication service providers (section 186-e) is worth approximately $35 million.

Other Taxation Issues

A new gross receipts tax credit should be provided for investments in new digital transmission equipment providing services to the new media industry.

Description of the Proposal:

This proposal would provide a tax credit for companies taxable under Article 9, Sections 183 and 184 (it might also include 186-e) for investment in infrastructure improvements within New York. The credit would be available for investment in equipment and systems that facilitate the digital transmission services required by new media companies. Qualifying investments would include, but not be limited to, laying digital/copper lines for Internet access and providing the necessary switching and connectivity. Activities such as wiring schools for Internet access would also be included. The credit would be modeled after the ITC available to manufacturers. To qualify for the credit, it would be necessary for the activity to represent a depreciable expense with a useful life of four years or more. The revenue estimate is based upon a credit rate of one percent of the qualifying investment.

Current New York State Law:

No credits for this activity are available.

Other States' Programs:

Not known at this time.

Additional Comments:

These proposals would provide New York companies a competitive advantage in a highly technical, rapidly changing environment. It would provide an incentive to encourage the upgrading of their in-state infrastructure. The proposals would also ensure that these businesses remain at the forefront of new media technology.

Revenue Cost:

Estimates indicate that at a rate of one percent, this proposal would reduce revenues by approximately $18 million annually.

MARKETING PROPOSALS

Marketing Proposals

New York State should develop and implement an aggressive marketing campaign to showcase various advantages for the new media industry and to actively attract and assist developing businesses.

Description of the Proposal:

New York State needs to market the inherent advantages it has for new media and Internet companies. New York State has already created and will continue to formulate new initiatives to facilitate the growth of this industry. However, the Task Force believes strongly that there is a lack of awareness by the industry and site consultants of these benefits. They also feel the State must aggressively market its advantages to its target audience of existing New York State and out-of-state new media and Internet companies, site consultants, start-up companies, investors and students in order to be successful in capturing a larger percentage of new media and Internet companies.

The Task Force recommends the creation and implementation of a marketing attraction and retention plan geared specifically to new media and Internet companies. The marketing plan, which has been developed with the Task Force's approval, consists of the following components: a web site; online advertising; print media; direct mail; trade shows; association support; sponsorship opportunities and public relations.

To accomplish this plan, the Task Force recommends an increase in Empire State Development's current business marketing budget to implement the full marketing plan. Through April 1999, Empire State Development budgeted $50,000 out of its current budget that will pay for the enhanced NY|Assist web site and a small portion of the off and on-line advertising. However, based on the proposed marketing plan, Empire State Development's budget should be increased to at least $500,000 for the 1999-2000 budget to successfully implement all the components of the strategy. When possible, the plan is to leverage these funds with the New York State new media associations to participate in joint sponsorships and advertising.

Marketing Plan
The marketing plan will highlight key reasons why new media and Internet companies need to locate in New York. The plan will also address the special marketing initiatives recommended in each working group of the Task Force.

The focal point for this plan will be an enhanced “world class” web site called “NY|Assist” (www.nyassist.com). In the fall of 1998, a prototype version of NY|Assist was launched by Empire State Development, Columbia University and New York University to offer statewide online business resources for new media companies, Internet-related start-ups and other relevant businesses on the web.

A plan is currently in place to redesign NY|Assist and to provide information the Task Force identified as most relevant for business attraction to our target audiences. The new sections will focus on such things as an overview of the telecommunications, wireless and cable TV infrastructure in New York, as well as a listing of New York State venture capital firms. New York “success stories” could also be included, along with information on formation of a new trade alliance for new media. In addition, data about specific internship programs could be highlighted and a special site could be provided to list international new media companies doing business in New York.

All components of the marketing plan will include the promotion of the NY|Assist web site to reach the target audience through this medium as well as through traditional advertising and promotion. A press event will be planned announcing the new site to kick-off the entire campaign.

The print campaign will be testimonial-based. Ads will feature executives from various new media companies located in New York. All ads will feature the Empire State Development call center number and the NY|Assist web address. Empire State Development’s in-house graphic design division will create the copy and design of all ads. Additionally, Empire State Development is interested in pursuing cooperative advertising efforts with various private sector companies.

The goal of this marketing plan is to relentlessly communicate the message of a new media friendly New York State to the media. It will follow the editorial calendars of all industry-related publications to ensure that New York is well represented editorially. All press releases containing new media specific legislation and success stories will be sent on a regular basis to the publishers.

