

1123

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I N A S S E M B L Y

(PREFILED)

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Introduced by M. of A. BING, GUNTHER, LUPARDO, REILLY, GABRYSZAK, PHEFFER, PEOPLES-STOKES, SPANO, CAMARA, SCHIMMINGER, COLTON, JAFFEE, MILLMAN, MENG, HOOPER, TITONE, HEVESI, CASTRO -- Multi-Sponsored by -- M. of A. BARRON, GLICK, MAISEL, McENENY, SCHIMEL, WEISENBERG -- 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:

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

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1 (I) SOLAR ELECTRIC GENERATING EQUIPMENT WHICH SHALL MEAN AN ARRANGE-
2 MENT OR COMBINATION OF COMPONENTS UTILIZING SOLAR RADIATION TO PRODUCE
3 ENERGY DESIGNED TO PROVIDE HEATING, COOLING, HOT WATER OR ELECTRICITY.
4 SUCH ARRANGEMENT OR COMPONENTS SHALL NOT INCLUDE EQUIPMENT THAT IS PART
5 OF A NON-SOLAR ENERGY SYSTEM OR WHICH USES ANY SORT OF RECREATIONAL
6 FACILITY OR EQUIPMENT AS A STORAGE MEDIUM.

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

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

18 (3) THE TERM "GEOHERMAL RESOURCE TRANSFER SYSTEM" MEANS A SYSTEM
19 TRANSFERRING ENERGY THROUGH THE USE OF A RESOURCE IN NEW YORK STATE
20 INCLUDING:

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

23 (II) STEAM AND OTHER GASES, HOT WATER AND HOT BRINES RESULTING FROM
24 WATER, GAS, OR OTHER FLUIDS ARTIFICIALLY INTRODUCED INTO GEOHERMAL
25 FORMATIONS;

26 (III) HEAT OR OTHER ASSOCIATED ENERGY FOUND IN GEOHERMAL FORMATIONS;
27 AND

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

35 (4) THE TERM "FARM WASTE ELECTRIC GENERATING EQUIPMENT" MEANS EQUIP-
36 MENT THAT GENERATES ELECTRIC ENERGY FROM BIOGAS PRODUCED BY THE ANAERO-
37 BIC DIGESTION OF AGRICULTURAL WASTE, SUCH AS LIVESTOCK MANURE, FARMING
38 WASTES AND FOOD PROCESSING WASTES WITH A RATED CAPACITY OF NOT MORE THAN
39 FIVE HUNDRED KILOWATTS, THAT IS:

40 (I) MANUFACTURED, INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICA-
41 BLE GOVERNMENT AND INDUSTRY STANDARDS;

42 (II) CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN CONJUNCTION WITH
43 AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES;

44 (III) OPERATED IN COMPLIANCE WITH ANY STANDARDS AND REQUIREMENTS
45 ESTABLISHED UNDER THIS SECTION;

46 (IV) FUELED AT A MINIMUM OF NINETY PERCENT ON AN ANNUAL BASIS BY
47 BIOGAS PRODUCED FROM THE ANAEROBIC DIGESTION OF AGRICULTURAL WASTE SUCH
48 AS LIVESTOCK MANURE MATERIALS, CROP RESIDUES, AND FOOD PROCESSING WASTE;
49 AND

50 (V) FUELED BY BIOGAS GENERATED BY ANAEROBIC DIGESTION WITH AT LEAST
51 FIFTY PERCENT BY WEIGHT OF ITS FEEDSTOCK BEING LIVESTOCK MANURE MATERI-
52 ALS ON AN ANNUAL BASIS.

53 (5) THE TERM "CREDIT ALLOWANCE YEAR" MEANS THE FIRST TAXABLE YEAR WITH
54 RESPECT TO WHICH THE CREDIT MAY BE CLAIMED PURSUANT TO THE INITIAL CRED-
55 IT COMPONENT CERTIFICATE ISSUED PURSUANT TO SUBDIVISION (D) OF THIS
56 SECTION.

