S T A T E O F N E W Y O R K

6547

2009-2010 Regular Sessions

I N A S S E M B L Y

March 6, 2009

Introduced by M. of A. REILICH, TEDISCO, KOLB, BUTLER, HAYES -- Multi-Sponsored by -- M. of A. ALFANO, AMEDORE, BACALLES, BALL, BARCLAY, BARRA, BOYLE, BURLING, CALHOUN, CONTE, CORWIN, CROUCH, DUPREY, ERRIGO, FINCH, GIGLIO, HAWLEY, JORDAN, P. LOPEZ, McDONOUGH, McKEVITT, MILLER, MOLINARO, OAKS, O'MARA, QUINN, RABBITT, RAIA, SALADINO, SAYWARD, SCOZZAFAVA, THIELE, TOBACCO, TOWNSEND, WALKER -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the computation of tax (Part A); to amend the tax law, in relation to the credit for college work program (Part B); to amend the tax law, in relation to authorizing counties to impose certain taxes at a lower rate than the uniform local rate (Part C); to amend the tax law, in relation to increasing the amount of tax (Part D); to amend the general municipal law and the tax law, in relation to research and development commercialization enterprises (Part E); to amend the tax law, in relation to certain taxes (Part F); to amend the tax law, in relation to exempting certain equipment from taxes (Part G); to amend the tax law, in relation to a small business electric energy tax credit (Part H); to amend the tax law, in relation to eliminating the residential restriction for heating exemptions (Part I); to amend the tax law, in relation to establishing a credit for on-the-job training (Part J); and to amend the real property tax law, in relation to extending the benefits of the STAR program to small businesses (Part K)

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

Section 1. This act enacts into law components of legislation relating to the "small business relief act of 2009". Each component is wholly contained within a Part identified as Parts A through K. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which

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

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makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Subparagraphs (iii) and (iv) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 2 of part N of chapter 60 of the laws of 2007, are amended to read as follows:

(iii) for taxable years beginning on or after January first, two thousand five [and ending before January first, two thousand seven], if the entire net income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the entire net income base; if the entire net income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-half percent of the excess of the entire net income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) seven and one-quarter percent of the excess of the entire net income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

(iv) for taxable years beginning on or after [January first, two thousand seven] JUNE THIRTIETH, TWO THOUSAND TEN, if the entire net income base is not more than two hundred ninety thousand dollars the amount shall be [six and one-half] FIVE AND EIGHTY-FIVE HUNDREDTHS percent of the entire net income base; if the entire net income base is more than two hundred [ninety] thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) [eighteen thousand eight hundred fifty] ELEVEN THOUSAND SEVEN HUNDRED dollars, (2) [seven and one-tenth] SIX AND EIGHTY-FIVE HUNDREDTHS percent of the excess of the entire net income base over two hundred [ninety] thousand dollars [but not over three hundred ninety thousand dollars] and (3) [four and thirty-five hundredths] FIVE percent of the excess of the entire net income base over [three] TWO hundred fifty thousand dollars [but not over three hundred ninety thousand dollars];

S 2. This act shall take effect immediately and shall apply to taxable years beginning on and after July 1, 2010.

PART B

Section 1. Section 210 of the tax law is amended by adding a new subdivision 22-a to read as follows:

22-A. CREDIT FOR COLLEGE TO WORK PROGRAM. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, BASED UPON ITS PAYMENT OF TUITION TO AN INSTITUTION OF HIGHER EDUCATION ON BEHALF OF AN INDIVIDUAL IN EXCHANGE FOR THE INDIVIDUAL AGREEING TO WORK FOR THE TAXPAYER FOR A NUMBER OF YEARS, AS SET FORTH IN A WRITTEN AGREEMENT BETWEEN THE TAXPAYER AND THE INDIVIDUAL.

(B) TUITION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "TUITION" SHALL MEAN THE TUITION AND FEES PAID FOR THE ENROLLMENT AND ATTENDANCE OF AN INDIVIDUAL AT AN INSTITUTION OF HIGHER EDUCATION, AS WELL AS MONIES PAID FOR TEXTBOOKS IN CONNECTION WITH ATTENDANCE AT AN INSTITUTION OF HIGHER EDUCATION. PROVIDED, HOWEVER, ANY AMOUNTS WHICH HAVE BEEN PAID FOR OR

REIMBURSED BY ANY OTHER SCHOLARSHIPS OR FINANCIAL AID, OR TUITION REQUIRED FOR ENROLLMENT OR ATTENDANCE IN A COURSE OF STUDY LEADING TO THE GRANTING OF A POST BACCALAUREATE OR OTHER GRADUATE DEGREE, SHALL BE EXCLUDED FROM THE DEFINITION OF "TUITION".

(C) INSTITUTION OF HIGHER EDUCATION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "INSTITUTION OF HIGHER EDUCATION" SHALL MEAN ANY INSTITUTION OF HIGHER EDUCATION, RECOGNIZED AND APPROVED BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK OR ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY OR ASSOCIATION ACCEPTED AS SUCH BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK, WHICH PROVIDES A COURSE OF STUDY LEADING TO THE GRANTING OF A POST-SECONDARY DEGREE, CERTIFICATE OR DIPLOMA.

(D) QUALIFIED INDIVIDUAL. FOR PURPOSES OF THIS CREDIT, THE TERM "QUALIFIED INDIVIDUAL" SHALL MEAN ANY INDIVIDUAL WHO IS NOT A SPOUSE, CHILD OR DEPENDENT OF THE TAXPAYER OR ANY INDIVIDUAL WHO IS NOT A SPOUSE, CHILD OR DEPENDENT OF ANY OFFICER OR EMPLOYEE OF THE TAXPAYER.

(E) WRITTEN AGREEMENT. FOR PURPOSES OF THIS CREDIT, THE TERM "WRITTEN AGREEMENT" SHALL MEAN A DOCUMENT SIGNED AND DATED BY BOTH THE TAXPAYER AND THE QUALIFIED INDIVIDUAL WHICH CONTAINS PROVISIONS INCLUDING BUT NOT LIMITED TO THE MINIMUM SALARY WHICH THE TAXPAYER WILL PAY TO THE QUALIFIED INDIVIDUAL UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; THE REQUIRED DURATION OF EMPLOYMENT UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; AND THE PARTIES' RESPECTIVE RESPONSIBILITIES IN THE EVENT THAT THE TAXPAYER CEASES OPERATIONS OR LATER DECIDES NOT TO OFFER EMPLOYMENT TO THE INDIVIDUAL UPON COMPLETION OF HIS OR HER DEGREE OR IN THE EVENT THAT THE QUALIFIED INDIVIDUAL FAILS TO COMPLETE THE DEGREE OR TO WORK FOR THE TAXPAYER FOR THE AGREED UPON TERM.

(F) AMOUNT OF CREDIT. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, A TAXPAYER WHICH PROVIDES FOR THE PAYMENT OF AN INDIVIDUAL'S TUITION UNDER THE COLLEGE TO WORK PROGRAM ESTABLISHED BY THIS SUBDIVISION, SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE, TO THE EXTENT OF TWENTY-FIVE PERCENT OF MONIES PAID FOR EACH INDIVIDUAL'S TUITION, BUT SUCH CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR ONE YEAR FOR EACH SUCH QUALIFIED INDIVIDUAL.