Working Groups Marketing Initiatives
Each working group on the Task Force has a marketing component that is incorporated in the final marketing plan. Following are the highlights:

Taxation
The marketing plan should include broad dissemination of tax incentive information and its application to the new media industry. Specific tax information should be published on the NY|Assist web side and a link to the Tax Department's web site should be provided.

Economic Development/Workforce Development: Venture Capital
Venture capital resources should be enhanced through various marketing plan segments. New York State should co-sponsor events that are targeted at bridging the gap between

upstate new media companies and both local and national investor communities. Using the New York City Venture Capital Conference as a model, New York State should provide sponsorship and marketing assistance to hold a similar statewide event that would bring investors and companies together.

New York State should co-sponsor a new media trade mission to introduce New York State companies to investors around the country. Using Alley Cat News' "*Alley to the Valley*" conference as a model, New York could provide companies throughout the State with an opportunity to meet investors from Silicon Valley, Boston and other targeted areas in the United States.

Economic Development/Workforce Development: Educational Programs and Trade Association Alliance

On-line marketing in the NY|Assist web site and traditional marketing will be required to promote a recommended statewide internship program initiated by the statewide new media associations. Empire State Development also needs to continue its work of highlighting and promoting successful business/university partnerships that can assist with internships, company externships for professors and short term skills training programs.

The Task Force proposes to establish a statewide network of trade associations under the umbrella of one alliance. The alliance could co-sponsor statewide events that would bring together associations and their members to exchange ideas or resources and create networking opportunities. This could also work as a public/private partnership, where individual associations could contribute money into a marketing "pool," with the State matching the associations' contributions. All funds would be used to market New York State as the ideal location for the new media industry.

Infrastructure

The marketing plan should include a complete overview of the information technologies and capabilities of service providers in New York. This should be done in a printed and electronic format, utilizing the NY|Assist web site. An important target market for this campaign should be data communications companies worldwide, high-tech sectors of Europe and the Pacific Rim.

One of the key components of New York State's technology infrastructure involves the university system (both public and private). Initiatives in these educational institutions should be prominently displayed in the new media marketing efforts.

Current Policy Programs:

Empire State Development has implemented an award-winning business marketing campaign aimed at retaining and expanding New York State businesses and attracting new investment in the State. A new media brochure has been created and Empire State Development has become a sponsor in several events in Silicon Alley and at trade shows, such as Internet World. Empire State Development is also using companies in the industry for testimonial advertising.

Presently, Empire State Development has created a new media ad and placed insertions in *Silicon Alley Reporter* and the *Crain*'*s New York* Silicon Alley take out section. Additionally, Empire State Development exhibited at the Fall Internet World Conference in the Silicon Alley Reporter Pavilion at the Javits Center in October, 1998.

Other States' Programs:

Presently, no other state has an integrated Internet site that offers the information described above. However, other states do have substantial marketing budgets for these types of general programs, and these states are:

California
California's current budget is $3,240,000. However, a public/private partnership called "Team California" comprised of private sector companies and certain state agencies has been formed to supplement these marketing efforts. This group contributes cash as well as in-kind contributions to promote California's diverse assets. This initiative is estimated to be worth over $2.5 million in additional funds.

Pennsylvania
Pennsylvania's marketing budget is $3,000,000 (for current year) (see, National Association of State Development Agencies, NASDA).

Ohio
Ohio's marketing budget is conservatively estimated at $3,000,000 (see, NASDA).

North Carolina
North Carolina's marketing budget is $4,125,000 (see, NASDA).

Michigan
Michigan's marketing budget is $1,732,000 (see, NASDA).

ECONOMIC DEVELOPMENT/ WORKFORCE DEVELOPMENT PROPOSALS

Economic Development/Workforce Development Proposals

New York State should encourage venture capital investments in new media companies by providing various avenues and expanding existing investment funds for investors to learn about local new media companies.

Description of the Proposals:

The Task Force believes that promoting venture capital resources both in and out of New York State is critical to the success of new media businesses. More emphasis should be placed on educating companies about the investment process, providing opportunities for investors to meet new media companies in upstate regions, refunding and restructuring current New York State venture programs and catalyzing local investment communities around the State.

Educating Companies: Venture Capital Section on NY|Assist
A separate section on venture capital should be added to the home page of NY|Assist. This section will provide information about all stages of the funding process, a list of the top venture capital investment firms throughout the State and recently funded New York State companies. In addition, it was suggested that a group of investors meet on-line to provide pro-bono information on what a company needs to know before requesting capital. The outcome and advice generated from these on-line workshops could be added to the venture capital section.