1 (6) THE TERM "TAXABLE YEAR" MEANS THE TAXABLE YEAR OF A BUSINESS
2 TAXPAYER FILING A NEW YORK STATE TAX RETURN UNDER ARTICLE NINE-A, TWEN-
3 TY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER. IF THE BUSINESS DOES
4 NOT HAVE A TAXABLE YEAR BECAUSE IT IS EXEMPT FROM TAXATION OR OTHERWISE
5 IS NOT REQUIRED TO FILE SUCH A RETURN UNDER ANY OF SUCH STATUTES, THE
6 TERM "TAXABLE YEAR" MEANS (I) THE BUSINESS'S FEDERAL TAXABLE YEAR, OR
7 (II) IF THE BUSINESS DOES NOT HAVE A FEDERAL TAXABLE YEAR, THE GIVEN
8 CALENDAR YEAR.

9 (7) "QUALIFIED EXPENDITURES" SHALL BE REMITTED COSTS FOR MATERIALS,
10 LABOR COSTS PROPERLY ALLOCABLE TO ON-SITE PREPARATION, ASSEMBLY AND
11 ORIGINAL INSTALLATION, ARCHITECTURAL AND ENGINEERING SERVICES, AND
12 DESIGNS AND PLANS DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION
13 OF SOLAR AND WIND ENERGY SYSTEM EQUIPMENT, SOLAR ELECTRIC GENERATING
14 EQUIPMENT, FUEL CELL ELECTRIC GENERATING EQUIPMENT, GEOTHERMAL RESOURCE
15 TRANSFER SYSTEM EQUIPMENT AND/OR FARM WASTE ELECTRIC GENERATING EQUIP-
16 MENT DIRECTLY RELATED TO THE CONSTRUCTION OR INSTALLATION OF SUCH EQUIP-
17 MENT INTENDED FOR THE ORIGINAL USE OF SAID TAXPAYER, AT, OR DIRECTLY
18 RELATED TO, A PROPERTY IN NEW YORK STATE THAT OPERATES AS THE SITUS OF A
19 BUSINESS ENTITY OF SAID TAXPAYER. SUCH QUALIFIED EXPENDITURES SHALL NOT
20 INCLUDE INTEREST OR OTHER FINANCE CHARGES WHETHER SUCH CHARGES ACCRUE AS
21 A RESULT OF LEASE OR OWNERSHIP OF SUCH EQUIPMENT. FOR PURPOSES OF
22 DETERMINING THE EXPENSES SERVING AS QUALIFIED EXPENDITURES UNDER THIS
23 SECTION, ANY AMOUNT OF FEDERAL, STATE OR LOCAL GRANT RECEIVED BY THE
24 TAXPAYER USED FOR THE PURCHASE AND/OR INSTALLATION OF SUCH EQUIPMENT AND
25 WHICH IS NOT INCLUDED IN THE FEDERAL GROSS INCOME OF THE TAXPAYER SHALL
26 NOT SERVE AS A QUALIFYING EXPENDITURE.

27 (C) ALLOWANCE OF CREDIT. (1) QUALIFIED ALTERNATIVE ENERGY SYSTEMS AND
28 GENERATING EQUIPMENT EXPENSES. QUALIFIED ALTERNATIVE ENERGY SYSTEMS AND
29 GENERATING EQUIPMENT EXPENSES ARE THOSE QUALIFIED EXPENDITURES GENERATED
30 FROM THE PURCHASE AND INSTALLATION OF ELIGIBLE EQUIPMENT AS ENUMERATED
31 IN SUBDIVISION (B) OF THIS SECTION.

32 (2) CREDIT FOR SOLAR AND WIND ENERGY SYSTEM EQUIPMENT. THE AMOUNT OF
33 CREDIT FOR THE PURCHASE AND INSTALLATION OF ELIGIBLE SOLAR AND WIND
34 ENERGY SYSTEM EQUIPMENT SHALL BE FIFTY PERCENT OF THE QUALIFIED EXPENSES
35 FOR TAXPAYERS UNDER ARTICLE NINE-A, THIRTY-TWO OR THIRTY-THREE, AND
36 FORTY-FIVE PERCENT OF THE QUALIFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE
37 TWENTY-TWO OF THIS CHAPTER, INCURRED IN PURCHASING AND INSTALLING ANY
38 SUCH SYSTEM OR COMBINATION THEREOF.