(G) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. PROVIDED, HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

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

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

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

(I) Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision twelve of section two hundred ten
(II) Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision twelve-B of section two hundred ten
(III) Empire zone wage tax credit under subsection (k)	Eligible wages under subdivision nineteen of section two hundred ten or subsection (e) of section fourteen hundred fifty-six
(IV) Empire zone capital tax credit under subsection (l)	Qualified investments and contributions under subdivision twenty of section two hundred ten or subsection (d) of section fourteen hundred fifty-six
(V) Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision twenty-two of section two hundred ten
(VI) Credit for employment of persons with disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages under subdivision twenty-three of section two hundred ten or subsection (f) of section fourteen hundred fifty-six
(VII) Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision twelve-D of section two hundred ten
(VIII) Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision twelve-C of section two hundred ten
(IX) Alternative fuels credit under subsection (p)	Cost under subdivision twenty-four of section two hundred ten

(X) Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision twelve-E of section two hundred ten
(XI) Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision twelve-F of section two hundred ten
(XII) Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under subdivision twenty-five of section two hundred ten or subsection (j) of section fourteen hundred fifty-six
(XIII) Low-income housing credit under subsection (x)	Credit amount under subdivision thirty of section two hundred ten or subsection (l) of section fourteen hundred fifty-six
(XIV) Credit for transportation improvement contributions under subsection (z)	Amount of credit under subdivision thirty-two of section two hundred ten or subsection (n) of section fourteen hundred fifty-six
(XV) QEZE credit for real property taxes under subsection (bb)	Amount of credit under subdivision twenty-seven of section two hundred ten or subsection (o) of section fourteen hundred fifty-six
(XVI) QEZE tax reduction credit under subsection (cc)	Amount of benefit period factor, employment increase factor and zone allocation factor (without regard to pro ration) under subdivision twenty-eight of section two hundred ten or subsection (p) of section fourteen hundred fifty-six and amount of tax factor as determined under subdivision (f) of section sixteen
(XVII) Green building credit under subsection (y)	Amount of green building credit under subdivision thirty-one of section two hundred ten or subsection (m) of section fourteen hundred fifty-six

(XVIII) Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under subdivision twenty-five-a of section two hundred ten or subsection (k) of section fourteen hundred fifty-six
(XIX) Brownfield redevelopment credit under subsection (dd)	Amount of credit under subdivision thirty-three of section two hundred ten or subsection (q) of section fourteen hundred fifty-six
(XX) Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under subdivision thirty-four of section two hundred ten or subsection (r) of section fourteen hundred fifty-six
(XXI) Environmental remediation insurance credit under subsection (ff)	Amount of credit under subdivision thirty-five of section two hundred ten or subsection (s) of section fourteen hundred fifty-six
(XXII) Empire state film production credit under subsection (gg)	Amount of credit for qualified production costs in production of a qualified film under subdivision thirty-six of section two hundred ten
(XXIII) Qualified emerging technology company facilities, operations and training credit under subsection (nn)	Qualifying expenditures and development activities under subdivision twelve-G of section two hundred ten
(XXIV) Security training tax credit under subsection (ii)	Amount of credit under subdivision thirty-seven of section two hundred ten or under subsection (t) of section fourteen hundred fifty-six
(XXV) Credit for qualified fuel cell electric generating equipment expenditures under subsection (g-2)	Amount of credit under subdivision thirty-seven of section two hundred ten or subsection (t) of section fourteen hundred fifty-six

(XXVI) Empire state commercial production credit under subsection (jj)	Amount of credit for qualified production costs in production of a qualified commercial under subdivision thirty-eight of section two hundred ten
(XXVII) Biofuel production tax credit under subsection (jj)	Amount of credit under subdivision thirty-eight of section two hundred ten
(XXVIII) Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision thirty-nine of section two hundred ten
(XXIX) Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision forty of [subsection] SECTION two hundred ten
(XXX) Credit for companies who provide transportation to individuals with disabilities under subsection (oo)	Amount of credit under subdivision forty of section two hundred ten
(XXXI) COLLEGE TO WORK PROGRAM CREDIT UNDER SUBSECTION (S-1)	AMOUNT OF CREDIT UNDER SUBDIVISION TWENTY-TWO-A OF SECTION TWO HUNDRED TEN

S 3. Section 606 of the tax law is amended by adding a new subsection (s-1) to read as follows:

(S-1) CREDIT FOR COLLEGE TO WORK PROGRAM. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, BASED UPON SUCH TAXPAYER'S PAYMENT OF TUITION TO AN INSTITUTION OF HIGHER EDUCATION ON BEHALF OF AN INDIVIDUAL IN EXCHANGE FOR THE INDIVIDUAL AGREEING TO WORK FOR THE TAXPAYER FOR A NUMBER OF YEARS, AS SET FORTH IN A WRITTEN AGREEMENT BETWEEN THE TAXPAYER AND THE INDIVIDUAL.

(2) TUITION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "TUITION" SHALL MEAN THE TUITION AND FEES PAID FOR THE ENROLLMENT AND ATTENDANCE OF AN INDIVIDUAL AT AN INSTITUTION OF HIGHER EDUCATION, AS WELL AS MONIES PAID FOR TEXTBOOKS IN CONNECTION WITH ATTENDANCE AT AN INSTITUTION OF HIGHER EDUCATION. PROVIDED, HOWEVER, ANY AMOUNTS WHICH HAVE BEEN PAID FOR OR REIMBURSED BY ANY OTHER SCHOLARSHIPS OR FINANCIAL AID, OR TUITION REQUIRED FOR ENROLLMENT OR ATTENDANCE IN A COURSE OF STUDY LEADING TO THE GRANTING OF A POST BACCALAUREATE OR OTHER GRADUATE DEGREE, SHALL BE EXCLUDED FROM THE DEFINITION OF "TUITION".

(3) INSTITUTION OF HIGHER EDUCATION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "INSTITUTION OF HIGHER EDUCATION" SHALL MEAN ANY INSTITUTION OF HIGHER EDUCATION, RECOGNIZED AND APPROVED BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK OR ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY OR ASSOCIATION ACCEPTED AS SUCH BY THE REGENTS, OR ANY SUCCESSOR ORGANIZATION, OF THE UNIVERSITY OF THE STATE OF NEW YORK, WHICH PROVIDES A COURSE OF STUDY

LEADING TO THE GRANTING OF A POST-SECONDARY DEGREE, CERTIFICATE OR DIPLOMA.

(4) QUALIFIED INDIVIDUAL. FOR PURPOSES OF THIS CREDIT, THE TERM "QUALIFIED INDIVIDUAL" SHALL MEAN ANY INDIVIDUAL WHO IS NOT A SPOUSE, CHILD OR DEPENDENT OF THE TAXPAYER OR ANY INDIVIDUAL WHO IS NOT A SPOUSE, CHILD OR DEPENDENT OF ANY OFFICER OR EMPLOYEE OF THE TAXPAYER.