Facilitating Investment Opportunities: Venture Capital Conference in New York
Using the *New York City Venture Capital Conference* as a model, New York State should provide sponsorship and marketing assistance to hold a similar statewide event that would bring investors and companies together. The New York City Conference has been very successful, attracting over four hundred people from throughout New York City to gather information on topics such as locating and raising venture capital, how to enlist support of venture capital firms and suggestions on how to successfully secure alternative funding.

Venture Capital Trade Mission
New York State should co-sponsor a new media trade mission to introduce New York State companies to investors around the country. Using *Alley Cat News'* model, "*Alley to the Valley*," Empire State Development could give upstate companies an opportunity to meet investors from Silicon Valley or perhaps investors in Boston.

Company Video Presentations
It is suggested that New York State create a video archive system for potential investors to use. This would allow companies to video tape short presentations about their companies and then digitally store them online for easy retrieval. It would be the responsibility of the individual companies to produce their own presentations. The State would assist by providing the distribution vehicle for these presentations and marketing the service. It is possible that this service will be offered on the NY|Assist web site.

Restructure and Refinance New York State Venture Programs:
Increase Small Business Technology Investment Fund Budget
The Task Force recommends that New York State increase the size of the Small Business Technology Investment Fund (SBTIF). One of New York's largest competitors, California, has the California Technology Investment Partnership Program (CalTIP) and the Rural Venture Capital Network, both of which address the critical funding needs of entrepreneurial ventures, which typically do not meet the investment criteria of most established large institutional funding sources. Philadelphia's Small Business Venture Fund provides financial and technical assistance to high-risk small business firms who are engaged in advanced technology projects and who otherwise could not obtain tangible support for their ventures from conventional private sources. This proposal would bring New York State's funding to a more competitive level. The proposal has been integrated into the 1999 Empire State Development legislative agenda.

Create A Statewide Angel Investment Network
"Angel" money, or seed capital from individual investors, is a vital resource for new media companies as they attempt to transition from an idea to the implementation of their business plan. Most angel money is raised informally by word-of-mouth among friends. However, increasingly angel investors are being organized into groups that meet regularly and actively solicit investment proposals from entrepreneurs. The Band of Angels in California is one such group and New York New Media Association's Angel Investor Program in New York is another example.

The Task Force proposes that Empire State Development foster the development of these groups by providing a modest amount of seed money or administrative support funds to a local trade association or a small group of individual investors who want to create a more organized structure. The funds would support an administrative resource to organize meeting spaces and dates, publicize the group's activities and act as central point of contact for either investors or entrepreneurs who want to participate in the program.

Current New York State Programs/Initiatives:

Small Business Technology Investment Fund (SBTIF)
Empire State Development, through the New York State Science and Technology Foundation, currently provides seed or growth capital to eligible small technology-based companies in New York State. SBTIF will also be used in conjunction with various Western New York investment partnership groups to jointly invest in new and growing high-technology companies within the region.

Capital Companies (CAPCOs)
Current law allows insurance franchise taxpayers to claim credit for 100 percent of the amount invested in certified capital companies (CAPCOs) effective for taxable years beginning after 1998, although the credits may be earned before 1999. Taxpayers may claim the credit over ten years, at a rate of 10 percent each year. There is a statewide cap of $100 million on the total amount of investments for which credits may be claimed. In addition, insurance companies may not claim more than $10 million in any taxable year.

Marketing Initiatives
Empire State Development is working with *Alley Cat News*, Silicon Alley's venture capital periodical, to extend the magazine's circulation and reach to upstate new media companies. There is also discussion about featuring more upstate regions as new media hot spots.

Economic Development/Workforce Development Proposals

> The workforce available to new media businesses should be increased by encouraging internship programs in the industry and developing a program of “Boot Camps” for industry training.

Description of the Proposals:

Internships are an integral part of New York State’s new media industry. Providing high school and college students with an opportunity to work directly in this industry may spawn a career interest in the new media industry.

Promote Statewide New Media Internship Program
The Task Force proposes that New York State encourage trade associations (e.g., InfoTech Niagara, NY Software Association, Capital Region Software Alliance) to develop a statewide new media internship program. This program should be accompanied by a substantial marketing effort that promotes these opportunities to students. Specifically, internships can be a focus of targeted new media marketing efforts that highlight success stories of young new media workers. The NY|Assist web site could be a vehicle for general promotion of internships.

