

# STATE OF NEW YORK

9578

## IN SENATE

March 26, 2026

Introduced by Sen. PALUMBO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the energy law, in relation to establishing the New York state energy savings program, authorizing the establishment of energy savings accounts; and to amend the tax law, in relation to establishing a personal income tax deduction for deposits into such accounts

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

1 Section 1. The energy law is amended by adding a new article 13 to  
2 read as follows:

### ARTICLE 13

#### NEW YORK STATE ENERGY

#### SAVINGS PROGRAM

3 Section 13-101. Program established.

4 13-102. Purposes.

5 13-103. Definitions.

6 13-104. Functions of the comptroller.

7 13-105. Powers of the comptroller.

8 13-106. Program requirements; energy savings account.

9 13-107. Program limitations; energy savings account.

10 § 13-101. Program established. There is hereby established an energy  
11 savings program and such program shall be known and may be cited as the  
12 "New York state energy savings program".

13 § 13-102. Purposes. The purposes of the program shall be to authorize  
14 the establishment of energy savings accounts and to provide guidelines  
15 for the maintenance of such accounts to:

16 1. enable residents of this state to benefit from the tax incentive  
17 provided for qualified state energy savings accounts under section six  
18 hundred twelve of the tax law; and

19 2. incentivize residents to save for the purchase of qualified energy  
20 expenses as detailed herein.

21 § 13-103. Definitions. As used in this article, the following terms  
22 shall have the following meanings:

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

25 LBD15322-02-6

1 1. "Account" or "energy savings account" shall mean an individual  
2 savings account established in accordance with the provisions of this  
3 article for the exclusive benefit of the account owner.

4 2. "Account owner" shall mean a taxpayer who enters into an energy  
5 savings agreement pursuant to the provisions of this article.

6 3. "Designated beneficiary" shall mean, with respect to an account or  
7 accounts, the designated individual or individuals whose energy  
8 purchase expenses are expected to be paid from the account or accounts.

9 4. "Financial organization" shall mean an organization authorized to  
10 do business in the state, and (a) which is an authorized fiduciary to  
11 act as a trustee pursuant to the provisions of an act of congress enti-  
12 tled "Employee Retirement Income Security Act of 1974", as such  
13 provisions may be amended from time to time, or an insurance company;  
14 and (b)(i) is licensed or chartered by the department of financial  
15 services, (ii) is chartered by an agency of the federal government,  
16 (iii) is subject to the jurisdiction and regulation of the securities  
17 and exchange commission of the federal government, (iv) is any other  
18 entity otherwise authorized to act in this state as a trustee pursuant  
19 to the provisions of an act of congress entitled "Employee Retirement  
20 Income Security Act of 1974", as such provisions may be amended from  
21 time to time, (v) or any banking organization as defined in subdivision  
22 eleven of section two of the banking law, national banking association,  
23 state chartered credit union, federal mutual savings bank, federal  
24 savings and loan association or federal credit union.

25 5. "Program" shall mean the New York energy savings program estab-  
26 lished pursuant to this article.

27 6. "Qualified energy purchase expenses" shall mean monies applied for  
28 the purchase of the following: energy efficiency upgrades for residen-  
29 tial buildings based upon expenditures in compliance with the state  
30 energy conservation construction code pursuant to article eleven of  
31 this chapter, or upon expenditures in compliance with the New York state  
32 uniform fire prevention and building code act pursuant to article eigh-  
33 teen of the executive law, expenditures to purchase a battery powered  
34 electric vehicle for personal use or expenditures to purchase vehicle  
35 charging infrastructure for residential use subject to rules or regu-  
36 lations promulgated by New York state energy research and development  
37 authority to identify such qualified energy expenses or payments to meet  
38 outstanding unpaid utility bills.

39 7. "Qualified withdrawal" shall mean a withdrawal from an account to  
40 pay the qualified energy purchase expense of the account owner.

41 8. "Nonqualified withdrawal" shall mean a withdrawal from an account  
42 but shall not include:

43 (a) a qualified withdrawal;

44 (b) a withdrawal made as the result of death;

45 (c) an unforeseeable emergency; or

46 (d) need based upon qualifying for military service in the armed forc-  
47 es of the United States as determined by rules and regulations promul-  
48 gated by the comptroller.

