

7013

2009-2010 Regular Sessions

I N A S S E M B L Y

March 18, 2009

Introduced by M. of A. BING -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a tax credit for alternative energy systems and generating equipment

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The tax law is amended by adding a new section 28-a to read  
2 as follows:

3 S 28-A. CREDIT FOR ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIP-  
4 MENT. (A) GENERAL. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A, TWEN-  
5 TY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER, WHOSE BUSINESS IS  
6 NOT SUBSTANTIALLY ENGAGED IN THE COMMERCIAL GENERATION, DISTRIBUTION,  
7 TRANSMISSION OR SERVICING OF ENERGY OR ENERGY PRODUCTS, AND WHO EMPLOYS  
8 ONE OR MORE FULL-TIME EMPLOYEES, EXCLUDING GENERAL EXECUTIVE OFFICERS  
9 (IN THE CASE OF A CORPORATION), SHALL BE ALLOWED A CREDIT AGAINST SUCH  
10 TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (E) OF THIS  
11 SECTION. THE CREDIT SHALL BE ALLOWED FOR QUALIFIED EXPENDITURES WHICH  
12 MEET THE ELIGIBILITY CRITERIA, IF ANY, PRESCRIBED BY THE DEPARTMENT, IN  
13 CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE  
14 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, DISBURSED IN  
15 NEW YORK STATE.

16 (B) DEFINITIONS. FOR THE PURPOSES OF THIS SECTION: (1) THE TERM  
17 "SOLAR AND WIND ENERGY SYSTEM EQUIPMENT" SHALL REFER TO A SYSTEM WHICH  
18 SHALL MEET THE ELIGIBILITY REQUIREMENTS SET BY THE DEPARTMENT OF ENVI-  
19 RONMENTAL CONSERVATION AND THE NEW YORK STATE ENERGY AND RESEARCH AND  
20 DEVELOPMENT AUTHORITY WHICH SERVES AS:

21 (I) SOLAR ELECTRIC GENERATING EQUIPMENT WHICH SHALL MEAN AN ARRANGE-  
22 MENT OR COMBINATION OF COMPONENTS UTILIZING SOLAR RADIATION TO PRODUCE  
23 ENERGY DESIGNED TO PROVIDE HEATING, COOLING, HOT WATER OR ELECTRICITY.  
24 SUCH ARRANGEMENT OR COMPONENTS SHALL NOT INCLUDE EQUIPMENT THAT IS PART

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

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1 OF A NON-SOLAR ENERGY SYSTEM OR WHICH USES ANY SORT OF RECREATIONAL  
2 FACILITY OR EQUIPMENT AS A STORAGE MEDIUM.

3 (II) A WIND ENERGY SYSTEM, WHICH SHALL MEAN AN ARRANGEMENT OR COMBINA-  
4 TION OF COMPONENTS DESIGNED TO GENERATE AND PROVIDE ELECTRICITY OR  
5 MECHANICAL ENERGY THROUGH THE PROCESS OF CONVERTING FORCE PROVIDED BY  
6 WIND INTO MECHANICAL AND/OR ELECTRICAL ENERGY, AND STORING OR DISTRIBUT-  
7 ING SUCH ENERGY.

8 (2) THE TERM "FUEL CELL ELECTRIC GENERATING EQUIPMENT" SHALL REFER TO  
9 ON-SITE ELECTRICITY GENERATION SYSTEMS, LOCATED IN REAL PROPERTY LOCATED  
10 IN NEW YORK STATE UTILIZING PROTON EXCHANGE MEMBRANE FUEL CELLS OR  
11 MOLTEN CARBONATE FUEL CELL TECHNOLOGIES. "FUEL CELL" MEANS A DEVICE  
12 THAT PRODUCES ELECTRICITY DIRECTLY FROM HYDROGEN OR HYDROCARBON FUEL  
13 THROUGH A NON-COMBUSTIVE ELECTROCHEMICAL PROCESS.