Sponsor New Media Job/Internship Fairs
In addition, New York State should sponsor a series of well-publicized new media internship fairs throughout the State. These events would give new media companies the opportunity to actively recruit prospective interns, display information about their products or services and hold job opportunity seminars for high school and college students.

Provide Funds for “Boot Camp” Training Programs
New York needs to help address the large shortage of trained personnel in the software and Internet industries. Some larger software companies have already begun partnerships with local schools to insure that the curricula meet the demands of the industry. Highly focused immersion or “boot camps” are one way to train students or displaced programmers and direct them into fields of demand. The Task Force recommends that New York State, the State University system (SUNY), the City University system (CUNY) and the Commission on Independent Colleges and Universities (CICU), work with new media trade organizations to develop "boot camp" programs. Further research should be conducted to determine a funding source for these efforts.

The Task Force proposes that further study be conducted to determine the feasibility of this idea. Trade organizations could identify needs for “Boot Camp” training among groups of member companies and would form a partnership with a school. The school might receive funding for curriculum development and teaching while the trade organization may be paid for administration, marketing, project management and oversight. The training program developed would be a "Boot Camp" style program conducted by the school at their facility. The participating companies would select the trainees, who could be existing workers or new hires that would start with the company after successfully completing the training program.

<u>Current Policy Programs</u>:

The Capital Region Software Alliance holds an annual Job Expo in conjunction with area universities where the community can learn more about the local software industry. Approximately 600 people attended the event in 1998. The New York New Media Association (NYNMA) is a leader in new media internship development. This past summer NYNMA placed about 60 students in jobs with area new media businesses. Over 40 firms are participating with the companies paying salaries. NYNMA hopes to expand the program to 150-200 students.

Empire State Development has contracted with the consulting firm of Ernst and Young/Kenneth Leventhal (EYKL) for the "Business Education Links" project, which will identify key successful business links and showcase best practices to others in New York State. This project will include internship programs.

<u>Additional Comments</u>:

In a fast-growing, emerging industry like new media, internships can be an especially helpful method to develop a talent pool since incumbent workers may lack the necessary skills and orientation. Many companies are willing to invest the time and money to train students to meet their specific needs. Bringing a new media awareness to the students in both secondary and post-secondary schools might spawn a career interest in these high-tech fields.

Economic Development/Workforce Development Proposals

New York State should encourage a talented workforce for the new media industry by developing a scholarship program for new media students.

Description of the Proposal:

The Task Force recommends that New York create a public/private partnership to develop a scholarship program that will retain more students in New York State, before and after college. Scholarships could follow a "ROTC format" under which students get free (or reduced) tuition in return for working in New York State for a set number of years. Private firms could contribute to a fund that would support the scholarships. As with internships, the scholarships would need to be supplemented by a State-assisted marketing program to maximize student awareness of the program while they are in high school.

Current Policy Programs:

New York State offers a variety of scholarships to disadvantaged and/or minority students pursuing training in medicine, dentistry, or other professions licensed by the Regents. The State also offers 80 "loan forgiveness" awards annually to physicians who are residents of New York State and agree to practice medicine in areas of the State designated by the Regents as having a severe shortage of physicians. Individual awards for these programs range from $5,000-$10,000 annually.

Other States' Programs:

Nebraska has three scholarship/retention initiatives such as the "Brain Gain" bill that pays up to $5,000 a year toward college tuition for successful students. There also is a program which offers tuition to high-ranking students who live in neighboring states and to children of former Nebraska residents.

A report from the Southern Technology Council, *"Where Have All the Students Gone?"* (May 11, 1998), indicates that New York is in the second quartile of states at successfully retaining its college science and engineering graduates. Other major states (California, Texas, Illinois, Michigan, Minnesota, Georgia and Massachusetts) are in the top quartile.

Economic Development/Workforce Development Proposals

> New York State should assist in educational development by encouraging the formation of a new media workforce development roundtable among higher education institutions.

Description of the Proposal:

New York's public and private colleges and universities offer many programs that are valuable to the new media industry. These programs can be hampered by the cost of keeping up with the latest technologies for instruction, curricula that may not meet industry needs and the inability of many professors to keep up with market-relevant topics.