49 9. "Comptroller" shall mean the state comptroller.

50 10. "Management contract" shall mean the contract executed by the  
51 comptroller and a financial organization selected to act as a depository  
52 and manager of the program.

53 11. "Energy savings agreement" shall mean an agreement between the  
54 comptroller or a financial organization and the account owner.

55 12. "Program manager" shall mean a financial organization selected by  
56 the comptroller to act as a depository and manager of the program.

1 13. "Commissioner" shall mean the commissioner of taxation and  
2 finance.

3 § 13-104. Functions of the comptroller. 1. The comptroller shall  
4 implement the program under the terms and conditions established by this  
5 article and a memorandum of understanding with the commissioner relating  
6 to any terms or conditions not otherwise expressly provided for in this  
7 article.

8 2. In furtherance of such implementation the comptroller shall:

9 (a) develop and implement the program in a manner consistent with the  
10 provisions of this article through rules and regulations established in  
11 accordance with the state administrative procedure act;

12 (b) engage the services of consultants on a contract basis for render-  
13 ing professional and technical assistance and advice;

14 (c) seek rulings and other guidance from the United States Department  
15 of Treasury and the Internal Revenue Service relating to the program;

16 (d) make changes to the program required for the participants in the  
17 program to obtain the state income tax benefits or treatment provided by  
18 this article;

19 (e) charge, impose and collect administrative fees and service charges  
20 in connection with any agreement, contract or transaction relating to  
21 the program;

22 (f) develop marketing plans and promotion materials;

23 (g) establish the methods by which the funds held in such accounts be  
24 disbursed;

25 (h) establish the method by which funds shall be allocated to pay for  
26 administrative costs; and

27 (i) do all things necessary and proper to carry out the purposes of  
28 this article.

29 § 13-105. Powers of the comptroller. 1. The comptroller may implement  
30 the program through use of financial organizations as account deposito-  
31 ries and managers. Under the program, an account owner may establish  
32 accounts directly with an account depository.

33 2. The comptroller may solicit proposals from financial organizations  
34 to act as depositories and managers of the program. Financial organiza-  
35 tions submitting proposals shall describe the investment instrument  
36 which will be held in accounts. The comptroller shall select as program  
37 depositories and managers the financial organization, from among the  
38 bidding financial organizations that demonstrates the most advantageous  
39 combination, both to potential program participants and this state, of  
40 the following factors:

41 (a) financial stability and integrity of the financial organization;

42 (b) the safety of the investment instrument being offered;

43 (c) the ability of the financial organization to satisfy recordkeeping  
44 and reporting requirements;

45 (d) the financial organization's plan for promoting the program and  
46 the investment it is willing to make to promote the program;

47 (e) the fees, if any, proposed to be charged to persons for opening  
48 accounts;

49 (f) the minimum initial deposit and minimum contributions that the  
50 financial organization will require;

51 (g) the ability of banking organizations to accept electronic with-  
52 drawals, including payroll deduction plans; and

53 (h) other benefits to the state or its residents included in the  
54 proposal, including fees payable to the state to cover expenses of oper-  
55 ation of the program.

1 3. The comptroller may enter into a contract with a financial organ-  
2 ization. Such financial organization management may provide one or more  
3 types of investment instrument.

4 4. The comptroller may select more than one financial organization for  
5 the program.

6 5. A management contract shall include, at a minimum, terms requiring  
7 the financial organization to:

8 (a) take any action required to keep the program in compliance with  
9 requirements of section 13-106 of this article and any actions not  
10 contrary to its contract to manage the program to qualify as an "energy  
11 savings account" under paragraph forty-eight of subsection (c) of  
12 section six hundred twelve of the tax law;

13 (b) keep adequate records of each account, keep each account segre-  
14 gated from each other account, and provide the comptroller with the  
15 information necessary to prepare the statements required by section  
16 13-106 of this article;

17 (c) compile and total information contained in statements required to  
18 be prepared under section 13-106 of this article and provide such compi-  
19 lations to the comptroller;