(5) WRITTEN AGREEMENT. FOR PURPOSES OF THIS CREDIT, THE TERM "WRITTEN AGREEMENT" SHALL MEAN A DOCUMENT SIGNED AND DATED BY BOTH THE TAXPAYER AND THE QUALIFIED INDIVIDUAL WHICH CONTAINS PROVISIONS INCLUDING BUT NOT LIMITED TO THE MINIMUM SALARY WHICH THE TAXPAYER WILL PAY TO THE QUALIFIED INDIVIDUAL UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; THE REQUIRED DURATION OF EMPLOYMENT UPON COMPLETION OF THE INDIVIDUAL'S DEGREE; AND THE PARTIES' RESPECTIVE RESPONSIBILITIES IN THE EVENT THAT THE TAXPAYER CEASES OPERATIONS OR LATER DECIDES NOT TO OFFER EMPLOYMENT TO THE INDIVIDUAL UPON COMPLETION OF HIS OR HER DEGREE OR IN THE EVENT THAT THE QUALIFIED INDIVIDUAL FAILS TO COMPLETE THE DEGREE OR TO WORK FOR THE TAXPAYER FOR THE AGREED UPON TERM.

(6) AMOUNT OF CREDIT. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, A TAXPAYER WHO PROVIDES FOR THE PAYMENT OF AN INDIVIDUAL'S TUITION UNDER THE COLLEGE TO WORK PROGRAM ESTABLISHED BY THIS SUBSECTION, SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE, TO THE EXTENT OF TWENTY-FIVE PERCENT OF MONIES PAID FOR EACH INDIVIDUAL'S TUITION, BUT SUCH CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR ONE YEAR FOR EACH SUCH QUALIFIED INDIVIDUAL.

(7) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX AMOUNT, ANY AMOUNT OF THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 4. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2010; provided, however that the empire state film production credit under subsection (gg), the empire state commercial production credit under subsection (jj) and the credit for companies who provide transportation to individuals with disabilities under subsection (oo) of section 606 of the tax law contained in section two of this act shall expire on the same date as provided in section 9 of part P of chapter 60 of the laws of 2004, as amended, section 10 of part V of chapter 62 of the laws of 2006, as amended and section 5 of chapter 522 of the laws of 2006, as amended, respectively.

PART C

Section 1. Subdivision (a) of section 1210 of the tax law is amended by adding a new paragraph 3-a to read as follows:

(3-A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A COUNTY, MAY, BY LOCAL LAW, PROVIDE THAT THE TAXES IMPOSED, PURSUANT TO THIS SUBDIVISION, BY SUCH COUNTY ON THE RETAIL SALE OR USE OF FUEL OIL AND COAL USED FOR BUSINESS PURPOSES, THE RETAIL SALE OR USE OF WOOD USED FOR BUSINESS HEATING PURPOSES AND THE SALE, OTHER THAN FOR RESALE, OF PROPANE (EXCEPT WHEN SOLD IN CONTAINERS OF LESS THAN ONE HUNDRED POUNDS), NATURAL GAS, ELECTRICITY, STEAM AND GAS, ELECTRIC AND STEAM SERVICES USED FOR BUSINESS PURPOSES MAY BE IMPOSED AT A LOWER RATE THAN THE UNIFORM LOCAL RATE IMPOSED PURSUANT TO THE OPENING PARAGRAPH OF THIS SECTION, AS LONG AS SUCH RATE IS ONE OF THE RATES AUTHORIZED BY SUCH PARAGRAPH OR SUCH SALE OR USE MAY BE EXEMPTED FROM SUCH TAXES. PROVIDED, HOWEVER, SUCH LOWER RATE SHALL APPLY TO ALL SUCH ENERGY SOURC-

ES AND SERVICES AND AT THE SAME RATE AND NO SUCH EXEMPTION MAY BE ENACTED UNLESS SUCH EXEMPTION APPLIES TO ALL SUCH ENERGY SOURCES AND SERVICES. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO A SALE OR USE OF (I) DIESEL MOTOR FUEL WHICH INVOLVES A DELIVERY AT A FILLING STATION OR INTO A REPOSITORY WHICH IS EQUIPPED WITH A HOSE OR OTHER APPARATUS BY WHICH SUCH FUEL CAN BE DISPENSED INTO THE FUEL TANK OF A MOTOR VEHICLE AND (II) ENHANCED DIESEL MOTOR FUEL EXCEPT IN THE CASE OF A SALE OR USE OF SUCH ENHANCED DIESEL MOTOR FUEL USED EXCLUSIVELY FOR BUSINESS PURPOSES WHICH IS DELIVERED INTO A STORAGE TANK WHICH IS NOT EQUIPPED WITH A HOSE OR OTHER APPARATUS BY WHICH SUCH FUEL CAN BE DISPENSED INTO THE FUEL TANK OF A MOTOR VEHICLE AND SUCH STORAGE TANK IS ATTACHED TO THE HEATING UNIT BURNING SUCH FUEL.

S 2. This act shall take effect immediately.

PART D

Section 1. Paragraph 2 of subdivision (f) of section 1137 of the tax law, as amended by section 1 of part H of chapter 62 of the laws of 2006, is amended to read as follows:

(2) The amount of the credit authorized by paragraph one of this subdivision shall be [five] TEN percent of the amount of taxes and fees (but not including any penalty or interest thereon) required to be reported on, and paid or paid over with, the return but only if the return is filed on or before the filing due date, but not more than two hundred FIFTY dollars[,] for each quarterly or longer period, except that, with respect to returns required to be filed for quarterly or longer periods ending on or before the last day of February, two thousand seven, the amount of the credit shall be not more than one hundred seventy-five dollars for each such quarterly or longer period.

S 2. This act shall take effect immediately; provided that this act shall apply only to returns required to be filed under section 1136 of the tax law for quarterly periods which begin on or after September 1, 2010 and to returns for longer periods and authorized annual return periods required to be filed after September 1, 2010.

PART E

Section 1. The general municipal law is amended by adding a new section 959-c to read as follows:

S 959-C. RESEARCH AND DEVELOPMENT COMMERCIALIZATION ENTERPRISES. (A) FOR PURPOSES OF THIS SECTION, "RESEARCH AND DEVELOPMENT COMMERCIALIZATION ENTERPRISES" SHALL MEAN ANY BUSINESS PRIMARILY ENGAGED IN RESEARCH, OR DEVELOPMENT OF A PRODUCT OR PRODUCTS AT A CENTER OF EXCELLENCE, AS DEFINED IN SECTION THREE OF PART T OF CHAPTER EIGHTY-FOUR OF THE LAWS OF TWO THOUSAND TWO, OR AT A GEN*NY*SIS CENTER AS ESTABLISHED PURSUANT TO SECTION TWO HUNDRED NINE-R OF THE EXECUTIVE LAW. A BUSINESS IS PRIMARILY ENGAGED IN RESEARCH, OR DEVELOPMENT OF A PRODUCT OR PRODUCTS AT A CENTER FOR EXCELLENCE, OR AT A GEN*NY*SIS CENTER IF EIGHTY PERCENT OR MORE OF ITS PROPERTY IN NEW YORK IS UTILIZED FOR SUCH PURPOSES.