The Task Force recommends that Empire State Development encourage formation of a new media workforce roundtable led by the private sector. Empire State Development, the New York State Department of Labor, SUNY, CUNY, CICU and the State Education Department should also participate in the roundtable. The roundtable would give the new media industry an opportunity to discuss current developments with members of SUNY and CUNY campuses and the private colleges and universities. The roundtable could also develop a detailed set of skill standards that high schools and higher education institutions could incorporate into their curricula. It also could promote the importance of hardware and software donations, as well as the importance of internships and sabbaticals for college faculty.

Current Policy Programs:

The New York State Department of Labor and the State Education Department are leading development of a new workforce development system for the State. Even though this project is not specifically concerned with high-tech workers, the overall workforce structure being developed in this plan may be of some relevance to new media.

Other States' Programs:

Michigan has ten roundtables of business leaders in key industries that work with professional associations and education institutions to address the common needs of key industries.

Florida has a roundtable program in place, using federal funds to reward post-secondary institutions that produce workers in demand.

Economic Development/Workforce Development Proposals

The new media industry should be enhanced by highlighting existing resources in a broad variety of media arts, creating a "Virtual Network" of new media art centers.

Description of the Proposal:

The Governor's Task Force believes that an inventory assessment of arts-related resources and training programs will stimulate more dynamic interaction between emerging technology industries, education and cultural institutions. There is unsurpassed creative capital in the arts in the State but it remains an under-utilized resource for new media content and applications development. In identifying New York State's leading arts organizations and university programs working with the new media industry, the inventory will map resources and set the framework for a "virtual network" of arts centers.

New York State could make a major statement about its commitment to the new media and Internet industry by aligning the arts' creative talent with the technology and entrepreneurial innovators. The inventory will identify specialized degree and advanced training programs, wired public spaces, galleries, theaters, concert halls, production facilities and high-end facilities for residencies. The inventory will demonstrate the existing resources and infrastructure available to new media businesses interested in working with the arts. It will also serve as a stimulus to new activity and partnerships that will aid the State's cultural institutions to adapt to the digital age. Opportunities for internships and job placements will be more readily determined via the inventory.

The Task Force recommends Empire State Development, along with the New York State Council on the Arts, co-sponsor a collaborative inventory assessment to map programs and resources in the State and identify ways to encourage greater synergy. It is also critical to investigate the existing new media centers abroad to determine their success and economic impact, as well as establishing which practices would contribute to a more attractive and productive environment for new media in New York State. A consulting firm will develop the scope and specific focus of the inventory. The inventory assessment will cost $75,000 - $125,000.

Additional Comments:

New York is rapidly developing as a major international center for new media. Publishers, advertising companies and the entertainment industry have partnered with new media start-up companies, creating jobs and attracting venture capital.

The inventory assessment will identify which cultural resources are serving the functions of a creative laboratory. Through advanced telecommunications, the multiple art institutions and universities can be networked effectively by establishing a virtual new media arts center. The inventory assessment will also indicate where there are gaps in the types of services and spaces that would advance new media development.

Such a center could be committed to:

- Promoting and creating synergistic private, public and educational partnerships;
- Expanding the economy and creating jobs by supporting a commitment to emerging strategic industries in the new media and arts field;
- Attracting more startups and venture capital funding for new media;
- Showcasing new media arts development and presentation; and
- Presenting national and international exhibits.

The inventory will identify which facilities can be a showcase for experimental technology and expressions in new media arts. A variety of flexible exhibitions, performances and seminar spaces would act as a valuable asset to many of the organizations and target audiences.

The inventory will direct organizations where to go for training, seminars, idea sharing and to address specific needs of the arts, technology and educational communities. In terms of accessibility, it will identify a building that has rooms for flexible performance, exhibition spaces, media and research development labs, an online digital resource library, educational classrooms, cyber cafes, symposium space, production facilities and dormitories for distinguished visiting organizations and individuals conducting research.

There is a need to develop New York State's image as a new media capital. Since there is a prevalence of creative talent within our borders, it is appropriate to build a new media center to promote this creative and technological talent throughout the world. However, it is important to recognize that this talent exists in many parts of the State and not just in New York City. New York State needs a system that circulates content to other parts of the State, either virtually or via satellite centers.

Economic Development/Workforce Development Proposals

> New York State should encourage development of the new media industry by assisting in the formation of a trade association alliance across the State.

Description of the Proposal:

The Task Force encourages the establishment of a statewide network of trade associations under the umbrella of one alliance, thus improving the flow of information and the exchange of ideas and resources for the benefit of this industry as a whole. The alliance would focus on broad issues, such as marketing New York State as a new media capital, getting access to venture capital, developing and attracting a skilled workforce.