20 (d) if there is more than one program manager, provide the comptroller  
21 with such information necessary to determine compliance with section  
22 13-106 of this article;

23 (e) provide the comptroller or such comptroller's designee access to  
24 the books and records of the program manager to the extent needed to  
25 determine compliance with the contract;

26 (f) hold all accounts for the benefit of the account owner;

27 (g) be audited at least annually by a firm of certified public  
28 accountants selected by the program manager and that the results of such  
29 audit be provided to the comptroller;

30 (h) provide the comptroller with copies of all regulatory filings and  
31 reports made by it during the term of the management contract or while  
32 it is holding any accounts, other than confidential filings or reports  
33 that will not become part of the program. The program manager shall make  
34 available for review by the comptroller the results of any periodic  
35 examination of such manager by any state or federal banking, insurance  
36 or securities commission, except to the extent that such report or  
37 reports may not be disclosed under applicable law or the rules of such  
38 commission; and

39 (i) ensure that any description of the program, whether in writing or  
40 through the use of any media, is consistent with the marketing plan as  
41 developed pursuant to the provisions of section 13-104 of this article.

42 6. The comptroller may provide that an audit shall be conducted of the  
43 operations and financial position of the program depository and manager  
44 at any time if the comptroller has any reason to be concerned about the  
45 financial position, the recordkeeping practices, or the status of  
46 accounts of such program depository and manager.

47 7. During the term of any contract with a program manager, the comp-  
48 troller shall conduct an examination of such manager and its handling of  
49 accounts. Such examination shall be conducted at least biennially if  
50 such manager is not otherwise subject to periodic examination by the  
51 superintendent of financial services, the federal deposit insurance  
52 corporation or other similar entity.

53 8. (a) If selection of a financial organization as a program manager  
54 or depository is not renewed, after the end of its term:

55 (i) accounts previously established and held in investment instruments  
56 at such financial organization may be terminated;

1 (ii) additional contributions may be made to such accounts;  
2 (iii) no new accounts may be placed with such financial organization;  
3 and  
4 (iv) existing accounts held by such depository shall remain subject to  
5 all oversight and reporting requirements established by the comptroller.

6 (b) If the comptroller terminates a financial organization as a  
7 program manager or depository, such comptroller shall take custody of  
8 accounts held by such financial organization and shall seek to promptly  
9 transfer such accounts to another financial organization that is  
10 selected as a program manager or depository and into investment instru-  
11 ments as similar to the original instruments as possible.

12 9. The comptroller may enter into such contracts as it deems necessary  
13 and proper for the implementation of the program.

14 § 13-106. Program requirements; energy savings account. 1. Energy  
15 savings accounts established pursuant to the provisions of this article  
16 shall be governed by the provisions of this section.

17 2. An energy savings account may be opened by any person who desires  
18 to save money for the payment of the qualified energy expenses of the  
19 account owner or designated beneficiary. An account owner may designate  
20 another person as successor owner of the account in the event of the  
21 death of the original account owner. Such person who opens an account or  
22 any successor owner shall be considered the account owner.

23 (a) An application for such account shall be in the form prescribed by  
24 the program and contain the following:

25 (i) the name, address and social security number or employer identifi-  
26 cation number of the account owner;

27 (ii) the designation of a designated beneficiary;

28 (iii) the name, address, and social security number of the designated  
29 beneficiary; and

30 (iv) such other information as the program may require.

31 (b) The comptroller and the corporation may establish a nominal fee  
32 for such application.

33 3. Any person, including the account owner, may make contributions to  
34 the account after the account is opened.

35 4. Contributions to accounts may be made only in cash.

36 5. An account owner may withdraw all or part of the balance from an  
37 account as authorized under rules governing the program. Such rules  
38 shall include provisions that will generally enable the determination as  
39 to whether a withdrawal is a nonqualified withdrawal or a qualified  
40 withdrawal.

41 6. (a) An account owner may change the designated beneficiary of an  
42 account in accordance with procedures established by the memorandum of  
43 understanding pursuant to the provisions of section 13-104 of this arti-  
44 cle.

45 (b) An account owner may transfer all or a portion of an account to  
46 another energy savings account.

