

Amend Senate S.6295, Assembly A.9295, A BUDGET BILL, AN ACT to amend the tax law, the general city law and the public authorities law, in relation to providing...

Page 1 Title After ";", Insert: "and in relation to providing a credit under articles 9-A and 22 for taxes paid on energy sources consumed by industrial and manufacturing businesses"

Page 2 Title After "(S)", Insert: ";and to amend the tax law, in relation to exempting certain vehicle emissions inspection equipment from sales and compensating use taxes imposed by article 28 of such law and pursuant to the authority of article 29 thereof and to provide a refund or credit of such taxes for such equipment in certain circumstances(T)"

Page 2 Line 4 Delete: "S", insert "T"

Page 7 Line 6 Delete: "one-half", insert: "four-tenths"

Line 7 After "thousand," Insert
"through December thirty-first, two thousand, two and four-tenths percent from January first, two thousand one through December thirty-first, two thousand one, two percent from January first, two thousand two through December thirty-first, two thousand two, one and five-tenths percent from January first, two thousand three through December thirty-first, two thousand three, seven-tenths of one percent from January first, two thousand four through December thirty-first, two thousand four and zero percent commencing January first, two thousand five, "

Line 10 Delete: "one-tenth", insert: "four-tenths"

Line 11 Delete: "one-tenth", insert: "four-tenths"

Line 13 Delete: "one and seven-tenths", insert "two"

Line 14 Delete: "eight-tenths of one", insert "one and five-tenths"

Line 16 Delete: "four-tenths", insert "seven-tenths"

Line 29 Delete: "one-tenth", insert: "four-tenths"

Line 31 Delete: "one-tenth", insert: "four-tenths"

Line 33 Delete: "one and seven-tenths", insert "two"

Line 34 Delete: "eight-tenths of one", insert "one and five-tenths"

Line 36 Delete: "four-tenths", insert "seven-tenths"

Page 10 Line 40 Delete "["

Line 41 Before "not", Insert "["

Line 41 After "not", Insert "]"

Line 42 After "customers", Insert ". ["

Line 43 After "]", insert:

" Upon request the utility shall furnish a statement of the amount of tax imposed by this section to its customers for bills rendered on or after January first 2000."

Page 10-16	Line 44	Delete section 5
Page 16	Line 36	Delete "6", insert "5"
Page 17	Line 11	Delete "(i)"
	Lines 13-16	Delete " <u>and (ii) the tax imposed under paragraph (b) of subdivision one of section one hundred eighty-six-a of this article on gross income derived from the transportation, transmission or distribution of gas or electricity,</u> "
	Line 20	Delete "7", insert "6"
	Line 26	Delete: " <u>one-tenth</u> ", insert: " <u>four-tenths</u> "
	Line 28	Delete: " <u>one and seven-tenths</u> ", insert " <u>two</u> "
	Line 30	Delete: " <u>eight-tenths of one</u> ", insert " <u>one and five-tenths</u> "
	Line 32	Delete: " <u>four-tenths</u> ", insert " <u>seven-tenths</u> "
	Line 38	Delete "7-a", insert "6-a"
	Line 39	Delete "8", insert "7"
	Line 40	Delete "9", insert "8"
Page 18	Line 1	Delete "10", insert "9"
	Line 28	Delete "11", insert "10"
Page 21	Line 13	Delete "12", insert "11"
	Line 27	Delete "13", insert "12"
	Line 41	Delete "14", insert "13"
Page 22	Line 13	Delete "15", insert "14"
	Line 23	Delete "16", insert "15"
	Line 48	Delete "17", insert "16"
Page 23	Line 23	Delete "18", insert "17"
	Line 35	Delete "19", insert "18"
	Line 46	Delete "20", insert "19"
Page 24	Line 4	Delete "21", insert "20"
Page 25	Line 52	Delete "22", insert "21"
Page 26	Line 26	Delete "23", insert "22"
	Line 37	Delete "24", insert "23"
	Line 47	Delete "25", insert "24"
Page 27	Line 20	Delete "26", insert "25"
	Line 36	Delete "27", insert "26"
	Line 52	Delete "28", insert "27"
Page 28	Line 16	Delete "29", insert "28"
	Line 48	Delete "30", insert "29"
Page 29	Line 6	Delete "31", insert "30"
	Line 20	Delete "32", insert "31"
	Line 31	Delete "33", insert "32"
	Line 55	Delete "34", insert "33"