The Task Force encourages the establishment of a statewide network of new media trade organizations. The alliance could co-sponsor joint marketing and promotional opportunities with New York State. It should also provide the industry continuing government contact to make sure their interests are addressed. The first step should be to undertake a commissioned study to better assess the new media communities in upstate New York.

The co-sponsored events could be held in different cities each year. The alliance could also develop a section of NY|Assist, which would serve as a communication platform between each of the member associations. This section could be used to exchange regional news, resources, and ideas and promote cross-regional partnerships. The focus of the alliance would be to address issues that face all of the regional associations, but each member association would maintain its own identity. An alliance of this nature may attract attention from across the nation, and it could garner more political and financial support for the New York State industry as a whole.

Current New York State Programs/Initiatives:

New York State currently has the Emerging Industries Alliance that received $600,000 in legislative funding last year. Its members are comprised of six emerging technology trade associations: New York New Media Association, New York Software Industry Association, Environmental Business Association of New York, the New York Biotechnology Association, and the New York Photonics Association.

There are several existing groups throughout the State that have a new media focus. Some of these groups include:

- Info River Valley - Mid-Hudson
- New York New Media Association - New York City
- New York Software Industry Association - New York City
- World Wide Web Artist Consortium - New York City
- Long Island Software and Technology Network - Melville
- Capital Region Software Alliance - Albany
- High Technology Rochester - Rochester
- East Coast Digital Consortium - New York City

INFRASTRUCTURE PROPOSALS

Infrastructure Proposals

> In order to expand the availability of modern infrastructure to all businesses and encourage the new media industry, New York State should examine the feasibility of a new incentive program to encourage the rehabilitation of old buildings and the construction of new high-tech "wired" buildings.

Description of the Proposal:

The Task Force recognizes a significant need for additional office space that has high-speed connectivity to the Internet and the information technology community. Due to the scope of this type of project, it is recommended that a separate study group be formed to examine types of incentives that can be developed by public, private and joint interests to facilitate expansion of building infrastructure in New York State. It is recommended that the study include programs such as the Alliance of Downtown New York's "Plug'n'Go" project and Rudin Management Company's "wired buildings" initiative as models.

The Task Force also believes that State and local government agencies should work with the real estate community, telecommunications service providers, wiring contractors, trade associations and economic development interests to promote the telecommunications network upgrades. The approach should address incubator facilities, permanent office space and advanced broadband telecommunications systems deployment, such as routers, multiplexing equipment and web hosting facilities. The arrangement of such advanced systems would create a "critical mass" to spur the further development of new media/Internet clusters.

In addition, the Task Force recommends that the Empire State Development marketing plan for the new media industry include information about the availability of "wired" buildings in New York. This should be assembled in both written and electronic format for easy access by entrepreneurs. More suggestions for the marketing plan are included on Page 38.

Current New York State Programs

New York City "Plug'n'Go" Program

The "Plug' n'Go'' program is an information technology incubator initiative developed by the Alliance for Downtown New York to promote the "smart wiring" of commercial buildings with high-speed broadband telecommunications infrastructure. The program provides three key elements for information technologies: affordable, quality office space; high-speed Internet bandwidth connectivity; and a networked information technology community. ''Plug'n'Go" is a partnership between commercial real estate interests and economic development agencies to demonstrate the capabilities and advantages of information technology infrastructure development, enhancing the business potential for start-up companies and increasing the value and attractiveness of real estate holdings.

New York State Education & Research Network (NYSERNet)
NYSERNet, a non-profit membership organization, is New York's high-speed communications network. Network access provides informational and computational resources, collaborative tools and leading-edge technologies. NYSERNet has 350 members, comprised of libraries, K-12 and higher education sites, museums, hospitals, research and development businesses and non-profit organizations.

Other States' Policies:

Texas
The Texas Capital Fund Infrastructure Program is designed to provide financial resources to local communities. Funds can be utilized to assist a business which commits to create and/or retain permanent jobs for low and moderate-income persons. This program encourages new business development and expansions located in non-entitlement communities. Grants may be provided for construction of several types of public infrastructure, including electric, telephone, and fiber optic lines.