47 (c) Changes in designated beneficiaries and transfers under this  
48 subdivision shall not be permitted to the extent that they would cause  
49 all accounts for the same beneficiary to exceed the permitted aggregate  
50 maximum account balance.

51 7. The program shall provide separate accounting for each designated  
52 beneficiary.

53 8. No account owner or designated beneficiary of any account shall be  
54 permitted to direct the investment of any contributions to an account or  
55 the earnings thereon more than two times in any calendar year.

1 9. Neither an account owner nor a designated beneficiary may use an  
2 interest in an account as security for a loan. Any pledge of an interest  
3 in an account shall be of no force and effect.

4 10. The comptroller shall promulgate rules or regulations to prevent  
5 contributions on behalf of a designated beneficiary in excess of an  
6 amount that would cause the aggregate account balance for all accounts  
7 for a designated beneficiary to exceed a maximum account balance, as  
8 established from time to time by the comptroller.

9 11. Contributions to an energy savings account shall be limited to one  
10 hundred thousand dollars per account. This amount shall not take into  
11 consideration any gain or loss to the principal investment into the  
12 account.

13 12. In the event that an individual makes a nonqualified withdrawal of  
14 monies from the energy savings account such individual shall have the  
15 entire account taxed, including any interest, as though it was income at  
16 the account owner's federal tax rate in the tax years the monies were  
17 withdrawn, and incur an additional ten percent state penalty on the  
18 amount of earnings. In the event account owners or designated benefi-  
19 ciary does not use the qualified energy expenditures the account owner  
20 shall have the entire account taxed, including any interest, as though  
21 it was ordinary income at the account owner's federal tax rate in the  
22 tax years the monies were withdrawn and incur an additional ten percent  
23 state penalty on the amount of earnings. The penalty shall be in addi-  
24 tion to any taxes due pursuant to a non-qualified withdrawal from an  
25 energy savings account.

26 13. Withdrawals from the account during a period of less than twelve  
27 months from the date such account was created shall be considered a  
28 nonqualified withdrawal.

29 14. Penalties may be waived by the commissioner if the individual can  
30 show proof that the reason the individual did not use the qualified  
31 energy expenditures was due to either:

32 (a) an employment relocation outside the state and such relocation  
33 required the individual to become a resident of another state;

34 (b) an unforeseeable emergency;

35 (c) an absence due to qualifying military service; or

36 (d) death.

37 For purposes of this subdivision, an "unforeseeable emergency" shall  
38 mean a severe financial hardship resulting from illness, accident or  
39 property loss to the account owner, or such account owner's dependents  
40 resulting in circumstances beyond their control. The circumstances that  
41 constitute an unforeseeable financial emergency will depend on the facts  
42 of each case, however, withdrawal of account funds may not be made,  
43 without penalty, to the extent that such hardship is or may be relieved  
44 by either:

45 (i) reimbursement or compensation by insurance or otherwise; or

46 (ii) liquidation of the individual's assets to the extent the liqui-  
47 ation of such assets would not itself cause severe financial hardship.

48 15. The commissioner and the comptroller are directed to promulgate  
49 all rules and regulations necessary to implement the provisions of this  
50 subdivision and are hereby directed to establish, supervise and regulate  
51 energy savings accounts authorized to be created by this section.

52 16. (a) If there is any distribution from an energy savings account to  
53 any individual or for the benefit of any individual during a calendar  
54 year, such distribution shall be reported to the Internal Revenue  
55 Service and the account owner, the designated beneficiary, or the  
56 distributee to the extent required by federal law or regulation.

1 (b) Statements shall be provided to each account owner at least once  
2 each year within sixty days after the end of the twelve-month period to  
3 which they relate. The statement shall identify the contributions made  
4 during a preceding twelve-month period, the total contributions made to  
5 the account through the end of the period, the value of the account at  
6 the end of such period, distributions made during such period and any  
7 other information that the comptroller shall require to be reported to  
8 the account owner.

9 (c) Statements and information relating to accounts shall be prepared  
10 and filed to the extent required by federal and state tax laws.

11 17. An annual fee may be imposed upon the account owner for the main-  
12 tenance of the account.