14 (3) THE TERM "GEOHERMAL RESOURCE TRANSFER SYSTEM" MEANS A SYSTEM  
15 TRANSFERRING ENERGY THROUGH THE USE OF A RESOURCE IN NEW YORK STATE  
16 INCLUDING:

17 (I) ALL PRODUCTS OF GEOHERMAL PROCESSES EMBRACING INDIGENOUS STEAM,  
18 HOT WATER, AND HOT BRINES;

19 (II) STEAM AND OTHER GASES, HOT WATER AND HOT BRINES RESULTING FROM  
20 WATER, GAS, OR OTHER FLUIDS ARTIFICIALLY INTRODUCED INTO GEOHERMAL  
21 FORMATIONS;

22 (III) HEAT OR OTHER ASSOCIATED ENERGY FOUND IN GEOHERMAL FORMATIONS;  
23 AND

24 (IV) ANY BYPRODUCTS DERIVED FROM THEM, WHERE "BYPRODUCT" MEANS ANY  
25 MINERAL OR MINERALS (EXCLUSIVE OF OIL, HYDROCARBON GAS, AND HELIUM)  
26 WHICH ARE FOUND IN SOLUTION OR IN ASSOCIATION WITH OTHER GEOHERMAL  
27 RESOURCES AND WHICH HAVE A VALUE OF LESS THAN SEVENTY-FIVE PERCENT OF  
28 THE VALUE OF THE GEOHERMAL STEAM OR ARE NOT, BECAUSE OF QUANTITY, QUAL-  
29 ITY, OR TECHNICAL DIFFICULTIES IN EXTRACTION AND PRODUCTION, OF SUFFI-  
30 CIENT VALUE TO WARRANT EXTRACTION AND PRODUCTION BY THEMSELVES.

31 (4) THE TERM "CREDIT ALLOWANCE YEAR" MEANS THE FIRST TAXABLE YEAR WITH  
32 RESPECT TO WHICH THE CREDIT MAY BE CLAIMED PURSUANT TO THE INITIAL CRED-  
33 IT COMPONENT CERTIFICATE ISSUED PURSUANT TO SUBDIVISION (D) OF THIS  
34 SECTION.

35 (5) THE TERM "TAXABLE YEAR" MEANS THE TAXABLE YEAR OF A BUSINESS  
36 TAXPAYER FILING A NEW YORK STATE TAX RETURN UNDER ARTICLE NINE-A, TWEN-  
37 TY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER. IF THE BUSINESS DOES  
38 NOT HAVE A TAXABLE YEAR BECAUSE IT IS EXEMPT FROM TAXATION OR OTHERWISE  
39 IS NOT REQUIRED TO FILE SUCH A RETURN UNDER ANY OF SUCH STATUTES, THE  
40 TERM "TAXABLE YEAR" MEANS (I) THE BUSINESS'S FEDERAL TAXABLE YEAR, OR  
41 (II) IF THE BUSINESS DOES NOT HAVE A FEDERAL TAXABLE YEAR, THE GIVEN  
42 CALENDAR YEAR.

43 (6) "QUALIFIED EXPENDITURES" SHALL BE REMITTED COSTS FOR MATERIALS,  
44 LABOR COSTS PROPERLY ALLOCABLE TO ON-SITE PREPARATION, ASSEMBLY AND  
45 ORIGINAL INSTALLATION, ARCHITECTURAL AND ENGINEERING SERVICES, AND  
46 DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION  
47 OF SOLAR AND WIND ENERGY SYSTEM EQUIPMENT, SOLAR ELECTRIC GENERATING  
48 EQUIPMENT, FUEL CELL ELECTRIC GENERATING EQUIPMENT AND/OR GEOHERMAL  
49 RESOURCE TRANSFER SYSTEM EQUIPMENT DIRECTLY RELATED TO THE CONSTRUCTION  
50 OR INSTALLATION OF SUCH EQUIPMENT INTENDED FOR THE ORIGINAL USE OF SAID  
51 TAXPAYER, AT, OR DIRECTLY RELATED TO, A PROPERTY IN NEW YORK STATE THAT  
52 OPERATES AS THE SITUS OF A BUSINESS ENTITY OF SAID TAXPAYER. SUCH QUALI-  
53 FIED EXPENDITURES SHALL NOT INCLUDE INTEREST OR OTHER FINANCE CHARGES  
54 WHETHER SUCH CHARGES ACCRUE AS A RESULT OF LEASE OR OWNERSHIP OF SUCH  
55 EQUIPMENT. FOR PURPOSES OF DETERMINING THE EXPENSES SERVING AS QUALI-  
56 FIED EXPENDITURES UNDER THIS SECTION, ANY AMOUNT OF FEDERAL, STATE OR

1 LOCAL GRANT RECEIVED BY THE TAXPAYER USED FOR THE PURCHASE AND/OR  
2 INSTALLATION OF SUCH EQUIPMENT AND WHICH IS NOT INCLUDED IN THE FEDERAL  
3 GROSS INCOME OF THE TAXPAYER SHALL NOT SERVE AS A QUALIFYING EXPENDI-  
4 TURE.