(B) THE COMMISSIONER OF ECONOMIC DEVELOPMENT SHALL SERVE AS THE SOLE CERTIFICATION OFFICER FOR BUSINESSES SEEKING CERTIFICATION AS RESEARCH AND DEVELOPMENT COMMERCIALIZATION ENTERPRISES. THE COMMISSIONER OF ECONOMIC DEVELOPMENT, SHALL PROMULGATE REGULATIONS GOVERNING (I) CRITERIA OF ELIGIBILITY FOR DESIGNATION OF RESEARCH AND DEVELOPMENT COMMERCIALIZATION ENTERPRISES, (II) THE APPLICATION PROCESS, AND (III) THE CERTIFICATION BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT AS TO THE

ELIGIBILITY OF BUSINESS ENTERPRISES FOR BENEFITS REFERRED TO IN SECTION NINE HUNDRED SIXTY-SIX OF THIS ARTICLE. A BUSINESS SO CERTIFIED SHALL BE DEEMED TO BE ELIGIBLE FOR SUCH BENEFITS AS IF SUCH BUSINESS WERE LOCATED IN AN INVESTMENT ZONE AS DEFINED IN PARAGRAPH (I) OF SUBDIVISION (D) OF SECTION NINE HUNDRED FIFTY-SEVEN OF THIS ARTICLE. NO SUCH CERTIFICATION SHALL BE MADE AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE.

(C) SUCH ENTERPRISE SHALL BE EXEMPT FROM THE REQUIREMENTS OF PARAGRAPH (III) OF SUBDIVISION (A) OF SECTION NINE HUNDRED FIFTY-EIGHT, SECTIONS NINE HUNDRED SIXTY-ONE, NINE HUNDRED SIXTY-TWO AND NINE HUNDRED SIXTY-THREE OF THIS ARTICLE.

S 2. Section 14 of the tax law is amended by adding a new subdivision (o) to read as follows:

(O) RESEARCH AND DEVELOPMENT COMMERCIALIZATION ENTERPRISES. IN DETERMINING TAX BENEFITS UNDER THIS CHAPTER FOR RESEARCH AND DEVELOPMENT COMMERCIALIZATION ENTERPRISES CERTIFIED UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, REFERENCES IN THIS SECTION AND OTHER SECTIONS IN THIS CHAPTER RELATING TO QUALIFIED EMPIRE ZONE ENTERPRISES AND EMPIRE ZONE BENEFITS TO "AN EMPIRE ZONE", "THE EMPIRE ZONE" AND "THE EMPIRE ZONES" SHALL BE READ AS REFERENCES TO "NEW YORK STATE", AND ANY TESTS OR MEASUREMENTS RELATING TO EMPLOYMENT FOR PURPOSES OF EMPIRE ZONE BENEFITS UNDER THIS CHAPTER SHALL BE CALCULATED WITH RESPECT TO EMPLOYMENT WITHIN THE ENTIRE STATE, AND REFERENCES TO "QEZES" SHALL BE READ AS INCLUDING REFERENCES TO SUCH RESEARCH AND DEVELOPMENT COMMERCIALIZATION ENTERPRISES THAT MEET THE EMPLOYMENT TEST IN THIS SECTION. FOR PURPOSES OF TAX REDUCTION CREDIT ALLOWED UNDER SECTION SIXTEEN OF THIS ARTICLE, FOR RESEARCH AND DEVELOPMENT COMMERCIALIZATION ENTERPRISES, THE ZONE ALLOCATION FACTOR SHALL BE ONE HUNDRED PERCENT.

S 3. Subdivision (j) of section 14 of the tax law is amended by adding a new paragraph 6 to read as follows:

(6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A BUSINESS ENTERPRISE WHICH IS APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT AS THE OWNER OF A RESEARCH AND DEVELOPMENT COMMERCIALIZATION ENTERPRISE PURSUANT TO SECTION NINE HUNDRED FIFTY-NINE-C OF THE GENERAL MUNICIPAL LAW SHALL BE DEEMED TO BE A NEW BUSINESS UNDER THIS SECTION. PROVIDED, HOWEVER, TO BE DEEMED A NEW BUSINESS UNDER THIS PARAGRAPH, SUCH BUSINESS ENTERPRISE SHALL HAVE RECEIVED CERTIFICATION UNDER ARTICLE EIGHTEEN-B OF THE GENERAL BUSINESS LAW BY DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE.

S 4. This act shall take effect immediately.

PART F

Section 1. Subparagraph 1 of paragraph (g) of subdivision 1 of section 210 of the tax law, as amended by section 4 of part AA-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(1) General. The amount prescribed by this paragraph shall be, in the case of each New York S corporation, (i) the higher of the amounts prescribed in paragraphs (a) and (d) of this subdivision (other than the amount prescribed in the final clause of subparagraph one of that paragraph (d)) (ii) reduced by the article twenty-two tax equivalent; provided, however, that the amount thus determined shall not be less than the lowest of the amounts prescribed in subparagraph one of that paragraph (d) (applying the provisions of subparagraph three of that paragraph as necessary). Provided, however, notwithstanding any provision of this paragraph, in taxable years beginning in two thousand three and before two thousand eight, the amount prescribed by this paragraph shall be the amount prescribed in subparagraph one of that para-

graph (d) (applying the provisions of subparagraph three of that paragraph as necessary) and applying the calculation of that amount in the case of a termination year as set forth in subparagraph four of this paragraph as necessary. In taxable years beginning in two thousand eight [and thereafter] AND TWO THOUSAND NINE, the amount prescribed by this paragraph is the amount prescribed in subparagraph four of that paragraph (d) (applying the provisions of subparagraph three of that paragraph as necessary) and applying the calculation of that amount in the case of a termination year as set forth in subparagraph four of this paragraph as necessary. PROVIDED FURTHER, AND NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH, IN TAXABLE YEARS BEGINNING IN AND AFTER TWO THOUSAND TEN, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL EQUAL ZERO, BUT THE PROVISIONS OF THIS PARAGRAPH SHALL HAVE NO EFFECT ON THE AMOUNT PRESCRIBED BY THE ARTICLE TWENTY-TWO TAX EQUIVALENT.

S 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2010.

PART G

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) EQUIPMENT WITH A PURCHASE PRICE OF FIVE HUNDRED DOLLARS OR GREATER PURCHASED BY ANY COMPANY LOCATED IN AN INCUBATOR FACILITY THAT IS ASSOCIATED WITH A COLLEGE, AS DEFINED IN SUBDIVISION TWO OF SECTION TWO OF THE EDUCATION LAW, OR AN INCUBATOR FACILITY THAT IS FUNDED BY THE STATE. SUCH EQUIPMENT MUST BE USED DIRECTLY AND PREDOMINANTLY WITHIN SUCH AFOREMENTIONED INCUBATOR FACILITY.

S 2. This act shall take effect on the first day of a sales tax quarterly period, as such period is described in subdivision (b) of section 1136 of the tax law, beginning at least 45 days after the date on which this act shall have become a law and shall apply to sales made on or after such date although rendered or made under prior contract.

PART H

Section 1. Section 210 of the tax law is amended by adding a new subdivision 41 to read as follows:

41. SMALL BUSINESS ELECTRIC ENERGY TAX CREDIT. (A) A TAXPAYER THAT IS ELIGIBLE UNDER THE LIMITATIONS SPECIFIED IN PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE PRODUCT OF TWO CENTS PER KILOWATT HOUR FOR ALL BUSINESS RELATED ELECTRICITY USAGE AT THE TAXPAYER'S PRIMARY BUSINESS LOCATION.

