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I N S E N A T E

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Introduced by Sens. MAZIARZ, GRISANTI -- read twice and ordered printed,  
and when printed to be committed to the Committee on Investigations  
and Government Operations

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 ASSEM-  
BLY, 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 "FARM WASTE ELECTRIC GENERATING EQUIPMENT" MEANS EQUIP-  
32 MENT THAT GENERATES ELECTRIC ENERGY FROM BIOGAS PRODUCED BY THE ANAERO-  
33 BIC DIGESTION OF AGRICULTURAL WASTE, SUCH AS LIVESTOCK MANURE, FARMING  
34 WASTES AND FOOD PROCESSING WASTES WITH A RATED CAPACITY OF NOT MORE THAN  
35 FIVE HUNDRED KILOWATTS, THAT IS:

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

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

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

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

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

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

53 (6) THE TERM "TAXABLE YEAR" MEANS THE TAXABLE YEAR OF A BUSINESS  
54 TAXPAYER FILING A NEW YORK STATE TAX RETURN UNDER ARTICLE NINE-A, TWEN-  
55 TY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER. IF THE BUSINESS DOES  
56 NOT HAVE A TAXABLE YEAR BECAUSE IT IS EXEMPT FROM TAXATION OR OTHERWISE

1 IS NOT REQUIRED TO FILE SUCH A RETURN UNDER ANY OF SUCH STATUTES, THE  
2 TERM "TAXABLE YEAR" MEANS (I) THE BUSINESS'S FEDERAL TAXABLE YEAR, OR  
3 (II) IF THE BUSINESS DOES NOT HAVE A FEDERAL TAXABLE YEAR, THE GIVEN  
4 CALENDAR YEAR.

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

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

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

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

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

50 (D) CREDIT QUALIFICATION. (1) REALIZATION OF CREDIT. CREDITS EARNED  
51 UNDER THIS SECTION SHALL BE QUALIFYING EXPENDITURES INCURRED AFTER JANU-  
52 ARY FIRST, TWO THOUSAND TWELVE, THAT ACCREDIT TO THE TAXPAYER'S CREDIT  
53 ALLOWANCE YEAR AND EACH SUBSEQUENT TAXABLE YEAR ACCORDING TO THE  
54 PROVISIONS OF SUBDIVISION (C) OF THIS SECTION.

55 (2) CREDIT COMPONENT CERTIFICATE. A TAXPAYER WHO WISHES TO MAKE AN  
56 INITIAL CLAIM FOR CREDITS UNDER THIS SECTION SHALL SUBMIT AN APPLICATION

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

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

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

48 (5) EARLY DISPOSITION. THE DISCONTINUED USE OF ANY SOLAR AND WIND  
49 ENERGY SYSTEM EQUIPMENT, FUEL CELL ELECTRIC GENERATING EQUIPMENT, GEOTH-  
50 ERMAL RESOURCE TRANSFER SYSTEM EQUIPMENT OR FARM WASTE ELECTRIC GENERAT-  
51 ING EQUIPMENT WITHIN FIVE YEARS OF THE CREDIT ALLOWANCE YEAR SHALL  
52 RESULT IN THE RECAPTURE OF CURRENT AND PREVIOUSLY RECEIVED BENEFITS  
53 UNLESS SUCH DISPOSITION IS DUE TO THE INOPERATIVENESS OF SUCH EQUIPMENT  
54 BEYOND ANY REASONABLE CONTROL OR EFFORTS OF THE TAXPAYER OR THE REPLACE-  
55 MENT OF SUCH EQUIPMENT BY MORE EFFICIENT AND TECHNICALLY ADVANCED ALTER-  
56 NATIVE ENERGY SYSTEMS APPROVED BY THE COMMISSIONER OF ENVIRONMENTAL

1 CONSERVATION AND THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND  
 2 DEVELOPMENT AUTHORITY. SUCH EARLY DISPOSITION SHALL NOT INCLUDE THE  
 3 TRANSFER OF OWNERSHIP INTEREST OF THE PROPERTY SUCH EQUIPMENT OPERATES  
 4 WITHIN UNLESS THE TRANSFER RESULTS IN THE CESSATION OF THE OPERATION OF  
 5 SUCH EQUIPMENT WITHIN FIVE YEARS OF THE CREDIT ALLOWANCE YEAR. THE  
 6 TAXPAYER SHALL ANNUALLY ATTEST TO THE PRESIDENT OF THE NEW YORK STATE  
 7 ENERGY RESEARCH AND DEVELOPMENT AUTHORITY THAT SUCH EQUIPMENT REMAINS IN  
 8 QUALIFYING USE.

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

- 11 (1) ARTICLE 9-A: SECTION 210, SUBDIVISION 43
- 12 (2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (SS)
- 13 (3) ARTICLE 32: SECTION 1456, SUBSECTION (X)
- 14 (4) ARTICLE 33: SECTION 1511, SUBDIVISION (AA).

15 S 2. Section 210 of the tax law is amended by adding a new subdivision  
 16 43 to read as follows:

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

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

31 (XXXII) CREDIT FOR ALTERNATIVE	QUALIFYING EXPENDITURES
32 ENERGY SYSTEMS AND	UNDER SUBDIVISION FORTY-THREE
33 GENERATING EQUIPMENT	OF SECTION TWO HUNDRED
34 UNDER SUBSECTION (SS)	TEN

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

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

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

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

49 (X) ALTERNATIVE ENERGY SYSTEMS AND GENERATING EQUIPMENT CREDIT. (1)  
 50 ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE  
 51 COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT-A OF THIS CHAPTER, AGAINST  
 52 THE TAX IMPOSED BY THIS ARTICLE.

53 (2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBSECTION  
 54 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
 55 THAN THE MINIMUM TAX FIXED BY PARAGRAPH THREE OF SUBSECTION (B) OF

1 SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE  
2 AMOUNT OF CREDITS ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR  
3 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE  
4 IN SUCH TAXABLE YEAR OR YEARS MAY BE CARRIED OVER TO ANY OR ALL OF THE  
5 FOLLOWING FIVE TAXABLE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX  
6 FOR SUCH YEAR OR YEARS.

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

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

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

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