5 (C) ALLOWANCE OF CREDIT. (1) QUALIFIED ALTERNATIVE ENERGY SYSTEMS AND  
6 GENERATING EQUIPMENT EXPENSES. QUALIFIED ALTERNATIVE ENERGY SYSTEMS AND  
7 GENERATING EQUIPMENT EXPENSES ARE THOSE QUALIFIED EXPENDITURES GENERATED  
8 FROM THE PURCHASE AND INSTALLATION OF ELIGIBLE EQUIPMENT AS ENUMERATED  
9 IN SUBDIVISION (B) OF THIS SECTION.

10 (2) CREDIT FOR SOLAR AND WIND ENERGY SYSTEM EQUIPMENT. THE AMOUNT OF  
11 CREDIT FOR THE PURCHASE AND INSTALLATION OF ELIGIBLE SOLAR AND WIND  
12 ENERGY SYSTEM EQUIPMENT SHALL BE FIFTY PERCENT OF THE QUALIFIED EXPENSES  
13 FOR TAXPAYERS UNDER ARTICLE NINE-A, THIRTY-TWO OR THIRTY-THREE, AND  
14 FORTY-FIVE PERCENT OF THE QUALIFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE  
15 TWENTY-TWO OF THIS CHAPTER, INCURRED IN PURCHASING AND INSTALLING ANY  
16 SUCH SYSTEM OR COMBINATION THEREOF.

17 (3) CREDIT FOR FUEL CELL ELECTRIC GENERATING EQUIPMENT AND/OR GEOTHER-  
18 MAL RESOURCE TRANSFER SYSTEM EQUIPMENT. THE AMOUNT OF CREDIT FOR THE  
19 PURCHASE AND INSTALLATION OF ELIGIBLE FUEL CELL ELECTRIC GENERATING  
20 EQUIPMENT AND/OR GEOTHERMAL RESOURCE TRANSFER SYSTEM EQUIPMENT SHALL BE  
21 FORTY-FIVE PERCENT OF THE QUALIFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE  
22 NINE, NINE-A, THIRTY-TWO OR THIRTY-THREE, AND FORTY PERCENT OF THE QUAL-  
23 IFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER,  
24 INCURRED IN PURCHASING AND INSTALLING ANY SUCH SYSTEM.

25 (4) MULTIPLE TAXPAYERS. WHERE QUALIFYING EXPENDITURES ARE ACCUMULATED  
26 FROM THE CONSTRUCTION AND/OR THE INSTALLATION OF QUALIFYING ALTERNATIVE  
27 SYSTEMS AND GENERATING EQUIPMENT ARE SHARED BY TWO OR MORE TAXPAYERS,  
28 THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SECTION SHALL BE PRORATED  
29 ACCORDING TO THE PERCENTAGE OF THE TOTAL EXPENDITURE FOR SUCH EQUIPMENT  
30 CONTRIBUTED BY EACH TAXPAYER.

31 (D) CREDIT QUALIFICATION. (1) REALIZATION OF CREDIT. CREDITS EARNED  
32 UNDER THIS SECTION SHALL BE QUALIFYING EXPENDITURES INCURRED AFTER JANU-  
33 ARY FIRST, TWO THOUSAND TEN, THAT ACCREDIT TO THE TAXPAYER'S CREDIT  
34 ALLOWANCE YEAR AND EACH SUBSEQUENT TAXABLE YEAR ACCORDING TO THE  
35 PROVISIONS OF SUBDIVISION (C) OF THIS SECTION.