13 18. The program shall disclose the following information in writing to  
14 each account owner of an energy savings account:

15 (a) the terms and conditions for establishing an energy savings  
16 account;

17 (b) any restrictions on the substitution of beneficiaries;

18 (c) the person or entity entitled to terminate the energy savings  
19 agreement;

20 (d) the period of time during which a beneficiary may receive benefits  
21 under the energy savings agreement;

22 (e) the terms and conditions under which money may be wholly or  
23 partially withdrawn from the program, including, but not limited to, any  
24 reasonable charges and fees that may be imposed for withdrawal;

25 (f) the probable tax consequences associated with contributions to and  
26 distributions from accounts; and

27 (g) all other rights and obligations pursuant to energy savings agree-  
28 ments, and any other terms, conditions, and provisions deemed necessary  
29 and appropriate by the terms of the memorandum of understanding entered  
30 into pursuant to section 13-104 of this article.

31 19. Energy savings agreements shall be subject to section fourteen-c  
32 of the banking law and the "truth-in-savings" regulations promulgated  
33 thereunder.

34 20. Nothing in this article or in any energy savings agreement entered  
35 into pursuant to this article shall be construed as a guarantee by the  
36 state that the account owner or designated beneficiary will qualify for  
37 the purchase of a qualified energy expense.

38 21. Monies withdrawn from energy savings accounts and any interest  
39 which has accrued shall not be considered as taxable income to the  
40 account owner for state personal income taxation purposes, so long as  
41 the monies are applied for the purchase of a qualified energy expense by  
42 the account owner or designated beneficiary of the account.

43 § 13-107. Program limitations; energy savings account. 1. Nothing in  
44 this article shall be construed to:

45 (a) give any designated beneficiary any rights or legal interest with  
46 respect to an account unless the designated beneficiary is the account  
47 owner;

48 (b) guarantee that the account owner or designated beneficiary will be  
49 financially qualified for purchase of a qualified energy expense; or

50 (c) create state residency for an individual merely because the indi-  
51 vidual is a designated beneficiary.

52 2. (a) Nothing in this article shall create or be construed to create  
53 any obligation of the comptroller, the state, or any agency or instru-  
54 mentality of the state to guarantee for the benefit of the account owner  
55 or designated beneficiary with respect to:

56 (i) the rate of interest or other return on any account; and

1 (ii) the payment of interest or other return on any account.

2 (b) The comptroller by rule or regulation shall provide that every  
3 contract, application, deposit slip or other similar document that may  
4 be used in connection with a contribution to an account clearly indicate  
5 that the account is not insured by the state and neither the principal  
6 deposited nor the investment return is guaranteed by the state.

7 § 2. Subsection (c) of section 612 of the tax law is amended by adding  
8 two new paragraphs 48 and 49 to read as follows:

9 (48) Contributions made during the taxable year by an account owner to  
10 an energy savings account established under the New York state energy  
11 savings program to the extent not deductible or eligible for credit for  
12 federal income tax purposes, provided, however, the exclusion provided  
13 for in this paragraph shall not exceed five thousand dollars for an  
14 individual or head of household, and for married couples who file joint  
15 tax returns, shall not exceed ten thousand dollars; provided, further  
16 that such exclusion shall be available only to the account owner and not  
17 to any other person. A taxpayer with an adjusted gross income in excess  
18 of two hundred fifty percent of the area median income as defined by the  
19 U.S. Department of Housing and Urban Development shall not be eligible  
20 for the tax deduction pursuant to this section.

21 (49) Distributions from an energy savings account established under  
22 the New York state energy savings program provided for under article  
23 thirteen of the energy law, to the extent includible in gross income for  
24 federal income tax purposes.

25 § 3. This act shall take effect on the one hundred eightieth day after  
26 it shall have become a law, and shall apply to taxable years commencing  
27 on or after the first of January next succeeding the date on which it  
28 shall have become a law; provided, however, that effective immediately,  
29 the commissioner of taxation and finance and the state comptroller are  
30 authorized to promulgate any rules or regulations necessary to implement  
31 the provisions of this act on its effective date on or before such date.