39 (3) CREDIT FOR FUEL CELL ELECTRIC GENERATING EQUIPMENT, GEOTHERMAL
40 RESOURCE TRANSFER SYSTEM EQUIPMENT AND/OR FARM WASTE ELECTRIC GENERATING
41 EQUIPMENT. THE AMOUNT OF CREDIT FOR THE PURCHASE AND INSTALLATION OF
42 ELIGIBLE FUEL CELL ELECTRIC GENERATING EQUIPMENT AND/OR GEOTHERMAL
43 RESOURCE TRANSFER SYSTEM EQUIPMENT SHALL BE FORTY-FIVE PERCENT OF THE
44 QUALIFIED EXPENSES FOR TAXPAYERS UNDER ARTICLE NINE, NINE-A, THIRTY-TWO
45 OR THIRTY-THREE, AND FORTY PERCENT OF THE QUALIFIED EXPENSES FOR TAXPAY-
46 ERS UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER, INCURRED IN PURCHASING AND
47 INSTALLING ANY SUCH SYSTEM.

48 (4) MULTIPLE TAXPAYERS. WHERE QUALIFYING EXPENDITURES ARE ACCUMULATED
49 FROM THE CONSTRUCTION AND/OR THE INSTALLATION OF QUALIFYING ALTERNATIVE
50 SYSTEMS AND GENERATING EQUIPMENT ARE SHARED BY TWO OR MORE TAXPAYERS,
51 THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SECTION SHALL BE PRORATED
52 ACCORDING TO THE PERCENTAGE OF THE TOTAL EXPENDITURE FOR SUCH EQUIPMENT
53 CONTRIBUTED BY EACH TAXPAYER.

54 (D) CREDIT QUALIFICATION. (1) REALIZATION OF CREDIT. CREDITS EARNED
55 UNDER THIS SECTION SHALL BE QUALIFYING EXPENDITURES INCURRED AFTER JANU-
56 ARY FIRST, TWO THOUSAND TWELVE, THAT ACCREDIT TO THE TAXPAYER'S CREDIT

1 ALLOWANCE YEAR AND EACH SUBSEQUENT TAXABLE YEAR ACCORDING TO THE
2 PROVISIONS OF SUBDIVISION (C) OF THIS SECTION.

3 (2) CREDIT COMPONENT CERTIFICATE. A TAXPAYER WHO WISHES TO MAKE AN
4 INITIAL CLAIM FOR CREDITS UNDER THIS SECTION SHALL SUBMIT AN APPLICATION
5 FOR A CREDIT COMPONENT CERTIFICATE TO THE DIRECTOR OF THE NEW YORK STATE
6 ENERGY RESEARCH AND DEVELOPMENT AUTHORITY UPON THE SUCCESSFUL INSTALLA-
7 TION AND OPERATION FOR AT LEAST THREE CONTINUOUS MONTHS OF ELIGIBLE
8 EQUIPMENT THAT RATE AS QUALIFIED EXPENDITURES. THE PRESIDENT OF THE NEW
9 YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, IN CONSULTATION
10 WITH THE COMMISSIONER AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVA-
11 TION, SHALL PRESCRIBE THE REQUIREMENTS FOR THE ACCEPTANCE OF SUCH APPLI-
12 CATION, BUT AT A MINIMUM THE APPLICATION SHALL LIST THE AMOUNT OF QUALI-
13 FYING EXPENDITURES, THE RATING CAPACITY IN KILOWATT HOURS OF SUCH
14 EQUIPMENT, AND THE ANTICIPATED REDUCTION IN THE USE OF CONVENTIONAL
15 ENERGY GENERATION SOURCES REALIZED THROUGH THE USE OF SUCH EQUIPMENT.
16 SUCH APPLICATION SHALL REQUIRE A FEE OF FIFTY DOLLARS FOR EACH FIVE
17 MILLION DOLLARS OF GROSS RECEIPTS LISTED BY THE TAXPAYER FOR THE TAXABLE
18 YEAR IMMEDIATELY PRECEDING THE INITIAL CREDIT ALLOWANCE YEAR AFTER THE
19 FIRST FIVE MILLION DOLLARS IN GROSS RECEIPTS FOR SUCH TAXABLE YEAR. ANY
20 EXPANSION OF ALTERNATIVE RATED CAPACITY ADHERING TO INCREASED QUALIFYING
21 EXPENDITURES BEYOND SUCH EXPENDITURES UTILIZED IN A PRIOR ACCEPTED
22 APPLICATION SHALL REQUIRE AN ADDITIONAL APPLICATION FOR FURTHER CREDIT
23 CLAIMS UNDER THIS SECTION.