(B) AN ELIGIBLE TAXPAYER SHALL:

(I) HAVE NO MORE THAN TWENTY FULL TIME EQUIVALENT EMPLOYEES IN NEW YORK STATE, INCLUDING ANY RELATED MEMBERS OR AFFILIATES;

(II) NOT BE A SOLE-PROPRIETORSHIP IF SUCH SOLE-PROPRIETOR'S PRIMARY BUSINESS LOCATION IS SITED IN OR PART OF SUCH SOLE-PROPRIETOR'S PLACE OF RESIDENCE;

(III) NOT BE CERTIFIED PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW; AND

(IV) NOT BE RECEIVING ANY ALLOCATION OR AWARD PURSUANT TO ANY PROGRAM AUTHORIZED UNDER ARTICLE SIX OF THE ECONOMIC DEVELOPMENT LAW.

(C) (I) THE TERM "BUSINESS RELATED ELECTRICITY USAGE" SHALL REFER TO ELECTRICAL POWER USAGE USED AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION TO FURTHER THE ECONOMIC ACTIVITY OF THE TAXPAYER AT THE PRIMARY BUSINESS

LOCATION THAT IS CLEARLY DELIMITED FROM ANY SHARED ELECTRICAL POWER USAGE COST.

(II) THE TERM "PRIMARY BUSINESS LOCATION" SHALL MEAN THE PHYSICAL SITE OF THE TAXPAYER WITHIN THE STATE OF NEW YORK WHERE THE MAJORITY OF THE TAXPAYER'S ECONOMIC ACTIVITY IS GENERATED OR COORDINATED THROUGH.

(III) THE TERM "RELATED MEMBERS" SHALL HAVE THE SAME MEANING AS SET FORTH IN CLAUSES (A) AND (B) OF SUBPARAGRAPH ONE OF PARAGRAPH (O) OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, AS AMENDED BY SECTION ONE OF PART M OF CHAPTER SIX HUNDRED EIGHTY-SIX OF THE LAWS OF TWO THOUSAND THREE, AND THE TERM "AFFILIATES" SHALL MEAN THOSE CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP (AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE) AS THE TAXPAYER.

(D) THE ELIGIBLE USAGE LEVEL SHALL BE THE TOTAL KILOWATT HOUR USAGE OF THE TAXPAYER FOR BUSINESS RELATED ELECTRICITY USAGE DURING THE TAXPAYER'S TAXABLE YEAR AS VERIFIED THROUGH BILLS OR OTHER FORM OF USAGE CHART PROVIDED TO THE TAXPAYER BY THE TAXPAYER'S ELECTRICITY POWER SERVICE PROVIDER.

(E) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 2. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) SMALL BUSINESS ELECTRIC ENERGY TAX CREDIT. (1) A TAXPAYER THAT IS ELIGIBLE UNDER THE LIMITATIONS SPECIFIED IN PARAGRAPH TWO OF THIS SUBSECTION SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE PRODUCT (OR PRO RATA SHARE OF THE PRODUCT IN THE CASE OF A PARTNERSHIP) OF TWO CENTS PER KILOWATT HOUR FOR ALL BUSINESS RELATED ELECTRICITY USAGE AT THE TAXPAYER'S PRIMARY BUSINESS LOCATION.

(2) AN ELIGIBLE TAXPAYER SHALL:

(I) HAVE NO MORE THAN TWENTY FULL TIME EQUIVALENT EMPLOYEES IN NEW YORK STATE, INCLUDING ANY RELATED MEMBERS OR AFFILIATES;

(II) SHALL NOT BE A SOLE-PROPRIETORSHIP IF SUCH SOLE-PROPRIETOR'S PRIMARY BUSINESS LOCATION IS SITED IN OR PART OF SUCH SOLE-PROPRIETOR'S PLACE OF RESIDENCE;

(III) NOT BE CERTIFIED PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW; AND

(IV) NOT BE RECEIVING ANY ALLOCATION OR AWARD PURSUANT TO ANY PROGRAM AUTHORIZED UNDER ARTICLE SIX OF THE ECONOMIC DEVELOPMENT LAW.

(3) (I) THE TERM "BUSINESS RELATED ELECTRICITY USAGE" SHALL REFER TO ELECTRICAL POWER USAGE USED AFTER THE EFFECTIVE DATE OF THIS SUBSECTION TO FURTHER THE ECONOMIC ACTIVITY OF THE TAXPAYER AT THE PRIMARY BUSINESS LOCATION THAT IS CLEARLY DELIMITED FROM ANY SHARED ELECTRICAL POWER USAGE COST.

(II) THE TERM "PRIMARY BUSINESS LOCATION" SHALL MEAN THE PHYSICAL SITE OF THE TAXPAYER WITHIN THE STATE OF NEW YORK WHERE THE MAJORITY OF THE TAXPAYER'S ECONOMIC ACTIVITY IS GENERATED OR COORDINATED THROUGH.

(III) THE TERM "RELATED MEMBERS" SHALL HAVE THE SAME MEANING AS SET FORTH IN CLAUSES (A) AND (B) OF SUBPARAGRAPH ONE OF PARAGRAPH (O) OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THIS CHAPTER, AS AMENDED BY SECTION ONE OF PART M OF CHAPTER SIX HUNDRED EIGHTY-SIX OF THE LAWS OF TWO THOUSAND THREE, AND THE TERM "AFFILIATES" SHALL MEAN THOSE CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP (AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE) AS THE TAXPAYER.

(4) THE ELIGIBLE USAGE LEVEL SHALL BE THE TOTAL KILOWATT HOUR USAGE OF THE TAXPAYER FOR BUSINESS RELATED ELECTRICITY USAGE DURING THE TAXPAYER'S TAXABLE YEAR AS VERIFIED THROUGH BILLS OR OTHER FORM OF USAGE CHART PROVIDED TO THE TAXPAYER BY THE TAXPAYER'S ELECTRICITY POWER SERVICE PROVIDER.

(5) IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

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

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

With respect to the following credit under this section:	The corporation's credit base under section two hundred ten or section fourteen hundred fifty-six of this chapter is:
(I) Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision twelve of section two hundred ten
(II) Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision twelve-B of section two hundred ten
(III) Empire zone wage tax credit under subsection (k)	Eligible wages under subdivision nineteen of section two hundred ten or subsection (e) of section fourteen hundred fifty-six
(IV) Empire zone capital tax credit under subsection (l)	Qualified investments and contributions under subdivision twenty of section two hundred ten or subsection (d) of

	section fourteen hundred fifty-six
(V) Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision twenty-two of section two hundred ten
(VI) Credit for employment of persons with disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages under subdivision twenty-three of section two hundred ten or subsection (f) of section fourteen hundred fifty-six
(VII) Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision twelve-D of section two hundred ten
(VIII) Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision twelve-C of section two hundred ten
(IX) Alternative fuels credit under subsection (p)	Cost under subdivision twenty-four of section two hundred ten
(X) Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision twelve-E of section two hundred ten
(XI) Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision twelve-F of section two hundred ten
(XII) Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under subdivision twenty-five of section two hundred ten or subsection (j) of section fourteen hundred fifty-six
(XIII) Low-income housing credit under subsection (x)	Credit amount under subdivision thirty of section two hundred ten or subsection (l) of section fourteen hundred fifty-six
(XIV) Credit for transportation	Amount of credit under subdivision thirty-two of section

