STATE OF NEW YORK

2195

2017-2018 Regular Sessions

IN SENATE

January 12, 2017

Introduced by Sens. PARKER, COMRIE -- 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:

Section 1. The public authorities law is amended by adding a new section 1884 to read as follows:

§ 1884. Biomethane grants. The New York state energy research and development authority shall:

1. Oversee and promote research and development regarding fuel diversification and energy efficiency in the transportation sector; and

2. Provide grants for:

(a) the components of the biomethane fuel pathway, including the components required to produce biomethane, including land, biogas collection systems, anaerobic digesters, and biogas refinery;

(b) municipal purchases of light-duty vehicles to heavy-duty freight trucks that use biomethane; and

(c) installation of biomethane fueling equipment.

§ 2. Section 1851 of the public authorities law is amended by adding a new subdivision 19 to read as follows:

19. "Biomethane" shall mean biogases that are emitted as organic wastes break down in airless environments. Biomethane is produced from a variety of biomass and/or biogas sources including landfill gas, solid waste, municipal wastewater and agricultural manure via airless tanks called anaerobic digesters. It can also be produced from other sources such as forestry and agricultural waste through the process of thermal gasification and methanation, although these technologies are not yet widely used. Biomethane is a renewable fuel, easily distributed through

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

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existing infrastructure and is suitable for applications from light-duty vehicles to heavy-duty freight trucks.

§ 3. The state finance law is amended by adding a new section 99-g to read as follows:

§ 99-g. Biomethane fuel incentive fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special revenue fund to be known as the "biomethane fuel incentive fund".

2. The fund shall consist of the amount of revenues from sales taxes imposed on the receipts of the price of motor and diesel fuel more than one dollar or equal to or less than two dollars.

3. Monies of the fund, when allocated, shall be disbursed for the following purposes:

(a) credits against personal income tax and corporate franchise tax for the installation or conversion of fueling stations for biomethane fuels;

(b) grants for research and development in regards to biomethane fuel production and use in the transportation sector;

(c) grants for the components of the biomethane fuel pathway, including the components required to produce biomethane, including land, biogas collection systems, anaerobic digesters, and biogas refinery;

(d) grants for municipal purchases of light-duty vehicles to heavy duty freight trucks that use biomethane fuel;

(e) grants for the installation of biomethane fueling equipment; and

(f) administrative costs borne by the department of taxation and finance and the New York state energy research and development authority.

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

§ 1148. Deposit and disposition of revenue. All taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter; provided however, the comptroller shall on or before the twelfth day of each month, pay all such taxes, interest and penalties collected under this article and remaining to the comptroller's credit in such banks, banking houses or trust companies at the close of business on the last day of the preceding month, into the general fund of the state treasury, except as otherwise provided in sections ninety-two-d, ninety-two-h, [~~and~~] ninety-two-r and ninety-nine-g of the state finance law and sections eleven hundred two, eleven hundred four and eleven hundred nine of this article.

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

(ccc) Alternative fuel credit for installation or conversion of fueling stations. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed hereinafter provided, against the tax imposed by this article for the cost of installation construction, reconstruction or acquisition of a biomethane fuel refueling facility that is directly attributable to the storage, or dispensing of biomethane fuels to motor vehicles. The income tax credit would be thirty percent of the costs associated with such expenses.

(2) Application of credit. If the amount of the credit allowable under this subsection for any taxable year exceeds the taxpayer's tax for such year, fifty percent of the excess shall be treated as an overpayment of tax to be credited or refunded as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid

thereon. The balance of such credit not credited or refunded in such taxable year may be carried over to the immediately succeeding taxable year and may be deducted from the taxpayer's tax for such year. The excess, if any, of the amount of the credit over the tax for such succeeding year shall be treated as an overpayment of tax to be credited or refunded as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

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

(xliii) Alternative fuel credit for installation or conservation of fueling stations under subsection (ccc)	Amount of credit under subdivision forty-nine of section two hundred ten-B

§ 7. Section 210-B of the tax law is amended by adding a new subdivision 49 to read as follows:

49. Alternative fuel credit for installation or conversion of fueling stations. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article for the cost of installation construction, reconstruction or acquisition of an alternative fuel refueling facility that is directly attributable to the storage, compression, charging or dispensing of alternative fuels to motor vehicles. The income tax credit shall be thirty percent of the costs associated with such expenses.

(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 amount described in paragraph (d) of subdivision one of this section. If the amount of the credit allowable under this subdivision for any taxable year exceeds the taxpayer's tax for such year, fifty percent of the excess shall be treated as an overpayment of tax to be credited or refunded as provided in section six hundred eighty-six of this chapter, provided, however, that no interest shall be paid thereon. The balance of such credit not credited or refunded in such taxable year may be carried over to the immediately succeeding taxable year and may be deducted from the taxpayer's tax for such year. The excess, if any, of the amount of the credit over the tax for such succeeding year shall be treated as an overpayment of tax to be credited or refunded as provided in section six hundred eighty-six of this chapter, provided, however, that no interest shall be paid thereon.

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

§ 187-t. Alternative fuel credit for installation or conversion of fueling stations. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article for the cost of installation construction, reconstruction or acquisition of an alternative fuel refueling facility that is directly attributable to the storage, compression, charging or dispensing of alternative fuels to motor vehicles. The income tax credit shall be thirty percent of the costs associated with such expenses.

(2) Application of credit. If the amount of the credit allowable under this section for any taxable year exceeds the taxpayer's tax for such year, fifty percent of the excess shall be treated as an overpayment of tax to be credited or refunded as provided in section six hundred eighty-six of this chapter, provided, however, that no interest shall be paid thereon. The balance of such credit not credited or refunded in such

taxable year may be carried over to the immediately succeeding taxable year and may be deducted from the taxpayer's tax for such year. The excess, if any, of the amount of the credit over the tax for such succeeding year shall be treated as an overpayment of tax to be credited or refunded as provided in section six hundred eighty-six of this chapter, provided, however, that no interest shall be paid thereon.

§ 9. The sum of eighty million dollars ($80,000,000), or so much thereof as may be necessary, is hereby appropriated as follows: twenty million dollars for research and development in regards to biomethane fuel production and biomethane use in the transportation sector; thirty million dollars for grants for the components of the biomethane fuel pathway, including the components required to produce biomethane, including land, biogas collection systems, anaerobic digesters, and biogas refinery; twenty million in grants for municipal purchases of light-duty vehicles to heavy-duty freight trucks that use biomethane fuel; five million for grants for the installation of biomethane fueling equipment; and five million for administrative costs borne by the department of taxation and finance and the New York state energy research and development authority to the department of taxation and finance; out of moneys in the state treasury in the general fund to the credit of the biomethane fuel incentive fund, not otherwise appropriated, and made immediately available, for the purpose of carrying out the provisions of this act. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved in the manner prescribed by law.

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