36 (2) CREDIT COMPONENT CERTIFICATE. A TAXPAYER WHO WISHES TO MAKE AN  
37 INITIAL CLAIM FOR CREDITS UNDER THIS SECTION SHALL SUBMIT AN APPLICATION  
38 FOR A CREDIT COMPONENT CERTIFICATE TO THE DIRECTOR OF THE NEW YORK STATE  
39 ENERGY RESEARCH AND DEVELOPMENT AUTHORITY UPON THE SUCCESSFUL INSTALLA-  
40 TION AND OPERATION FOR AT LEAST THREE CONTINUOUS MONTHS OF ELIGIBLE  
41 EQUIPMENT THAT RATE AS QUALIFIED EXPENDITURES. THE PRESIDENT OF THE NEW  
42 YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, IN CONSULTATION  
43 WITH THE COMMISSIONER AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVA-  
44 TION, SHALL PRESCRIBE THE REQUIREMENTS FOR THE ACCEPTANCE OF SUCH APPLI-  
45 CATION, BUT AT A MINIMUM THE APPLICATION SHALL LIST THE AMOUNT OF QUALI-  
46 FYING EXPENDITURES, THE RATING CAPACITY IN KILOWATT HOURS OF SUCH  
47 EQUIPMENT, AND THE ANTICIPATED REDUCTION IN THE USE OF CONVENTIONAL  
48 ENERGY GENERATION SOURCES REALIZED THROUGH THE USE OF SUCH EQUIPMENT.  
49 SUCH APPLICATION SHALL REQUIRE A FEE OF FIFTY DOLLARS FOR EACH FIVE  
50 MILLION DOLLARS OF GROSS RECEIPTS LISTED BY THE TAXPAYER FOR THE TAXABLE  
51 YEAR IMMEDIATELY PRECEDING THE INITIAL CREDIT ALLOWANCE YEAR AFTER THE  
52 FIRST FIVE MILLION DOLLARS IN GROSS RECEIPTS FOR SUCH TAXABLE YEAR. ANY  
53 EXPANSION OF ALTERNATIVE RATED CAPACITY ADHERING TO INCREASED QUALIFYING  
54 EXPENDITURES BEYOND SUCH EXPENDITURES UTILIZED IN A PRIOR ACCEPTED  
55 APPLICATION SHALL REQUIRE AN ADDITIONAL APPLICATION FOR FURTHER CREDIT  
56 CLAIMS UNDER THIS SECTION.

1 (3) ISSUANCE OF CERTIFICATE. THE PRESIDENT OF THE NEW YORK STATE ENER-  
2 GY RESEARCH AND DEVELOPMENT AUTHORITY SHALL REVIEW APPLICATIONS FILED  
3 UNDER THIS SECTION TO VERIFY AN ELIGIBLE BUSINESS'S CLAIMED BENEFITS  
4 UNDER THIS SECTION. THE PRESIDENT SHALL SUPPLY TO EACH COMPANY A CERTIF-  
5 ICATE MARKING THE APPROVAL OF QUALIFYING EXPENSES FOR APPLICATION TO THE  
6 COMMISSIONER FOR CREDITS UNDER THIS SECTION WITHIN NINETY DAYS OF THE  
7 RECEIPT OF SUCH APPLICATION. A COPY OF THIS CERTIFICATE SHALL BE  
8 ATTACHED TO ANY RETURNS SUCH TAXPAYER IS REQUIRED TO FILE UNDER THIS  
9 CHAPTER. IF ANY EXPENSES USED AS PART OF THE CREDIT BASE OF QUALIFYING  
10 EXPENDITURES ARE DENIED FOR SUCH CREDIT CLAIM BY THE PRESIDENT OF THE  
11 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, SUCH DENIAL  
12 SHALL BE REPORTED TO THE TAXPAYER AND THE COMMISSIONER WITH A DETAILED  
13 EXPLANATION OF THE RATIONALE FOR SUCH DENIAL.

14 (4) REVOCATION OF BENEFITS. IN ADDITION TO ANY OTHER PENALTIES ENUMER-  
15 ATED UNDER THIS CHAPTER, A VIOLATION OF THE TERMS OF THIS SUBDIVISION OR  
16 ANY WILLFUL MISREPRESENTATION OF ANY OF THE TERMS OF THIS SECTION MAY  
17 RESULT IN THE RESCINDING OF THE CERTIFICATE ISSUED UNDER THIS PARAGRAPH  
18 AND A RECAPTURE OF CURRENT AND PREVIOUSLY RECEIVED BENEFITS. THE PRESI-  
19 DENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY  
20 SHALL REPORT TO THE COMMISSIONER ANY DETERMINATIONS OF VIOLATIONS OF THE  
21 TERMS OF THIS SECTION. THE COMMISSIONER AND THE COMMISSIONER OF ENVI-  
22 RONMENTAL CONSERVATION SHALL MAKE RECOMMENDATIONS TO THE PRESIDENT OF  
23 THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY FOR THE  
24 RESCINDING OF ANY CERTIFICATE ISSUED PURSUANT TO THIS SECTION THAT THE  
25 COMMISSIONER OF ENVIRONMENTAL CONSERVATION DETERMINES RESULTS FROM A  
26 WILLFUL FALSE CLAIM OF THE CAPABILITIES OR AMOUNT OF QUALIFYING EXPENDI-  
27 TURES OF SOLAR AND WIND ENERGY SYSTEM EQUIPMENT AND FUEL CELL ELECTRIC  
28 GENERATING EQUIPMENT.