improvement contributions under subsection (z)	two hundred ten or subsection (n) of section fourteen hundred fifty-six
(XV) QEZE credit for real property taxes under subsection (bb)	Amount of credit under subdivision twenty-seven of section two hundred ten or subsection (o) of section fourteen hundred fifty-six
(XVI) QEZE tax reduction credit under subsection (cc)	Amount of benefit period factor, employment increase factor and zone allocation factor (without regard to pro ration) under subdivision twenty-eight of section two hundred ten or subsection (p) of section fourteen hundred fifty-six and amount of tax factor as determined under subdivision (f) of section sixteen
(XVII) Green building credit under subsection (y)	Amount of green building credit under subdivision thirty-one of section two hundred ten or subsection (m) of section fourteen hundred fifty-six
(XVIII) Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under subdivision twenty-five-a of section two hundred ten or subsection (k) of section fourteen hundred fifty-six
(XIX) Brownfield redevelopment credit under subsection (dd)	Amount of credit under subdivision thirty-three of section two hundred ten or subsection (q) of section fourteen hundred fifty-six
(XX) Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under subdivision thirty-four of section two hundred ten or subsection (r) of section fourteen hundred fifty-six
(XXI) Environmental remediation insurance credit under subsection (ff)	Amount of credit under subdivision thirty-five of section two hundred ten or subsection (s) of section

	fourteen hundred fifty-six
(XXII) Empire state film production credit under subsection (gg)	Amount of credit for qualified production costs in production of a qualified film under subdivision thirty-six of section two hundred ten
(XXIII) Qualified emerging technology company facilities, operations and training credit under subsection (nn)	Qualifying expenditures and development activities under subdivision twelve-G of section two hundred ten
(XXIV) Security training tax credit under subsection (ii)	Amount of credit under subdivision thirty-seven of section two hundred ten or under subsection (t) of section fourteen hundred fifty-six
(XXV) Credit for qualified fuel cell electric generating equipment expenditures under subsection (g-2)	Amount of credit under subdivision thirty-seven of section two hundred ten or subsection (t) of section fourteen hundred fifty-six
(XXVI) Empire state commercial production credit under subsection (jj)	Amount of credit for qualified production costs in production of a qualified commercial under subdivision thirty-eight of section two hundred ten
(XXVII) Biofuel production tax credit under subsection (jj)	Amount of credit under subdivision thirty-eight of section two hundred ten
(XXVIII) Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision thirty-nine of section two hundred ten
(XXIX) Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision forty of [subsection] SECTION two hundred ten
(XXX) Credit for companies who provide transportation to individuals with disabilities under subsection (oo)	Amount of credit under subdivision forty of section two hundred ten

(XXXI) SMALL BUSINESS ELECTRICITY ENERGY CREDIT UNDER SUBSECTION (QQ)

QUALIFYING ELECTRICITY USAGE UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN

S 4. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2010; provided, however that the empire state film production credit under subsection (gg), the empire state commercial production credit under subsection (jj) and the credit for companies who provide transportation to individuals with disabilities under subsection (oo) of section 606 of the tax law contained in section three of this act shall expire on the same date as provided in section 9 of part P of chapter 60 of the laws of 2004, as amended, section 10 of part V of chapter 62 of the laws of 2006, as amended and section 5 of chapter 522 of the laws of 2006, as amended, respectively.

PART I

Section 1. Subdivision (d) of section 301-b of the tax law, as amended by section 2 of part H of chapter 407 of the laws of 1999, subparagraph (C) of paragraph 2 as amended by section 1 of part X of chapter 63 of the laws of 2000, is amended to read as follows:

(d) Sales to consumers for heating purposes. [(1) Total residential heating] HEATING exemption. (A) Unenhanced diesel motor fuel sold by a petroleum business registered under article twelve-A of this chapter as a distributor of diesel motor fuel or residual petroleum product sold by a petroleum business registered under this article as a residual petroleum product business to the consumer exclusively for [residential] heating purposes.

(B) Enhanced diesel motor fuel sold by a petroleum business registered under article twelve-A of this chapter as a distributor of diesel motor fuel to the consumer exclusively for [residential] heating purposes but only if such enhanced diesel motor fuel is delivered into a storage tank which is not equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such fuel, provided, that with respect to each delivery of such fuel over four thousand five hundred gallons, to obtain this exemption there shall be required a certificate signed by the purchaser stating that the product will be used exclusively for [residential] heating purposes.

[(2) Partial non-residential heating exemption. (A) Unenhanced diesel motor fuel sold by a petroleum business registered under article twelve-A of this chapter as a distributor of diesel motor fuel or residual petroleum product sold by a petroleum business registered under this article as a residual petroleum product business to the consumer exclusively for heating, other than residential heating purposes.

(B) Enhanced diesel motor fuel sold by a petroleum business registered under article twelve-A of this chapter as a distributor of diesel motor fuel to the consumer exclusively for heating, other than residential heating purposes, but only if such enhanced diesel motor fuel is delivered into a storage tank which is not equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such fuel, provided, that with respect to each delivery of such fuel over four thousand five hundred gallons, to obtain this exemption there shall be required a certificate signed by the purchaser stating

that the product will be used exclusively for heating, other than residential heating purposes.

(C) Calculation of partial exemption. Notwithstanding any other provision of this article, commencing April first, two thousand one and ending August thirty-first, two thousand two, the amount of the partial exemption under this paragraph shall be determined by multiplying the quantity of diesel motor fuel and residual petroleum product eligible for the exemption times the sum of the then current rate of the supplemental tax imposed by section three hundred one-j of this article and twenty percent of the then current rate of the tax imposed by section three hundred one-a of this article, with respect to the specific diesel motor fuel or residual petroleum product rate, as the case may be, and commencing September first, two thousand two, the amount of the partial exemption under this paragraph shall be determined by multiplying the quantity of diesel motor fuel and residual petroleum product eligible for the exemption times the sum of the then current rate of the supplemental tax imposed by section three hundred one-j of this article and forty-six percent of the then current rate of the tax imposed by section three hundred one-a of this article, with respect to the specific diesel motor fuel or residual petroleum product rate, as the case may be.]

S 2. Subdivision (a) of section 301-c of the tax law, as amended by section 4 of part H of chapter 407 of the laws of 1999 and subparagraph (B) of paragraph 2 as amended by section 2 of part X of chapter 63 of the laws of 2000, is amended to read as follows:

(a) Diesel motor fuel used for heating purposes. [(1)] Total [residential] heating reimbursement. Diesel motor fuel purchased in this state and sold by such purchaser to a consumer for use exclusively for [residential] heating purposes but only where (i) such diesel motor fuel is delivered into a storage tank which is not equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such fuel, (ii) the tax imposed pursuant to this article has been paid with respect to such diesel motor fuel and the entire amount of such tax has been absorbed by such purchaser, and (iii) such purchaser possesses documentary proof satisfactory to the commissioner evidencing the absorption by it of the entire amount of the tax imposed pursuant to this article. Provided, however, that the commissioner is authorized, in the event that the commissioner determines that it would not threaten the integrity of the administration and enforcement of the tax imposed by this article, to provide a reimbursement with respect to a retail sale to a consumer for [residential] heating purposes of less than ten gallons of diesel motor fuel provided such fuel is not dispensed into the tank of a motor vehicle. Provided, further, that with respect to each delivery of enhanced diesel motor fuel of over four thousand five hundred gallons, to obtain this reimbursement there shall be required a certificate signed by the consumer stating that the product will be used exclusively for [residential] heating purposes.