Page 30 Line 28 Delete "35", insert "34"

Page 31 Line 5 Delete "36", insert "35"
 Line 39 Delete "37", insert "36"

Page 33 Line 8 Delete "38", insert "37"
 Line 40 Delete "39", insert "38"

Page 34 Line 7 Delete "40", insert "39"
 Line 21 Delete "41", insert "40"
 Line 30 Delete "42", insert "41"
 Line 39 Delete "43", insert "42"

Page 35 Line 17 Delete "44", insert "43"
 Line 44 Delete "45", insert "44"

Page 36 Before line 39, insert:

" § 45. The tax law is amended by adding a new section 14-a to read as follows: § 14-a. IMB credit for energy taxes. (a) Allowance of credit. A taxpayer which is an industrial or manufacturing business (IMB), or which is a sole proprietor of an IMB or a member of a partnership which is an IMB, and which is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (d) of this section. Such credit shall be equal to the sum of the taxes imposed under sections 186-a, 186-c, 189 and 189-a of this chapter (other than such taxes which are made the basis of a credit claimed under section fourteen of this article) which during the taxable year were either paid by, or passed through to, the IMB, but only with regard to gas, electricity, steam, water or refrigeration, or gas, electric, steam, water or refrigeration services, consumed or used by the IMB in this state. (b) Definitions. The term "industrial or manufacturing business" shall mean a business which during the taxable year is principally engaged in activities described in clause (A), (B) or (C), or any combination thereof, of subparagraph (ii) of paragraph (b) of subdivision twelve of section two hundred ten of this chapter. (c) Any person who collects from, or passes through to, the IMB, any tax as described in subdivision (a) of this section, shall provide the IMB with the information with respect to such tax passed through which may be required to enable the taxpayer to correctly compute the credit provided for in this section. (d) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9-A: Section 210.26-a,
(2) Article 22: Sections 606(i) and (t-1).

§ 46. Section 210 of the tax law is amended by adding a new subdivision 26-a to read as follows:

26-a. IMB credit for energy taxes. (a) Allowance of credit. A taxpayer which is an industrial or manufacturing business (IMB) shall be allowed a credit for energy taxes, to be computed as provided in section fourteen-a of this chapter, against the tax imposed by this article. (b) Application of credit. 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 thus 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 ten hundred eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section ten hundred eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

§ 47. Paragraph 1 of subsection (i) of section 606 of the tax law, as amended by parts I and J of chapter 407 of the laws of 1999, is amended to read as follows:

(1) For purposes of determining the application under this section of the credit provisions enumerated in the following table, a shareholder of a New York S corporation:

(A) shall be treated as the taxpayer with respect to his or her pro rata share of the corresponding credit base of such corporation, determined for the corporation's taxable year ending with or within the shareholder's taxable year and

(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, unless the shareholder has previously received a refund by reason of the application of this subparagraph, or this subsection as it was in effect for taxable years beginning before nineteen hundred ninety-four.

With respect to the corporation's credit following credit under this section:	The
Investment tax credit under subsection (a)	base under section two hundred ten or section fourteen hundred fifty-six of this chapter is: Investment credit base or qualified rehabilitation expenditures under subdivision twelve of section two hundred ten
Economic development zone investment tax credit under subsection (j)	Cost or other basis under subdivision twelve-B of section two hundred ten
Economic development 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
Economic development 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
Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision twenty-two of section two hundred ten
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
Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision twelve-D
Economic development zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision twelve-C
Alternative fuels credit under subsection (p)	Cost under subdivision twenty-four
Qualified emerging technology	Applicable credit base under

company employment credit under subsection (q)	subdivision twelve-E of section two hundred ten
Qualified emerging technology capital tax credit under subsection (r)	Qualified investments under subdivision twelve-F of section two hundred ten
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

<u>IMB credit for energy taxes under subsection (t-1)</u>	<u>Amount of credit under subdivision twenty-six-a of section two hundred ten</u>
---	---

§ 48. Section 606 of the tax law is amended by adding a new subsection (t-1) to read as follows:

(t-1) IMB credit for energy taxes. (1) Allowance of credit. A taxpayer which is a sole proprietor of an industrial or manufacturing business (IMB), or a member of a partnership which is an IMB, shall be allowed a credit for energy taxes, to be computed as provided in section fourteen-a of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of the 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."