29 (5) EARLY DISPOSITION. THE DISCONTINUED USE OF ANY SOLAR AND WIND  
30 ENERGY SYSTEM EQUIPMENT, FUEL CELL ELECTRIC GENERATING EQUIPMENT OR  
31 GEOTHERMAL RESOURCE TRANSFER SYSTEM EQUIPMENT WITHIN FIVE YEARS OF THE  
32 CREDIT ALLOWANCE YEAR SHALL RESULT IN THE RECAPTURE OF CURRENT AND  
33 PREVIOUSLY RECEIVED BENEFITS UNLESS SUCH DISPOSITION IS DUE TO THE INOP-  
34 ERATIVENESS OF SUCH EQUIPMENT BEYOND ANY REASONABLE CONTROL OR EFFORTS  
35 OF THE TAXPAYER OR THE REPLACEMENT OF SUCH EQUIPMENT BY MORE EFFICIENT  
36 AND TECHNICALLY ADVANCED ALTERNATIVE ENERGY SYSTEMS APPROVED BY THE  
37 COMMISSIONER OF ENVIRONMENTAL CONSERVATION AND THE PRESIDENT OF THE NEW  
38 YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY. SUCH EARLY DISPO-  
39 SITION SHALL NOT INCLUDE THE TRANSFER OF OWNERSHIP INTEREST OF THE PROP-  
40 erty SUCH EQUIPMENT OPERATES WITHIN UNLESS THE TRANSFER RESULTS IN THE  
41 CESSATION OF THE OPERATION OF SUCH EQUIPMENT WITHIN FIVE YEARS OF THE  
42 CREDIT ALLOWANCE YEAR. THE TAXPAYER SHALL ANNUALLY ATTEST TO THE PRESI-  
43 DENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY  
44 THAT SUCH EQUIPMENT REMAINS IN QUALIFYING USE.

45 (E) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN  
46 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

- 47 (1) ARTICLE 9-A: SECTION 210, SUBDIVISION 41
- 48 (2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (QQ)
- 49 (3) ARTICLE 32: SECTION 1456, SUBSECTION (U)
- 50 (4) ARTICLE 33: SECTION 1511, SUBDIVISION (Y).

51 S 2. Section 210 of the tax law is amended by adding a new subdivision  
52 41 to read as follows:

53 41. ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. A  
54 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN  
55 SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS  
56 ARTICLE. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR

1 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER  
 2 AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS  
 3 SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVI-  
 4 SION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF  
 5 CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR YEARS MAY BE CARRIED OVER  
 6 TO ANY OR ALL OF THE FOLLOWING FIVE TAXABLE YEARS AND MAY BE DEDUCTED  
 7 FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

8 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
 9 of the tax law, as amended by section 2 of part ZZ-1 of chapter 57 of  
 10 the laws of 2008, is amended to read as follows:

11 (B) shall be treated as the owner of a new business with respect to  
 12 such share if the corporation qualifies as a new business pursuant to  
 13 paragraph (j) of subdivision twelve of section two hundred ten of this  
 14 chapter.