[(2) Partial non-residential heating reimbursement. (A) Diesel motor fuel purchased in this state and sold by such purchaser to a consumer for use exclusively for heating, other than for residential heating purposes, but only where (i) such diesel motor fuel is delivered into a storage tank which is not equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such fuel, (ii) the tax imposed pursuant to this article has been paid with respect to such diesel motor fuel and the entire amount of such tax has been

absorbed by such purchaser, and (iii) such purchaser possesses documentary proof satisfactory to the commissioner evidencing the absorption by it of the entire amount of the tax imposed pursuant to this article. Provided, however, that with respect to each delivery of enhanced diesel motor fuel of over four thousand five hundred gallons, to obtain this reimbursement there shall be required a certificate signed by the consumer stating that the product will be used exclusively for heating, other than for residential heating purposes.

(B) Calculation of partial reimbursement. Notwithstanding any other provision of this article, commencing April first, two thousand one and ending August thirty-first, two thousand two, the amount of the reimbursement under this paragraph shall be determined by multiplying the quantity of diesel motor fuel eligible for the reimbursement times the sum of the then current rate of the supplemental tax imposed by section three hundred one-j of this article and twenty percent of the then current rate of the tax imposed by section three hundred one-a of this article, with respect to the specific diesel motor fuel rate, as the case may be, and commencing September first, two thousand two, the amount of the reimbursement under this paragraph shall be determined by multiplying the quantity of diesel motor fuel eligible for the reimbursement times the sum of the then current rate of the supplemental tax imposed by section three hundred one-j of this article and forty-six percent of the then current rate of the tax imposed by section three hundred one-a of this article, with respect to the specific diesel motor fuel rate, as the case may be.]

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.

PART J

Section 1. Section 210 of the tax law is amended by adding a new subdivision 22-b to read as follows:

22-B. CREDIT FOR ON-THE-JOB TRAINING. (A) GENERAL. A TAXPAYER, WHO HAS ONE HUNDRED EMPLOYEES OR LESS, SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR PROVIDING ON-THE-JOB TRAINING TO AN EMPLOYEE.

(B) ON-THE-JOB TRAINING. ON-THE-JOB TRAINING SHALL MEAN TRAINING WHICH IS SPECIFIED IN AN AGREEMENT BETWEEN THE GRANTEE AND THE EMPLOYER AND INCLUDES BOTH WORK EXPERIENCE AND TRAINING, FORMALIZED IN AN OUTLINE DEFINING EACH TRAINING COMPONENT AND OUTCOMES OF THE TRAINING PROCESS.

(C) ON-THE-JOB TRAINING EXPENDITURES. ON-THE-JOB TRAINING EXPENDITURES SHALL INCLUDE EXPENDITURES FOR THE PURCHASE OF EITHER COMMERCIAL OR CUSTOMIZED INSTRUCTIONAL MATERIALS INCLUDING SOFTWARE, TEXTS, MANUALS OR EQUIPMENT THAT CAN BE USED TO SIMULATE JOB TASKS; PAYMENTS TO CONSULTANTS, TRAINERS, OR INSTRUCTORS WHO ARE NOT EMPLOYEES OF THE FIRM; AND COSTS ASSOCIATED WITH THE USE, RENTAL, OR LEASE OF A CLASSROOM OR OTHER DEDICATED SPACE FOR THE TRAINING.

(D) AMOUNT OF CREDIT. A CREDIT SHALL BE ALLOWED FOR THE AMOUNT OF ON-THE-JOB TRAINING EXPENDITURES INCURRED BY AN EMPLOYER. THE AMOUNT OF CREDIT SHALL NOT EXCEED THREE HUNDRED DOLLARS PER EMPLOYEE FOR WHOM SUCH TRAINING HAS BEEN PROVIDED DURING THE TAXABLE YEAR IN WHICH SUCH EXPENDITURES WERE MADE.

(E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. PROVIDED, HOWEVER, IF THE AMOUNT OF CREDIT

ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

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

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

With respect to the following credit under this section:	The corporation's credit base under section two hundred ten or section fourteen hundred fifty-six of this chapter is:
(I) Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision twelve of section two hundred ten
(II) Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision twelve-B of section two hundred ten
(III) Empire zone wage tax credit under subsection (k)	Eligible wages under subdivision nineteen of section two hundred ten or subsection (e) of section fourteen hundred fifty-six
(IV) Empire zone capital tax credit under subsection (l)	Qualified investments and contributions under subdivision twenty of section two hundred ten or subsection (d) of section fourteen hundred fifty-six
(V) Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision twenty-two of section two hundred ten
(VI) Credit for employment of persons with disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages under subdivision twenty-three of section two hundred ten or subsection (f)

	of section fourteen hundred fifty-six
(VII) Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision twelve-D of section two hundred ten
(VIII) Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision twelve-C of section two hundred ten
(IX) Alternative fuels credit under subsection (p)	Cost under subdivision twenty-four of section two hundred ten
(X) Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision twelve-E of section two hundred ten
(XI) Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision twelve-F of section two hundred ten
(XII) Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under subdivision twenty-five of section two hundred ten or subsection (j) of section fourteen hundred fifty-six
(XIII) Low-income housing credit under subsection (x)	Credit amount under subdivision thirty of section two hundred ten or subsection (l) of section fourteen hundred fifty-six
(XIV) Credit for transportation improvement contributions under subsection (z)	Amount of credit under subdivision thirty-two of section two hundred ten or subsection (n) of section fourteen hundred fifty-six
(XV) QEZE credit for real property taxes under subsection (bb)	Amount of credit under subdivision twenty-seven of section two hundred ten or subsection (o) of section fourteen hundred fifty-six
(XVI) QEZE tax reduction credit under subsection (cc)	Amount of benefit period factor, employment increase factor and zone allocation factor (without regard

	to pro ration) under subdivision twenty-eight of section two hundred ten or subsection (p) of section fourteen hundred fifty-six and amount of tax factor as determined under subdivision (f) of section sixteen
(XVII) Green building credit under subsection (y)	Amount of green building credit under subdivision thirty-one of section two hundred ten or subsection (m) of section fourteen hundred fifty-six
(XVIII) Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under subdivision twenty-five-a of section two hundred ten or subsection (k) of section fourteen hundred fifty-six
(XIX) Brownfield redevelopment credit under subsection (dd)	Amount of credit under subdivision thirty-three of section two hundred ten or subsection (q) of section fourteen hundred fifty-six
(XX) Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under subdivision thirty-four of section two hundred ten or subsection (r) of section fourteen hundred fifty-six
(XXI) Environmental remediation insurance credit under subsection (ff)	Amount of credit under subdivision thirty-five of section two hundred ten or subsection (s) of section fourteen hundred fifty-six
(XXII) Empire state film production credit under subsection (gg)	Amount of credit for qualified production costs in production of a qualified film under subdivision thirty-six of section two hundred ten
(XXIII) Qualified emerging technology company facilities, operations and training credit under subsection (nn)	Qualifying expenditures and development activities under subdivision twelve-G of section two hundred ten

