

7517

I N S E N A T E

May 15, 2014

Introduced by Sen. GIPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the public authorities law, the state finance law and the tax law, in relation to development of biomethane as a fuel alternative and creating the biomethane fuel incentive fund; and making an appropriation therefor

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

1 Section 1. The public authorities law is amended by adding a new
2 section 1884 to read as follows:
3 S 1884. BIOMETHANE GRANTS. THE NEW YORK STATE ENERGY RESEARCH AND
4 DEVELOPMENT AUTHORITY SHALL:
5 1. OVERSEE AND PROMOTE RESEARCH AND DEVELOPMENT REGARDING FUEL DIVER-
6 SIFICATION AND ENERGY EFFICIENCY IN THE TRANSPORTATION SECTOR; AND
7 2. PROVIDE GRANTS FOR:
8 (A) THE COMPONENTS OF THE BIOMETHANE FUEL PATHWAY, INCLUDING THE
9 COMPONENTS REQUIRED TO PRODUCE BIOMETHANE, INCLUDING LAND, BIOGAS
10 COLLECTION SYSTEMS, ANEROBIC DIGESTERS, AND BIOGAS REFINERY;
11 (B) MUNICIPAL PURCHASES OF LIGHT-DUTY VEHICLES TO HEAVY-DUTY FREIGHT
12 TRUCKS THAT USE BIOMETHANE; AND
13 (C) INSTALLATION OF BIOMETHANE FUELING EQUIPMENT.
14 S 2. Section 1851 of the public authorities law is amended by adding a
15 new subdivision 19 to read as follows:
16 19. "BIOMETHANE" SHALL MEAN BIOGASES THAT ARE EMITTED AS ORGANIC
17 WASTES BREAK DOWN IN AIRLESS ENVIRONMENTS. BIOMETHANE IS PRODUCED FROM A
18 VARIETY OF BIOMASS AND/OR BIOGAS SOURCES INCLUDING LANDFILL GAS, SOLID
19 WASTE, MUNICIPAL WASTEWATER AND AGRICULTURAL MANURE VIA AIRLESS TANKS
20 CALLED ANAEROBIC DIGESTERS. IT CAN ALSO BE PRODUCED FROM OTHER SOURCES
21 SUCH AS FORESTRY AND AGRICULTURAL WASTE THROUGH THE PROCESS OF THERMAL
22 GASIFICATION AND METHANATION, ALTHOUGH THESE TECHNOLOGIES ARE NOT YET
23 WIDELY USED. BIOMETHANE IS A RENEWABLE FUEL, EASILY DISTRIBUTED THROUGH
24 EXISTING INFRASTRUCTURE AND IS SUITABLE FOR APPLICATIONS FROM LIGHT-DUTY
25 VEHICLES TO HEAVY-DUTY FREIGHT TRUCKS.

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

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1 S 3. The state finance law is amended by adding a new section 99-w to
2 read as follows:

3 S 99-W. BIOMETHANE FUEL INCENTIVE FUND. 1. THERE IS HEREBY ESTABLISHED
4 IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF
5 TAXATION AND FINANCE A SPECIAL REVENUE FUND TO BE KNOWN AS THE "BIOMETH-
6 ANE FUEL INCENTIVE FUND".

7 2. THE FUND SHALL CONSIST OF THE AMOUNT OF REVENUES FROM SALES TAXES
8 IMPOSED ON THE RECEIPTS OF THE PRICE OF MOTOR AND DIESEL FUEL MORE THAN
9 ONE DOLLAR OR EQUAL TO OR LESS THAN TWO DOLLARS.