15		The corporation's
16	With respect to the	credit base under
17	following credit	section two hundred ten
18	under this section:	or section fourteen
19		hundred fifty-six of this
20		chapter is:

21	(I) Investment tax credit	Investment credit base
22	under subsection (a)	or qualified
23		rehabilitation
24		expenditures under
25		subdivision twelve of
26		section two hundred ten

27	(II) Empire zone	Cost or other basis
28	investment tax credit	under subdivision
29	under subsection (j)	twelve-B
30		of section two hundred
31		ten

32	(III) Empire zone	Eligible wages under
33	wage tax credit	subdivision nineteen of
34	under subsection (k)	section two hundred ten
35		or subsection (e) of
36		section fourteen hundred
37		fifty-six

38	(IV) Empire zone	Qualified investments
39	capital tax credit	and contributions under
40	under subsection (l)	subdivision twenty of
41		section two hundred ten
42		or subsection (d) of
43		section fourteen hundred
44		fifty-six

45	(V) Agricultural property tax	Allowable school
46	credit under subsection (n)	district property taxes under
47		subdivision twenty-two of
48		section two hundred ten

1 (VI) Credit for employment	Qualified first-year wages or
2 of persons with dis-	qualified second-year wages
3 abilities under	under subdivision
4 subsection (o)	twenty-three of section
5	two hundred ten
6	or subsection (f)
7	of section fourteen
8	hundred fifty-six
9 (VII) Employment incentive	Applicable investment credit
10 credit under subsec-	base under subdivision
11 tion (a-1)	twelve-D of section two
12	hundred ten
13 (VIII) Empire zone employment	Applicable investment
14 incentive credit under	credit under subdivision
15 subsection (j-1)	twelve-C of section two
16	hundred ten
17 (IX) Alternative fuels credit	Cost under subdivision
18 under subsection (p)	twenty-four of section two
19	hundred ten
20 (X) Qualified emerging	Applicable credit base
21 technology company	under subdivision twelve-E
22 employment credit	of section two hundred ten
23 under subsection (q)	
24 (XI) Qualified emerging	Qualified investments under
25 technology company	subdivision twelve-F of
26 capital tax credit	section two hundred ten
27 under subsection (r)	
28 (XII) Credit for purchase of an	Cost of an automated
29 automated external defibrillator	external defibrillator under
30 under subsection (s)	subdivision twenty-five of
31	section two hundred ten
32	or subsection (j) of section
33	fourteen hundred fifty-six
34 (XIII) Low-income housing	Credit amount under
35 credit under subsection (x)	subdivision thirty
36	of section two hundred ten or
37	subsection (l) of section
38	fourteen hundred fifty-six
39 (XIV) Credit for transportation	Amount of credit under sub-
40 improvement contributions	division thirty-two of section
41 under subsection (z)	two hundred ten or subsection
42	(n) of section fourteen
43	hundred fifty-six
44 (XV) QEZE credit for real property	Amount of credit
45 taxes under subsection (bb)	under subdivision twenty-seven of
46	section two hundred ten or
47	subsection (o) of section

1		fourteen hundred fifty-six
2	(XVI) QEZE tax reduction credit	Amount of benefit period
3	under subsection (cc)	factor, employment increase factor
4		and zone allocation
5		factor (without regard
6		to pro ration) under
7		subdivision twenty-eight of
8		section two hundred ten or
9		subsection (p) of section
10		fourteen hundred fifty-six
11		and amount of tax factor
12		as determined under
13		subdivision (f) of section sixteen
14	(XVII) Green building credit	Amount of green building credit
15	under subsection (y)	under subdivision thirty-one
16		of section two hundred ten
17		or subsection (m) of section
18		fourteen hundred fifty-six
19	(XVIII) Credit for long-term	Qualified costs under
20	care insurance premiums	subdivision twenty-five-a of
21	under subsection (aa)	section two hundred ten
22		or subsection (k) of section
23		fourteen hundred fifty-six
24	(XIX) Brownfield redevelopment	Amount of credit
25	credit under subsection	under subdivision
26	(dd)	thirty-three of section
27		two hundred ten
28		or subsection (q) of
29		section fourteen hundred
30		fifty-six
31	(XX) Remediated brownfield	Amount of credit under
32	credit for real property	subdivision thirty-four
33	taxes for qualified	of section two hundred
34	sites under subsection	ten or subsection (r) of
35	(ee)	section fourteen hundred
36		fifty-six
37	(XXI) Environmental	Amount of credit under
38	remediation	subdivision thirty-five of
39	insurance credit under	section two hundred
40	subsection (ff)	ten or subsection
41		(s) of section
42		fourteen hundred
43		fifty-six
44	(XXII) Empire state film	Amount of credit for qualified
45	production credit	production costs in production
46	under subsection (gg)	of a qualified film under
47		subdivision thirty-six of
48		section two hundred ten