California
In early 1998, California announced the creation of a new source for financing local public improvements called the California Infrastructure and Economic Development Bank, administered by the California Trade and Commerce Agency. A $50 million proposal to fund the California Infrastructure and Economic Development Bank was included as part of the 1998/99 California State Budget. The Governor is also proposing a $200 million General Obligation Bond Program for additional funding to the Infrastructure Bank.

Pennsylvania
Pennsylvania's Infrastructure Development Program offers grants and low-interest loan financing for public and private infrastructure improvements. Manufacturing, industrial research and development, agricultural processors, firms establishing a national or regional headquarters and private real estate developers are all eligible to apply for this program.

North Carolina

North Carolina has formed a high-level public/private partnership called the North Carolina Alliance for Competitive Technologies. Its mission is to evaluate the state's technology-based economic development. The partners include industry CEO's, university officials, government policy advisors and research experts. The process involves the use of task forces, focus groups, surveys and competitive roadmaps. Two of the major components of the plan are to establish "test beds" for new information applications and create a clearinghouse for greater industry utilization of the communications infrastructure. North Carolina is dedicating nearly $200 million in state funds each year to the overall initiative.

Infrastructure Proposals

> New York State should consider the feasibility of monitoring future developments with respect to the access of privately owned buildings by a wide variety of telecommunications service providers.

Description of the Proposal:

Some members of the Task Force recommend that New York State consider monitoring the progress of increasing access to privately-owned buildings for the purpose of high-tech telecommunications installation. These members would like to provide access to all types of telecommunications service providers, including traditional telephone, wireless and cable providers. Recognizing that the issue demands additional resources, the Task Force proposes creation of a separate work group to examine the wide variety of issues that might arise.

Background:

This issue arises out of a federal mandate in the Telecommunications Act of 1996, which guarantees unfettered access to ***public*** rights-of-way and buildings. Thus, telecommunications service providers of all types (*e.g.*, telephone, cable and other Internet access providers) have access to public spaces. The federal law does not guarantee these rights with respect to private property.

Some members of the Task Force believe that a major impediment to the development of a truly competitive marketplace in this industry is the lack of access to some private properties for the installation of equipment benefitting the end-user. They also believe that establishment of these alternate pathways to high-tech services will be a boost to a sustainable competitive environment. However, it must also be recognized that the developing competitive marketplace puts new demands on real estate owners to balance the interests of the consumer and the provider of telecommunications services while dealing with older properties that were designed and built in an era of narrow bandwidth.

Some members of the Task Force discussed the alternative of establishing a structured mediation process, sponsored by an agency of New York State, to address legitimate disagreements among the various parties involved in this type of construction. Other members supported that the mediation process was not needed and the free market system should control these situations. The Task Force recommends that the separate work group specifically consider creation of a voluntary mediation process as well as its structure and responsibilities.

Other States’ Policies

California

The California Public Utilities Commission has recently addressed a number of competitive telecommunications issues, including access to private property. California’s Commission has apparently decided that their role includes facilitating the development of the competitive telecommunications infrastructure and that non-discriminatory access to buildings should be supported. The Commission has stated that private property rights of building owners should be observed and that access to private buildings should not discriminate against competitive service providers.

Connecticut

Connecticut law establishes a program to allow access to private property for these purposes. The statute defines eligible property, establishes a negotiation process and authorizes "reasonable compensation" from the telecommunications service provider to the building owner. The Public Utility Commission is named as arbiter of any disputes. Since the law was adopted in 1997, no access cases have been officially considered.

APPENDICES

Appendix A: Governor's New Media Task Force Members

The following individuals, on behalf of Governor Pataki, produced this discussion document in a collaborative effort as a first step in a continuing dialogue to insure New York State's imminence in the new media and Internet industry.

Richard Alteri
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Red Burns
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Tish School of the Arts
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New York, New York

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Governor's New Media Force Government Representatives

Linda Banta **Senior Director** **Empire State Development** **New York, New York**	**Ronald Greenberg** **Senior Budget Examiner** **NYS Division of the Budget** **Albany, New York**
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Aimee Bernstein, Director **Office of the Vice Chancellor** **State University of New York** **New York, New York**	**Jim Held** **Research Analyst** **Empire State Development** **Albany, New York**
Holly Chamberlin **Business Ambassador** **NYS Department of Taxation and Finance** **Albany, New York**	**Pat Kaufman** **Deputy Commissioner & Director of** **Motion Picture & TV Development** **Empire State Development** **New York, New York**
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State of New York