(XXIV) Security training tax credit under subsection (ii)	Amount of credit under subdivision thirty-seven of section two hundred ten or under subsection (t) of section fourteen hundred fifty-six
(XXV) Credit for qualified fuel cell electric generating equipment expenditures under subsection (g-2)	Amount of credit under subdivision thirty-seven of section two hundred ten or subsection (t) of section fourteen hundred fifty-six
(XXVI) Empire state commercial production credit under subsection (jj)	Amount of credit for qualified production costs in production of a qualified commercial under subdivision thirty-eight of section two hundred ten
(XXVII) Biofuel production tax credit under subsection (jj)	Amount of credit under subdivision thirty-eight of section two hundred ten
(XXVIII) Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision thirty-nine of section two hundred ten
(XXIX) Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision forty of [subsection] SECTION two hundred ten
(XXX) Credit for companies who provide transportation to individuals with disabilities under subsection (oo)	Amount of credit under subdivision forty of section two hundred ten
(XXXI) CREDIT FOR ON-THE-JOB TRAINING UNDER SUBSECTION (RR)	COSTS UNDER SUBDIVISION TWENTY-TWO-B OF SECTION TWO HUNDRED TEN

S 3. Section 606 of the tax law is amended by adding a new subsection (rr) to read as follows:

(RR) CREDIT FOR ON-THE-JOB TRAINING. (1) GENERAL. A TAXPAYER, WHO HAS ONE HUNDRED EMPLOYEES OR LESS, SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR PROVIDING ON-THE-JOB TRAINING TO AN EMPLOYEE.

(2) ON-THE-JOB TRAINING. ON-THE-JOB TRAINING SHALL MEAN TRAINING WHICH IS SPECIFIED IN AN AGREEMENT BETWEEN THE GRANTEE AND THE EMPLOYER AND INCLUDES BOTH WORK EXPERIENCE AND TRAINING, FORMALIZED IN AN OUTLINE DEFINING EACH TRAINING COMPONENT AND OUTCOMES OF THE TRAINING PROCESS.

(3) ON-THE-JOB TRAINING EXPENDITURES. ON-THE-JOB TRAINING EXPENDITURES SHALL INCLUDE EXPENDITURES FOR THE PURCHASE OF EITHER COMMERCIAL OR CUSTOMIZED INSTRUCTIONAL MATERIALS INCLUDING SOFTWARE, TEXTS, MANUALS OR EQUIPMENT THAT CAN BE USED TO SIMULATE JOB TASKS; PAYMENTS TO CONSULT-

ANTS, TRAINERS, OR INSTRUCTORS WHO ARE NOT EMPLOYEES OF THE FIRM; AND COSTS ASSOCIATED WITH THE USE, RENTAL, OR LEASE OF A CLASSROOM OR OTHER DEDICATED SPACE FOR THE TRAINING.

(4) AMOUNT OF CREDIT. A CREDIT SHALL BE ALLOWED FOR THE AMOUNT OF ON-THE-JOB TRAINING EXPENDITURES INCURRED BY AN EMPLOYER. THE AMOUNT OF CREDIT SHALL NOT EXCEED THREE HUNDRED DOLLARS PER EMPLOYEE FOR WHOM SUCH TRAINING HAS BEEN PROVIDED DURING THE TAXABLE YEAR IN WHICH SUCH EXPENDITURES WERE MADE.

(5) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH TAX YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 4. This act shall take effect immediately and shall apply to taxable years beginning on and after the first of January next succeeding the date on which it shall have become a law; provided, however that the empire state film production credit under subsection (gg), the empire state commercial production credit under subsection (jj) and the credit for companies who provide transportation to individuals with disabilities under subsection (oo) of section 606 of the tax law contained in section two of this act shall expire on the same date as provided in section 9 of part P of chapter 60 of the laws of 2004, as amended, section 10 of part V of chapter 62 of the laws of 2006, as amended and section 5 of chapter 522 of the laws of 2006, as amended, respectively.

PART K

Section 1. Subdivision 3 of section 425 of the real property tax law, as added by section 1 of part B of chapter 389 of the laws of 1997, paragraph (a) as amended by chapter 264 of the laws of 2000, paragraph (d) as added by chapter 443 of the laws of 2003, paragraph (e) as added by section 2 of part W of chapter 57 of the laws of 2008, is amended to read as follows:

3. Eligibility requirements. (a) Property use. To qualify for exemption pursuant to this section, the property must be a one, two or three family residence, a farm dwelling, A SMALL BUSINESS or residential property held in condominium or cooperative form of ownership. If the property is not an eligible type of property, but a portion of the property is partially used by the owner as a primary residence, that portion which is so used shall be entitled to the exemption provided by this section; provided that in no event shall the exemption exceed the assessed value attributable to that portion.

(b) Primary residence. The property must serve as the primary residence of one or more of the owners thereof, UNLESS SUCH PROPERTY IS OWNED BY A SMALL BUSINESS AS DEFINED IN PARAGRAPH (F) OF THIS SUBDIVISION.

(c) Trusts. If legal title to the property is held by one or more trustees, the beneficial owner or owners shall be deemed to own the property for purposes of this subdivision.

(d) Farm dwellings not owned by the resident. (i) If legal title to the farm dwelling is held by an S-corporation or by a C-corporation, the exemption shall be granted if the property serves as the primary residence of a shareholder of such corporation.

(ii) If the legal title to the farm dwelling is held by a partnership, the exemption shall be granted if the property serves as the primary residence of one or more of the partners.

(iii) Any information deemed necessary to establish shareholder or partner status for eligibility purposes shall be considered confidential and exempt from the freedom of information law.

(e) Dwellings owned by limited partnerships. (i) If legal title to a dwelling is held by a limited partnership, the exemption shall be granted if the property serves as the primary residence of one or more of the partners, provided that the limited partnership which holds title to the property does not engage in any commercial activity, that the limited partnership was lawfully created to hold title solely for estate planning and asset protection purposes, and that the partner or partners who primarily reside thereon personally pay all of the real property taxes and other costs associated with the property's ownership.

(ii) Any information deemed necessary to establish partner status for eligibility purposes shall be considered confidential and exempt from the freedom of information law.

(F) SMALL BUSINESSES. FOR THE PURPOSES OF THIS SUBDIVISION:

(I) THE TERM "SMALL BUSINESS" SHALL MEAN A BUSINESS WHICH EMPLOYS ONE HUNDRED PERSONS OR LESS AND IS LOCATED ON A NON-RESIDENTIAL PROPERTY USED PRIMARILY FOR COMMERCIAL PURPOSES. SUCH BUSINESS WILL ONLY BE ELIGIBLE FOR THE EXEMPTION IF IT DOES NOT RECEIVE EMPIRE ZONE REAL PROPERTY TAX BENEFITS PURSUANT TO SECTION FIFTEEN OF THE TAX LAW OR DOES NOT MAKE PAYMENTS IN LIEU OF TAXES TO THE PUBLIC SCHOOL DISTRICT IN WHICH SUCH SMALL BUSINESS IS LOCATED AT A RATE BELOW THE RATE APPLICABLE TO ALL OTHER PROPERTIES; AND

(II) THE TERM "COMMERCIAL" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION FOUR HUNDRED EIGHTY-NINE-AAA OF THIS ARTICLE.

S 2. This act shall take effect immediately and shall apply to all taxable years beginning on and after January 1, 2010.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgement shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through K of this act shall be as specifically set forth in the last section of such Parts.