

STATE OF NEW YORK

7308--A

2025-2026 Regular Sessions

IN ASSEMBLY

March 25, 2025

Introduced by M. of A. BARRETT, HYNDMAN, BURDICK, LUPARDO, TAPIA, MAGNARELLI, BURROUGHS, STERN, LUCAS, KASSAY, SHIMSKY, MEEKS, LEVENBERG, CRUZ, HEVESI -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the energy law and the tax law, in relation to establishing a sustainable aviation fuel tax credit in New York state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The energy law is amended by adding a new section 5-112 to
2 read as follows:

3 § 5-112. Sustainable aviation fuel tax credit. 1. Except as otherwise
4 provided under this section, a sustainable aviation fuel producer may
5 claim a credit against the tax imposed by section three hundred one-e of
6 the tax law in an amount equal to one dollar per gallon of sustainable
7 aviation fuel purchased in this state during the tax year by a business
8 for use as fuel for flights departing in this state. The amount of cred-
9 it per gallon allowed under this section increases by two cents for each
10 additional one percent reduction in carbon dioxide equivalent emissions
11 above fifty percent but shall not exceed two dollars per gallon.

12 2. A taxpayer shall not claim a credit under this section unless the
13 office issued a certificate to the taxpayer. The taxpayer shall attach
14 the certificate to their annual return on which a credit under this
15 section is claimed. The certificate required under this subdivision
16 shall state all of the following:

17 a. The name, business address, and tax identification number of the
18 taxpayer.

19 b. The total amount of gallons of sustainable aviation fuel that is
20 purchased in this state during the tax year from the taxpayer and to be
21 used as fuel in an aircraft departing from an airport in this state.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 c. The number of gallons of sustainable aviation fuel for which the
2 percentage reduction in carbon dioxide equivalent emissions is above
3 fifty percent and that percentage amount.

4 3. If the amount of the credit allowed under this section exceeds the
5 taxpayer's tax liability for the tax year, that portion that exceeds the
6 tax liability for the tax year shall be refunded.

7 4. As used in this section, the following terms shall have the follow-
8 ing meanings:

9 a. "Aviation fuel" means kero-jet fuel and gasoline as that term is
10 described in subdivision (a) of section three hundred one-b of the tax
11 law.

12 b. "Biomass" means any organic matter that is available on a renewable
13 or recurring basis, including agricultural crops, wood and wood waste
14 and residues, plants including aquatic plants, grasses, residues,
15 fibers, animal waste, and the organic portion of solid wastes.

16 c. "Carbon dioxide equivalent" shall have the same meaning as subdivi-
17 sion two of section 75-0101 of the environmental conservation law.

18 d. "Carbon intensity" means the quantity of life-cycle greenhouse gas
19 emission, per unit of fuel energy, expressed in grams of carbon dioxide
20 equivalent per megajoule.

21 e. "Office" means the New York state energy research and development
22 authority established pursuant to article eight of the public authori-
23 ties law.

24 f. "Commissioner" means the president of the New York state energy
25 research and development authority.

26 g. "Sustainable aviation fuel" means liquid fuel that:

27 (i) consists of synthesized hydrocarbons and meets the requirements
28 of:

29 (A) the American Society for Testing and Materials International Stan-
30 dard D7566; or

31 (B) Standard D1655;

32 (ii) is derived from biomass resources, waste streams, renewable or
33 zero-carbon energy sources, or gaseous carbon oxides;

34 (iii) is not derived from any palm or petroleum derivatives; and

35 (iv) the fuel production pathway for the sustainable aviation fuel
36 achieves at least a fifty percent lifecycle greenhouse gas emissions
37 reduction in comparison with petroleum-based jet fuel, as determined by
38 a test that shows either:

39 (A) that the fuel production pathway achieves at least a fifty percent
40 reduction of the aggregate attributional core lifecycle emissions and
41 the positive induced land use change values under the lifecycle method-
42 ology for sustainable aviation fuels adopted by the International Civil
43 Aviation Organization with the agreement of the United States; or

44 (B) that the fuel production pathway achieves at least a fifty percent
45 reduction of the aggregate attributional core lifecycle greenhouse gas
46 emissions values utilizing the most recent version of Argonne National
47 Laboratory's GREET model, inclusive of but not limited to climate smart
48 agricultural practices, on-site renewables and carbon capture and
49 sequestration.

50 5. The total amount of tax credits listed on certificates of tax cred-
51 it issued by the commissioner pursuant to this article may not exceed
52 thirty million dollars for each year the credit is available.

53 6. Each aviation fuel producer claiming such credit shall report to
54 the commissioner of the department of taxation and finance on a monthly
55 basis the amount of sustainable aviation fuel to be sold within the

1 state. The commissioner of the department of taxation and finance shall
2 make all such reports publicly available on such department's website.

3 7. The department of taxation and finance shall determine a fair and
4 equitable maximum distribution of such credit per eligible entity.

5 § 2. The tax law is amended by adding a new section 50 to read as
6 follows:

7 § 50. Sustainable aviation fuel tax credit. (a) Allowance of credit.
8 For taxable years beginning on or after January first, two thousand
9 twenty-five, a taxpayer subject to tax pursuant to articles nine,
10 nine-A, thirteen-A, or twenty-two of this chapter shall be allowed a
11 credit against such tax pursuant to the provisions referenced in subdi-
12 vision (f) of this section. The amount of the credit shall be equal to
13 the amount determined pursuant to section 5-112 of the energy law. No
14 cost or expense paid or incurred by the taxpayer that is included as
15 part of the calculation of such credit shall be the basis of any other
16 tax credit allowed under this chapter.