24 (3) ISSUANCE OF CERTIFICATE. THE PRESIDENT OF THE NEW YORK STATE ENER-
25 GY RESEARCH AND DEVELOPMENT AUTHORITY SHALL REVIEW APPLICATIONS FILED
26 UNDER THIS SECTION TO VERIFY AN ELIGIBLE BUSINESS'S CLAIMED BENEFITS
27 UNDER THIS SECTION. THE PRESIDENT SHALL SUPPLY TO EACH COMPANY A CERTIF-
28 ICATE MARKING THE APPROVAL OF QUALIFYING EXPENSES FOR APPLICATION TO THE
29 COMMISSIONER FOR CREDITS UNDER THIS SECTION WITHIN NINETY DAYS OF THE
30 RECEIPT OF SUCH APPLICATION. A COPY OF THIS CERTIFICATE SHALL BE
31 ATTACHED TO ANY RETURNS SUCH TAXPAYER IS REQUIRED TO FILE UNDER THIS
32 CHAPTER. IF ANY EXPENSES USED AS PART OF THE CREDIT BASE OF QUALIFYING
33 EXPENDITURES ARE DENIED FOR SUCH CREDIT CLAIM BY THE PRESIDENT OF THE
34 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, SUCH DENIAL
35 SHALL BE REPORTED TO THE TAXPAYER AND THE COMMISSIONER WITH A DETAILED
36 EXPLANATION OF THE RATIONALE FOR SUCH DENIAL.

37 (4) REVOCATION OF BENEFITS. IN ADDITION TO ANY OTHER PENALTIES ENUMER-
38 ATED UNDER THIS CHAPTER, A VIOLATION OF THE TERMS OF THIS SUBDIVISION OR
39 ANY WILLFUL MISREPRESENTATION OF ANY OF THE TERMS OF THIS SECTION MAY
40 RESULT IN THE RESCINDING OF THE CERTIFICATE ISSUED UNDER THIS PARAGRAPH
41 AND A RECAPTURE OF CURRENT AND PREVIOUSLY RECEIVED BENEFITS. THE PRESI-
42 DENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY
43 SHALL REPORT TO THE COMMISSIONER ANY DETERMINATIONS OF VIOLATIONS OF THE
44 TERMS OF THIS SECTION. THE COMMISSIONER AND THE COMMISSIONER OF ENVI-
45 RONMENTAL CONSERVATION SHALL MAKE RECOMMENDATIONS TO THE PRESIDENT OF
46 THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY FOR THE
47 RESCINDING OF ANY CERTIFICATE ISSUED PURSUANT TO THIS SECTION THAT THE
48 COMMISSIONER OF ENVIRONMENTAL CONSERVATION DETERMINES RESULTS FROM A
49 WILLFUL FALSE CLAIM OF THE CAPABILITIES OR AMOUNT OF QUALIFYING EXPENDI-
50 TURES OF SOLAR AND WIND ENERGY SYSTEM EQUIPMENT AND FUEL CELL ELECTRIC
51 GENERATING EQUIPMENT.

52 (5) EARLY DISPOSITION. THE DISCONTINUED USE OF ANY SOLAR AND WIND
53 ENERGY SYSTEM EQUIPMENT, FUEL CELL ELECTRIC GENERATING EQUIPMENT, GEOTH-
54 ERMAL RESOURCE TRANSFER SYSTEM EQUIPMENT OR FARM WASTE ELECTRIC GENERAT-
55 ING EQUIPMENT WITHIN FIVE YEARS OF THE CREDIT ALLOWANCE YEAR SHALL
56 RESULT IN THE RECAPTURE OF CURRENT AND PREVIOUSLY RECEIVED BENEFITS