10 3. MONIES OF THE FUND, WHEN ALLOCATED, SHALL BE DISBURSED FOR THE
11 FOLLOWING PURPOSES:

12 (A) CREDITS AGAINST PERSONAL INCOME TAX AND CORPORATE FRANCHISE TAX
13 FOR THE INSTALLATION OR CONVERSION OF FUELING STATIONS FOR BIOMETHANE
14 FUELS;

15 (B) GRANTS FOR RESEARCH AND DEVELOPMENT IN REGARDS TO BIOMETHANE FUEL
16 PRODUCTION AND USE IN THE TRANSPORTATION SECTOR;

17 (C) GRANTS FOR THE COMPONENTS OF THE BIOMETHANE FUEL PATHWAY, INCLUD-
18 ING THE COMPONENTS REQUIRED TO PRODUCE BIOMETHANE, INCLUDING LAND,
19 BIOGAS COLLECTION SYSTEMS, ANEROBIC DIGESTERS, AND BIOGAS REFINERY;

20 (D) GRANTS FOR MUNICIPAL PURCHASES OF LIGHT-DUTY VEHICLES TO HEAVY
21 DUTY FREIGHT TRUCKS THAT USE BIOMETHANE FUEL;

22 (E) GRANTS FOR THE INSTALLATION OF BIOMETHANE FUELING EQUIPMENT; AND

23 (F) ADMINISTRATIVE COSTS BORNE BY THE DEPARTMENT OF TAXATION AND
24 FINANCE AND THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORI-
25 TY.

26 S 4. Section 1148 of the tax law, as amended by section 57 of part HH
27 of chapter 57 of the laws of 2013, is amended to read as follows:

28 S 1148. Deposit and disposition of revenue. All taxes, interest and
29 penalties collected or received by the commissioner under this article
30 shall be deposited and disposed of pursuant to the provisions of section
31 one hundred seventy-one-a of this chapter; provided however, the comp-
32 troller shall on or before the twelfth day of each month, pay all such
33 taxes, interest and penalties collected under this article and remaining
34 to the comptroller's credit in such banks, banking houses or trust
35 companies at the close of business on the last day of the preceding
36 month, into the general fund of the state treasury, except as otherwise
37 provided in sections ninety-two-d, ninety-two-h, [and], ninety-two-r AND
38 NINETY-TWO-W of the state finance law and sections eleven hundred two,
39 eleven hundred four and eleven hundred nine of this article.

40 S 5. Section 606 of the tax law is amended by adding a new subsection
41 (ccc) to read as follows:

42 (CCC) ALTERNATIVE FUEL CREDIT FOR INSTALLATION OR CONVERSION OF FUEL-
43 ING STATIONS. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A
44 CREDIT, TO BE COMPUTED HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY
45 THIS ARTICLE FOR THE COST OF INSTALLATION CONSTRUCTION, RECONSTRUCTION
46 OR ACQUISITION OF AN BIOMETHANE FUEL REFUELING FACILITY THAT IS DIRECTLY
47 ATTRIBUTABLE TO THE STORAGE, OR DISPENSING OF BIOMETHANE FUELS TO MOTOR
48 VEHICLES. THE INCOME TAX CREDIT WOULD BE THIRTY PERCENT OF THE COSTS
49 ASSOCIATED WITH SUCH EXPENSES.

50 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER
51 THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH
52 YEAR, FIFTY PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF
53 TAX TO BE CREDITED OR REFUNDED AS PROVIDED IN SECTION SIX HUNDRED EIGHT-
54 Y-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID
55 THEREON. THE BALANCE OF SUCH CREDIT NOT CREDITED OR REFUNDED IN SUCH
56 TAXABLE YEAR MAY BE CARRIED OVER TO THE IMMEDIATELY SUCCEEDING TAXABLE

1 YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR. THE
2 EXCESS, IF ANY, OF THE AMOUNT OF THE CREDIT OVER THE TAX FOR SUCH
3 SUCCEEDING YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED
4 OR REFUNDED AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTI-
5 CLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

6 S 6. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
7 of the tax law is amended by adding a new clause (xli) to read as
8 follows:

9 (XLI) ALTERNATIVE FUEL CREDIT	AMOUNT OF CREDIT
10 FOR INSTALLATION OR	UNDER SUBDIVISION
11 CONSERVATION OF FUELING	FIFTY OF SECTION
12 STATIONS UNDER SUBSECTION	TWO HUNDRED TEN
13 (CCC)	