Line 39	Delete "46", insert "49"
Line 40	Delete " six and eight through twenty", Insert "five, seven through nineteen and forty-five through forty-eight"
Lines 42-47	Delete " (b) Section five of this act shall take effect January 1, 2005, and shall apply to taxable years beginning on or after such date, provided, however, that the amendment to subdivision 10 of section 186-a of the tax law made by section five of this act shall not affect the reversion of such subdivision pursuant to section 9 of chapter 316 of the laws of 1997."
Line 48	Delete "c", insert "b"
Line 48	Delete "seven-a", insert "six-a"
Line 50	Delete "d", insert "c"
Line 50	Delete "twenty-two", insert "twenty-one"
Line 50	Delete "twenty-eight", insert "twenty-seven"
Line 50	Delete "thirty-one", insert "thirty"
Line 51	Delete "forty-two", insert "forty-one"

Page 37	Line 8	Delete "e", insert "d"
	Line 8	Delete "twenty-nine", insert "twenty-eight"
	Line 8	Delete "thirty", insert "twenty-nine"
	Line 19	Delete "f", insert "e"
	Line 19	Delete "forty-three", insert "forty-two"

Page 43,	Line 41	After "twenty-two", insert <u>"or which is a sole proprietor of a QNTC or a member of a partnership</u>
----------	---------	---

- Line 44 which is a QNTC,"
Delete "taxpayer's", insert "QNTC's"
- Page 44, Line 5 After "state.", insert:

 "Such commissioner shall issue such designations by
December thirty-first, two thousand one, and such
designations shall apply to taxable years beginning on
or after January first, two thousand two and before
January first, two thousand twelve. Such commissioner
may make additional designations at any time in
calendar years two thousand two through two
thousand ten, and any such additional designation
shall apply to taxable years beginning in or after the
calendar year next following the calendar year in
which such additional designation is made, but only to
such taxable years beginning before January first, two
thousand twelve."
- Page 46 Line 20 After "which is a", insert "sole proprietor of a"
Line 21 After "(QNTC)", insert ",or a member of a partnership
which is a QNTC,"
- Page 49 Line 9 Delete second "emerging" insert "new"
Line 50 Delete "QNTC", insert "QNTC"
- Page 59 Line 35 After "(QNTC)", insert ",or which is a sole
proprietor of a QNTC or a member of a partnership
which is a QNTC,"
Lines 46-47 Delete "and such interest is paid or incurred during
the allowable period."
Line 47 After "property", insert ".""
- Page 60 Lines 1-3 Delete "(4) The term "allowable period" means the five
taxable years beginning with the taxable year during
which the qualified property is placed in service in
an upstate high technology enterprise zone."
- Page 62 Line 11 After "technology", insert "enterprise"
Line 16 After "which is a" insert "sole proprietor of a"
Line 17 After "(QNTC)", insert ",or a member of a partnership
which is a QNTC,"
Line 37 After "(QNTC)", insert ",or which is a sole proprietor
of a QNTC or a member of a partnership which is a
QNTC,"
Line 43 Delete first "taxpayer", insert "QNTC"
Line 43 Delete second "taxpayer", insert "QNTC"
Line 45 Delete "by the taxpayer", insert "or used by the
QNTC"
Line 50 Delete "taxpayer", insert "QNTC"
- Page 63, Line 1 Delete "taxpayer", and insert "QNTC"
Lines 1-2 Delete "collected or passed through"
- Page 65 Line 20 After "which is a", insert "sole proprietor of a"
Line 21 After "(QNTC)", insert ",or a member of a"