Executive Chamber

No.59

EXECUTIVE ORDER

CREATING THE GOVERNOR'S TASK FORCE ON THE NEW MEDIA AND THE INTERNET

WHEREAS, the New Media/Internet industry is important to New York State's economic development in that it promises to grow dramatically in the near future;

WHEREAS, the New Media represents a distinct new category of business which specializes in computer-related fields such as: entertainment and electronic commerce software, online/Internet services, CD-ROM title development, and web site design;

WHEREAS, the New Media/Internet industry consists of several sectors, such as telecommunications carriers that provide the backbone across which Internet messages are transmitted; Internet and online service providers that allow consumers and businesses to access the information superhighway; and the New Media companies possessing the editorial and artistic talent needed to create and distribute Internet content;

WHEREAS, the New Media is important because of its inextricable relationships to other important New York industries such as advertising, publishing, software, finance and education;

WHEREAS, for the second successive year, New York State was a major sponsor of the Coopers & Lybrand New York Media Study which found that the New Media industry has increased employment substantially in New York over the past 18 months;

WHEREAS, New York City is recognized as a leader in the New Media industry, and there are significant clusters of New Media growth throughout the State, such as Buffalo, Syracuse, Rochester, Albany, Mid-Hudson and Long Island;

WHEREAS, Silicon Alley, the area in Manhattan below 41st Street, is the hub of New Media activity in New York State, which is home to 1,106 New Media establishments and boasts 23,390 jobs;

WHEREAS, New Media and Internet employment in New York City has increased 105 percent over the past 18 months and is projected to grow an additional 79 percent by the year 2000;

WHEREAS, creative and technical positions make up 56 percent of New Media employment;

WHEREAS, the New Media and Internet industry generated $2.85 billion in revenues in New York City over the past 18 months;

WHEREAS, there are nearly 3,300 New Media companies in the Metropolitan New York region and 631 new companies were created over the past 18 months;

WHEREAS, the Coopers & Lybrand Study found that New York is a highly desirable location for the New Media industry because of the considerable assets it has to offer, including access to editorial talent, artistic talent, customers, and New York's image and credibility as a highly-respected place to do business;

WHEREAS, utilization of the Internet by citizens of the State will provide increasingly significant benefits such as improved access to information, lower prices and increased business efficiency;

WHEREAS, institutes of higher education throughout New York State, particularly the State University of New York (SUNY), with its on-line Learning Network, and the State-funded Centers for Advanced Technology (CATs), provide technical training and assistance, business skills, and the creative application of technology necessary for the growth of this industry;

WHEREAS, it is important for New York to assist with the continued development of the New Media industry in this state; and

WHEREAS, New York State has taken a positive stance toward the Internet by instituting tax policies that encourage access to and commerce over the Internet;

NOW, THEREFORE, I, GEORGE E. PATAKI, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, do hereby order as follows:

I. GOVERNOR'S TASK FORCE ON THE NEW MEDIA AND THE INTERNET

There is hereby established the Governor's Advisory Task Force on the New Media and the Internet for the purpose of developing a program which facilitates more growth of these industries in New York State. The Task Force will be co-chaired by the Commissioners of the Departments of Economic Development and Taxation and Finance. The Task Force members will be appointed by the Governor and will include representatives from private companies, trade associations and institutions of higher learning with knowledge of the New Media and Internet industries. Members of the Task Force will receive no compensation but will be entitled to reimbursement for any necessary expenses incurred in connection with the performance of their duties.

II. POWERS AND RESPONSIBILITIES OF THE TASK FORCE

The Governor's Task Force on the New Media and the Internet will develop recommendations regarding strategies for the retention and growth of the New Media and the Internet industries in New York. The Task Force will report to the Governor with its recommendations by May 1, 1998. As part of its responsibilities the Task Force will consider:

1. The telecommunications environment in New York;

2. Tax policy strategies;

3. Providing entrepreneurial and other assistance for startup companies throughout the State;

4. Defining and implementing educational measures to prepare the New York workforce for the changing technological environment, and to keep this highly-skilled workforce permanently employed in New York State.

III. STAFF SUPPORT AND COOPERATION OF STATE AGENCIES

Every state department, agency, division, board, bureau, commission, Centers for Advanced Technology, and any other entity over which I have executive power shall provide any assistance necessary for the Task Force to carry out its duties.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this nineteenth day of December in the year one thousand nine hundred ninety-seven.

/s/ George Pataki

BY THE GOVERNOR

/s/ Bradford J. Race, Jr.
Secretary to the Governor