14 S 7. Section 210 of the tax law is amended by adding a new subdivision
15 50 to read as follows:

16 50. ALTERNATIVE FUEL CREDIT FOR INSTALLATION OR CONVERSION OF FUELING
17 STATIONS. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT,
18 TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS
19 ARTICLE FOR THE COST OF INSTALLATION CONSTRUCTION, RECONSTRUCTION OR
20 ACQUISITION OF AN ALTERNATIVE FUEL REFUELING FACILITY THAT IS DIRECTLY
21 ATTRIBUTABLE TO THE STORAGE, COMPRESSION, CHARGING OR DISPENSING OF
22 ALTERNATIVE FUELS TO MOTOR VEHICLES. THE INCOME TAX CREDIT SHALL BE
23 THIRTY PERCENT OF THE COSTS ASSOCIATED WITH SUCH EXPENSES.

24 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
25 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
26 THAN THE AMOUNT DESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS
27 SECTION. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION
28 FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, FIFTY
29 PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
30 CREDITED OR REFUNDED AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF
31 THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.
32 THE BALANCE OF SUCH CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR
33 MAY BE CARRIED OVER TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY
34 BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY,
35 OF THE AMOUNT OF THE CREDIT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL
36 BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED AS
37 PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED,
38 HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

39 S 8. The tax law is amended by adding a new section 187-t to read as
40 follows:

41 S 187-T. ALTERNATIVE FUEL CREDIT FOR INSTALLATION OR CONVERSION OF
42 FUELING STATIONS. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A
43 CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED
44 BY THIS ARTICLE FOR THE COST OF INSTALLATION CONSTRUCTION, RECON-
45 STRUCTION OR ACQUISITION OF AN ALTERNATIVE FUEL REFUELING FACILITY THAT
46 IS DIRECTLY ATTRIBUTABLE TO THE STORAGE, COMPRESSION, CHARGING OR
47 DISPENSING OF ALTERNATIVE FUELS TO MOTOR VEHICLES. THE INCOME TAX CREDIT
48 SHALL BE THIRTY PERCENT OF THE COSTS ASSOCIATED WITH SUCH EXPENSES.

49 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER
50 THIS SECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH
51 YEAR, FIFTY PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF
52 TAX TO BE CREDITED OR REFUNDED AS PROVIDED IN SECTION SIX HUNDRED EIGHT-
53 Y-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID
54 THEREON. THE BALANCE OF SUCH CREDIT NOT CREDITED OR REFUNDED IN SUCH
55 TAXABLE YEAR MAY BE CARRIED OVER TO THE IMMEDIATELY SUCCEEDING TAXABLE
56 YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR. THE

1 EXCESS, IF ANY, OF THE AMOUNT OF THE CREDIT OVER THE TAX FOR SUCH
2 SUCCEEDING YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED
3 OR REFUNDED AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAP-
4 TER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

5 S 9. The sum of eighty million dollars (\$80,000,000), or so much ther-
6 eof as may be necessary, is hereby appropriated as follows: twenty
7 million dollars for research and development in regards to biomethane
8 fuel production and biomethane use in the transportation sector; thirty
9 million dollars for grants for the components of the biomethane fuel
10 pathway, including the components required to produce biomethane,
11 including land, biogas collection systems, anerobic digesters, and
12 biogas refinery; twenty million in grants for municipal purchases of
13 light-duty vehicles to heavy-duty freight trucks that use biomethane
14 fuel; five million for grants for the installation of biomethane fueling
15 equipment; and five million for administrative costs borne by the
16 department of taxation and finance and the New York state energy
17 research and development authority to the department of taxation and
18 finance; out of moneys in the state treasury in the general fund to the
19 credit of the biomethane fuel incentive fund, not otherwise appropri-
20 ated, and made immediately available, for the purpose of carrying out
21 the provisions of this act. Such moneys shall be payable on the audit
22 and warrant of the comptroller on vouchers certified or approved in the
23 manner prescribed by law.

24 S 10. This act shall take effect on the one hundred eightieth day
25 after it shall have become a law; provided, however, that effective
26 immediately, the commissioner of taxation and finance shall be author-
27 ized to adopt and amend any rules or regulations and to take any steps
28 necessary to implement the provisions of this act.