

# STATE OF NEW YORK

4356

2017-2018 Regular Sessions

## IN SENATE

February 10, 2017

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

AN ACT to amend the state finance law, in relation to creating the alternative fuel incentive fund; to amend the tax law, in relation to creating the alternative fuels credit; to amend the public authorities law, in relation to alternative fuel grants; 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 state finance law is amended by adding a new section  
2 99-aa to read as follows:

3 § 99-aa. Alternative fuel incentive fund. 1. There is hereby estab-  
4 lished in the joint custody of the state comptroller and the commission-  
5 er of taxation and finance a special revenue fund to be known as the  
6 "alternative 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 alternative  
14 fuels;

15 (b) grants for research and development in regards to fuel diversifi-  
16 cation and energy efficiency in the transportation sector;

17 (c) installation of alternative fueling stations at each of the twen-  
18 ty-seven travel plazas on the New York state thruway;

19 (d) grants for a cellulosic ethanol refinery; and

20 (e) administrative costs borne by the department of taxation and  
21 finance and the New York state energy research and development authori-  
22 ty.

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

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§ 2. 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-aa of the state finance law and sections eleven hundred two, eleven hundred four and eleven hundred nine of this article.

§ 3. Section 606 of the tax law is amended by adding two new subsections (p-1) and (ccc) to read as follows:

(p-1) Alternative fuels credit. (1) General. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article for fuel flexible vehicles and qualified hybrid vehicles placed in service during the taxable year. Provided, however, that the credit provided for by this subsection with respect to fuel flexible vehicles shall not be allowed to a gas corporation or electric corporation as defined in subdivisions eleven and thirteen of section two of the public service law, or a gas and electric corporation as described in section sixty-four of the public service law, where such corporation is subject to the supervision of the department of public service.

(2) Fuel flexible and hybrid vehicles. The credit under this subsection for fuel flexible and qualified hybrid vehicles shall equal five hundred dollars per vehicle registered in this state.

(3) Definitions. (A) The term "fuel flexible vehicle" means a vehicle which is equipped to use alternative fuel as defined in subdivision fourteen of section three hundred fifty-one of the public authorities law.

(B) The term "qualified hybrid vehicle" means a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, other than an electric vehicle, that:

(i) draws propulsion energy from both

(a) an internal combustion engine (or heat engine that uses combustible fuel); and

(b) an energy storage device; and

(ii) employs a regenerative vehicle braking system that recovers waste energy to charge such energy storage device.

(4) Carryovers. If the amount of credit allowable under this subsection shall exceed the taxpayer's tax of such year, the excess, may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(5) Credit recapture. (A) Vehicles. If, within three full years from the date a qualified hybrid vehicle is placed in service such vehicles cease to be qualified, a recapture amount must be added back in the tax year in which such cessation occurs.

(B) Cessation of qualification. (i) A qualified hybrid ceases to be qualified if

(a) it is modified by the taxpayer so that it no longer meets the requirements of a qualified hybrid vehicle.

(b) the taxpayer receiving the credit under this subsection sells or disposes of the vehicle and knows or has reason to know that the vehicle will be so modified.

(ii) Recapture amount. The recapture amount is equal to the credit allowable under this subsection.

(6) Termination. This subsection shall not apply to property placed in service in taxable years beginning after December thirty-first, two thousand eighteen.

(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 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 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.

§ 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding two new clauses (xliii) and (xliv) to read as follows:

|                                  |                                  |
|----------------------------------|----------------------------------|
| <u>(xliii) Alternative fuels</u> | <u>Amount of credit</u>          |
| <u>credit under subsection</u>   | <u>under subdivision</u>         |
| <u>(p-1)</u>                     | <u>fifty-two of</u>              |
|                                  | <u>section two hundred ten-B</u> |

|                                       |                               |
|---------------------------------------|-------------------------------|
| <u>(xliv) Alternative fuel credit</u> | <u>Amount of credit</u>       |
| <u>for installation or</u>            | <u>under subdivision</u>      |
| <u>conservation of fueling</u>        | <u>fifty-three of section</u> |
| <u>stations under subsection</u>      | <u>two hundred ten-B</u>      |

(ccc)

§ 5. Section 210-B of the tax law is amended by adding two new subdivisions 52 and 53 to read as follows:

52. Alternative fuels credit. (a) General. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article, for fuel flexible vehicles and qualified hybrids. Provided, however, that the credit provided for by this subsection with respect to fuel flexible vehicles shall not be allowed to a gas corporation or electric corporation as defined in subdivisions eleven and thirteen of section two of the public service law, or a gas and electric corporation as described in section sixty-four of the public service law, where such corporation is subject to the supervision of the department of public service.