1 (XXIII) Qualified emerging	Qualifying expenditures and
2 technology company facilities,	development activities under
3 operations and training credit	subdivision twelve-G of section
4 under subsection (nn)	two hundred ten
5 (XXIV) Security training tax	Amount of credit
6 credit under subsection (ii)	under subdivision thirty-seven
7	of section two hundred ten or
8	under subsection (t) of
9	section fourteen hundred fifty-six
10 (XXV) Credit for qualified fuel	Amount of credit under
11 cell electric generating equipment	subdivision thirty-seven
12 expenditures under subsection (g-2)	of section two hundred ten
13	or subsection (t) of
14	section fourteen hundred
15	fifty-six
16 (XXVI) Empire state commercial	Amount of credit for qualified
17 production credit under sub-	production costs in production
18 section (jj)	of a qualified commercial under
19	subdivision thirty-eight of sec-
20	tion two hundred ten
21 (XXVII) Biofuel production	Amount of credit
22 tax credit under subsection (jj)	under subdivision
23	thirty-eight of
24	section two hundred ten
25 (XXVIII) Clean heating fuel	Amount of credit under
26 credit under subsection (mm)	subdivision thirty-nine of
27	section two hundred ten
28 (XXIX) Credit for rehabilitation	Amount of credit under
29 of historic properties	subdivision forty of
30 under subsection (oo)	[subsection] SECTION
31	two hundred ten
32 (XXX) Credit for companies who	Amount of credit under
33 provide transportation	subdivision forty of
34 to individuals with	section two hundred ten
35 disabilities under sub-	
36 section (oo)	
37 (XXXI) CREDIT FOR ALTERNATIVE	QUALIFYING EXPENDITURES
38 ENERGY SYSTEMS AND	UNDER SUBDIVISION FORTY-ONE
39 GENERATING EQUIPMENT	OF SECTION TWO HUNDRED
40 UNDER SUBSECTION (QQ)	TEN
41 S 4. Section 606 of the tax law is amended by adding a new subsection	
42 (qq) to read as follows:	
43 (QQ) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1)	
44 ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE	
45 COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST	
46 THE TAX IMPOSED BY THIS ARTICLE.	
47 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER	
48 THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR	

1 SUCH YEAR, SUCH EXCESS AMOUNT MAY BE CARRIED OVER TO ANY OR ALL OF THE  
2 FOLLOWING FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR WITH  
3 RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE  
4 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

5 S 5. Section 1456 of the tax law is amended by adding a new subsection  
6 (u) to read as follows:

7 (U) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1)  
8 ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE  
9 COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST  
10 THE TAX IMPOSED BY THIS ARTICLE.

11 (2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBSECTION  
12 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
13 THAN THE MINIMUM TAX FIXED BY PARAGRAPH THREE OF SUBSECTION (B) OF  
14 SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE  
15 AMOUNT OF CREDITS ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR  
16 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE  
17 IN SUCH TAXABLE YEAR OR YEARS MAY BE CARRIED OVER TO ANY OR ALL OF THE  
18 FOLLOWING FIVE TAXABLE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX  
19 FOR SUCH YEAR OR YEARS.

20 S 6. Section 1511 of the tax law is amended by adding a new subdivi-  
21 sion (y) to read as follows:

22 (Y) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1)  
23 ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE  
24 COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST  
25 THE TAXES IMPOSED BY THIS ARTICLE.

26 (2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
27 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
28 THAN THE MINIMUM FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION  
29 FIFTEEN HUNDRED TWO OR SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE.  
30 HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY  
31 TAXABLE YEAR REDUCED THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS  
32 NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR YEARS MAY BE CARRIED OVER TO ANY  
33 OR ALL OF THE FOLLOWING FIVE TAXABLE YEARS AND MAY BE DEDUCTED FROM THE  
34 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

35 S 7. This act shall take effect immediately and shall apply to taxa-  
36 ble years commencing on and after January 1, 2009; provided, however  
37 that the empire state film production credit under subsection (gg), the  
38 empire state commercial production credit under subsection (jj) and the  
39 credit for companies who provide transportation to individuals with  
40 disabilities under subsection (oo) of section 606 of the tax law  
41 contained in section three of this act shall expire on the same date as  
42 provided in section 9 of part P of chapter 60 of the laws of 2004, as  
43 amended, section 10 of part V of chapter 62 of the laws of 2006, and  
44 section 5 of chapter 522 of the laws of 2006, as amended, respectively.