		<u>partnership which is a QNTC,</u> "
Page 66	Line 10	Delete "three", insert "two"
	Line 12	Delete <u>"three"</u> , insert <u>"two"</u>
	Line 33	Delete <u>"three"</u> , insert <u>"two"</u>
	Line 35	Delete <u>"three"</u> , insert <u>"two"</u>
Page 79,	Line 47	After "carryover" delete "or", insert "of"
Page 99	Line 53	Delete "New York", insert <u>"qualified business facility"</u>
Page 100	After line 4,	insert: <u>"(1) Qualified business facility("QBF"). A business facility the construction or expansion of which is intended to be enhanced by a certified contribution, as described in paragraph three of this subdivision."</u>
	Line 5	Delete "(1)", insert "(2)"
	Line 9	After "taxpayer", insert ", and including a description of the associated QBF"
	Line 14	Delete "(2)", insert "(3)"
	Line 21	After " <u>facilities.</u> ", insert: <u>"Such project must be designed in part to enhance the planned construction or expansion of a QBF."</u>
	Line 27	Delete " <u>the state</u> ", insert " <u>connection with such QBF</u> "
	Line 28	Delete " <u>in the state</u> ", insert " <u>in connection therewith</u> "
	Line 32	Delete "(3)", insert "(4)"
	Line 32	Delete first " <u>New York</u> ", insert " <u>QBF</u> "
	Line 32	Delete second " <u>New York</u> ", insert " <u>QBF</u> "
	Line 34	After "of", insert " <u>such</u> "
	Line 34	Delete " <u>within the state</u> "
	Line 34	After " <u>employees</u> ", insert " <u>employed in connection with a QBF</u> "
	Lines 38-39	Delete " <u>within the state, other than general executive officers (in the case of a corporation),</u> "
	Lines 40-46	Delete " <u>For purposes of the preceding sentence, the phrase "wages, salaries and other personal service compensation of employees within the state, other than general executive officers" shall have the meaning ascribed thereto for purposes of subparagraph three of paragraph (a) of subdivision three of section two hundred ten of this chapter (relating to the wage factor under article nine-A of this chapter)."</u> "
	Line 51	Delete " <u>three</u> ", insert " <u>four</u> "
Page 101	Line 12	Delete " <u>within the state</u> ", insert " <u>employed in connection with a QBF</u> "
	Line 17	Delete " <u>within the state</u> ", insert " <u>employed in</u> "

connection with a QBF"

Lines 24-27 Delete "For the purposes of this subdivision, the term "employees within the state, except general executive officers" shall mean the same as in subparagraph three of paragraph (a) of subdivision three of section two hundred ten of this chapter."

Page 124 Between lines 24 and 25, Insert:

"Part T

Section 1. Paragraph 31 of subdivision (a) of section 1115 of the tax law, as added by section 185 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(31) (i) Enhanced emissions inspection equipment, certified by the department of environmental conservation, pursuant to regulations promulgated by such department, for use in an enhanced emissions inspection and maintenance program as required by the federal clean air act of 1990, as amended in nineteen hundred ninety (42 U.S.C. 7401 et seq.) and the New York state clean air compliance act enacted by chapter 608 of the laws of 1993, where such equipment is purchased and used by an official inspection station licensed by the commissioner of motor vehicles under article five of the vehicle and traffic law and authorized to conduct the enhanced emission inspections required by such federal act.

(ii) Test equipment, certified by the department of environmental conservation under regulations adopted pursuant to the authority of section 19-0320 of the environmental conservation law, predominantly used to test heavy duty diesel vehicles under the heavy duty inspection and maintenance program described in such regulations.

§ 2. Notwithstanding any provision of law to the contrary, a person who, prior to June 1, 2000, purchases test equipment that would be exempt under subparagraph (ii) of paragraph 31 of section 1115 of the tax law, as amended by section one of this act, had it been purchased on or after June 1, 2000, and who pays sales or compensating use tax imposed by article 28 of such law or pursuant to the authority of article 29 thereof on the purchase or use of such test equipment shall be authorized hereby to apply to the commissioner of taxation and finance for a refund or credit of such taxes paid. An application for the refund or credit provided for herein must be filed with the commissioner of taxation and finance within the time provided by subdivision (a) or (c) of section 1139 of the tax law. Such application shall be in such form as the commissioner may prescribe. Where an application for credit has been filed, the applicant may immediately take such credit on the return required under section 1136 of such law which is due coincident with or immediately subsequent to the time that the applicant files such application for credit. However, the taking of the credit on the return shall be deemed to be part of the application for credit. The procedure for granting or denying such applications for refund or credit and review of such determinations shall be as provided in subdivision (e) of section 1139 of such law and such subdivision (e) shall apply to applications authorized by this section as if such subdivision (e) referred to this section.

§ 3. This act shall take effect on June 1, 2000, provided that section two shall apply to sales made and uses occurring on or after that date although made or occurring under a prior contract and section three shall apply to sales made and uses occurring prior to that date.

Line 36. Delete "S", insert "T"