17 (b) Eligibility criteria. To be eligible for the aviation fuel tax
18 credit, the taxpayer shall have been issued a certificate of tax credit
19 by the New York state energy research and development authority pursuant
20 to section 5-112 of the energy law, which certificate shall set forth
21 the amount of the credit that may be claimed for the taxable year. The
22 taxpayer shall be allowed to claim only the amount listed on the certif-
23 icate of tax credit for the taxable year. A taxpayer that is a partner
24 in a partnership, member of a limited liability company, or shareholder
25 in a subchapter S corporation that has received a certificate of tax
26 credit shall be allowed its pro rata share of the credit earned by the
27 partnership, limited liability company, or subchapter S corporation.

28 (c) Tax return requirement. The taxpayer shall be required to attach
29 to its tax return, in the form prescribed by the commissioner, proof of
30 receipt of its certificate of tax credit issued by the New York state
31 energy research and development authority.

32 (d) Information sharing. Notwithstanding any provision of this chap-
33 ter, employees of the division of criminal justice services and the
34 department shall be allowed and are directed to share and exchange:

35 (1) information derived from tax returns or reports that is relevant
36 to a taxpayer's eligibility to participate in the sustainable aviation
37 fuel tax credit program;

38 (2) information regarding the credit applied for, allowed, or claimed
39 pursuant to this section and taxpayers that are applying for the credit
40 or that are claiming such credit; and

41 (3) information contained in or derived from credit claim forms
42 submitted to the department and applications for admission into the
43 sustainable aviation fuel tax credit program. All information exchanged
44 between the department, the New York state energy research and develop-
45 ment authority and the department of environmental conservation shall
46 not be subject to disclosure or inspection under the state's freedom of
47 information law.

48 (e) Credit recapture. If a certificate of tax credit issued by the New
49 York state energy research and development authority is revoked by such
50 department, the amount of credit described in this section and claimed
51 by the taxpayer prior to such revocation shall be added back to tax in
52 the taxable year in which any such revocation becomes final. Post credit
53 issuance revocation shall only apply to the previous taxable year.

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

56 (1) article 9: section 187-s;

1 (2) article 9-A: section 210-b, subdivision 61;

2 (3) article 22: section 606, subsection (www).

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

5 § 187-s. Sustainable aviation fuel tax credit. (a) Allowance of cred-
6 it. A taxpayer shall be allowed a credit, to be computed as provided in
7 section fifty of this chapter, against the tax imposed by this article.

8 (b) Application of credit. In no event shall the credit under this
9 section be allowed in an amount that will reduce the tax payable to less
10 than the applicable minimum tax fixed by section one hundred eighty-two
11 of this article. If, however, the amount of credit allowable under this
12 section for any taxable year reduces the tax to such amount, any amount
13 of credit not deductible in such taxable year shall be treated as an
14 overpayment of tax to be refunded in accordance with the provisions of
15 section one thousand eighty-six of this chapter. Provided, however, the
16 provisions of subsection (c) of section one thousand eighty-eight of
17 this chapter notwithstanding, no interest shall be paid thereon.

18 § 4. Section 210-B of the tax law is amended by adding a new subdivi-
19 sion 61 to read as follows:

20 61. Sustainable aviation fuel tax credit. (a) Allowance of credit. A
21 taxpayer shall be allowed a credit, to be computed as provided in
22 section fifty of this chapter, against the tax imposed by this article.

23 (b) Application of credit. The credit allowed under this subdivision
24 for any taxable year shall not reduce the tax due for such year to less
25 than the fixed dollar minimum amount prescribed in paragraph (d) of
26 subdivision one of section two hundred ten of this article. However, if
27 the amount of credits allowed under this subdivision for any taxable
28 year reduces the tax to such amount or if the taxpayer otherwise pays
29 tax based on the fixed dollar minimum amount, any amount of credit thus
30 not deductible in such taxable year shall be treated as an overpayment
31 of tax to be credited or refunded in accordance with the provisions of
32 section one thousand eighty-six of this chapter. Provided, however, the
33 provisions of subsection (c) of section one thousand eighty-eight of
34 this chapter notwithstanding, no interest shall be paid thereon.

35 § 5. Section 606 of the tax law is amended by adding a new subsection
36 (www) to read as follows:

37 (www) Sustainable aviation fuel tax credit. (1) Allowance of credit. A
38 taxpayer shall be allowed a credit, to be computed as provided in
39 section fifty of this chapter, against the tax imposed by this article.

40 (2) Application of credit. If the amount of the credit allowed under
41 this subsection for the taxable year exceeds the taxpayer's tax for such
42 year, the excess shall be treated as an overpayment of tax to be credit-
43 ed or refunded in accordance with the provisions of section six hundred
44 eighty-six of this article, provided, however, that no interest shall be
45 paid thereon.

46 § 6. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
47 of the tax law is amended by adding a new clause (lii) to read as
48 follows:

49 <u>(lii) Sustainable aviation fuel</u>	<u>Amount of credit under</u>
50 <u>tax credit under subsection</u>	<u>subdivision sixty-one of</u>
51 <u>(www)</u>	<u>section two hundred ten-B</u>

52 § 7. This act shall take effect immediately.