1 UNLESS SUCH DISPOSITION IS DUE TO THE INOPERATIVENESS OF SUCH EQUIPMENT
 2 BEYOND ANY REASONABLE CONTROL OR EFFORTS OF THE TAXPAYER OR THE REPLACE-
 3 MENT OF SUCH EQUIPMENT BY MORE EFFICIENT AND TECHNICALLY ADVANCED ALTER-
 4 NATIVE ENERGY SYSTEMS APPROVED BY THE COMMISSIONER OF ENVIRONMENTAL
 5 CONSERVATION AND THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND
 6 DEVELOPMENT AUTHORITY. SUCH EARLY DISPOSITION SHALL NOT INCLUDE THE
 7 TRANSFER OF OWNERSHIP INTEREST OF THE PROPERTY SUCH EQUIPMENT OPERATES
 8 WITHIN UNLESS THE TRANSFER RESULTS IN THE CESSATION OF THE OPERATION OF
 9 SUCH EQUIPMENT WITHIN FIVE YEARS OF THE CREDIT ALLOWANCE YEAR. THE
 10 TAXPAYER SHALL ANNUALLY ATTEST TO THE PRESIDENT OF THE NEW YORK STATE
 11 ENERGY RESEARCH AND DEVELOPMENT AUTHORITY THAT SUCH EQUIPMENT REMAINS IN
 12 QUALIFYING USE.

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

- 15 (1) ARTICLE 9-A: SECTION 210, SUBDIVISION 43
- 16 (2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (SS)
- 17 (3) ARTICLE 32: SECTION 1456, SUBSECTION (X)
- 18 (4) ARTICLE 33: SECTION 1511, SUBDIVISION (AA).

19 S 2. Section 210 of the tax law is amended by adding a new subdivision
 20 43 to read as follows:

21 43. ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. A
 22 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN
 23 SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS
 24 ARTICLE. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
 25 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER
 26 AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS
 27 SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVI-
 28 SION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF
 29 CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR YEARS MAY BE CARRIED OVER
 30 TO ANY OR ALL OF THE FOLLOWING FIVE TAXABLE YEARS AND MAY BE DEDUCTED
 31 FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

32 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 33 of the tax law is amended by adding a new clause (xxxii) to read as
 34 follows:

35 (XXXII) CREDIT FOR ALTERNATIVE	QUALIFYING EXPENDITURES
36 ENERGY SYSTEMS AND	UNDER SUBDIVISION FORTY-THREE
37 GENERATING EQUIPMENT	OF SECTION TWO HUNDRED
38 UNDER SUBSECTION (SS)	TEN

39 S 4. Section 606 of the tax law is amended by adding a new subsection
 40 (ss) to read as follows:

41 (SS) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1)
 42 ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE
 43 COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST
 44 THE TAX IMPOSED BY THIS ARTICLE.

45 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
 46 THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR
 47 SUCH YEAR, SUCH EXCESS AMOUNT MAY BE CARRIED OVER TO ANY OR ALL OF THE
 48 FOLLOWING FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR WITH
 49 RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE
 50 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

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

53 (X) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1)
 54 ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE

1 COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST
2 THE TAX IMPOSED BY THIS ARTICLE.

3 (2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBSECTION
4 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
5 THAN THE MINIMUM TAX FIXED BY PARAGRAPH THREE OF SUBSECTION (B) OF
6 SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE
7 AMOUNT OF CREDITS ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR
8 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE
9 IN SUCH TAXABLE YEAR OR YEARS MAY BE CARRIED OVER TO ANY OR ALL OF THE
10 FOLLOWING FIVE TAXABLE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX
11 FOR SUCH YEAR OR YEARS.

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

14 (AA) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1)
15 ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE
16 COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST
17 THE TAXES IMPOSED BY THIS ARTICLE.

18 (2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
19 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
20 THAN THE MINIMUM FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION
21 FIFTEEN HUNDRED TWO OR SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE.
22 HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY
23 TAXABLE YEAR REDUCED THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS
24 NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR YEARS MAY BE CARRIED OVER TO ANY
25 OR ALL OF THE FOLLOWING FIVE TAXABLE YEARS AND MAY BE DEDUCTED FROM THE
26 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

27 S 7. This act shall take effect immediately and shall apply to taxa-
28 ble years commencing on and after January 1, 2011.