(b) Fuel flexible vehicles and qualified hybrid vehicles. The credit under this subdivision for fuel flexible vehicles and qualified hybrid

1 vehicles shall equal five hundred dollars per vehicle registered in this  
2 state.

3 (c) Definitions. (i) The term "fuel flexible vehicle" means a vehicle,  
4 which is equipped to use alternative fuel as defined in subdivision  
5 fourteen of section three hundred fifty-one of the public authorities  
6 law.

7 (ii) The term "qualified hybrid vehicle" shall have the same meaning  
8 as provided for under subparagraph (B) of paragraph three of subsection  
9 (p-1) of section six hundred six of this chapter.

10 (d) Carryovers. In no event shall the credit under this subdivision be  
11 allowed in an amount which will reduce the tax payable to less than the  
12 higher of the amounts prescribed in paragraph (d) of subdivision one of  
13 section two hundred ten of this article. Provided, however, that if the  
14 amount of credit allowable under this subdivision for any taxable year  
15 reduces the tax to such amount, any amount of credit not deductible in  
16 such taxable year may be carried over to the following year or years and  
17 may be deducted from the taxpayer's tax for such year or years.

18 (e) Credit recapture. (i) If, within three full years from the date a  
19 qualified hybrid vehicle is placed in service ceases to be qualified, a  
20 recapture amount must be added back in the tax year in which such cessa-  
21 tion occurs.

22 (ii) A qualified hybrid vehicle ceases to be qualified if:

23 (A) it is modified by the taxpayer so that it no longer meets the  
24 requirements of a qualified hybrid vehicle as defined in subparagraph  
25 (B) of paragraph three of subsection (p-1) of section six hundred six of  
26 this chapter; or

27 (B) the taxpayer receiving the credit under this subsection sells or  
28 disposes of the vehicle and knows or has reason to know that the vehicle  
29 will be so modified.

30 (iii) Recapture amount. The recapture amount is equal to the credit  
31 allowable under this subdivision multiplied by a fraction, the numerator  
32 of which is the total recovery period for the property minus the number  
33 of recovery years prior to, but not including, the recapture year, and  
34 the denominator of which is the total recovery period.

35 (f) Termination. This subdivision shall not apply to property placed  
36 in service in taxable years beginning after December thirty-first, two  
37 thousand eighteen.

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

46 (b) Application of credit. The credit allowed under this subdivision  
47 for any taxable year shall not reduce the tax due for such year to less  
48 than the amount described in paragraph (d) of subdivision one of section  
49 two hundred ten of this article. If the amount of the credit allowable  
50 under this subdivision for any taxable year exceeds the taxpayer's tax  
51 for such year, fifty percent of the excess shall be treated as an over-  
52 payment of tax to be credited or refunded as provided in section six  
53 hundred eighty-six of this chapter, provided, however, that no interest  
54 shall be paid thereon. The balance of such credit not credited or  
55 refunded in such taxable year may be carried over to the immediately  
56 succeeding taxable year and may be deducted from the taxpayer's tax for

1 such year. The excess, if any, of the amount of the credit over the tax  
2 for such succeeding year shall be treated as an overpayment of tax to be  
3 credited or refunded as provided in section six hundred eighty-six of  
4 this chapter, provided, however, that no interest shall be paid thereon.

5 § 6. The tax law is amended by adding two new sections 187-t and 187-u  
6 to read as follows:

7 § 187-t. Alternative fuels credit. 1. General. A taxpayer shall be  
8 allowed a credit, to be credited against the taxes imposed under  
9 sections one hundred eighty-three, one hundred eighty-four, and one  
10 hundred eighty-five of this article. Such credit, to be computed as  
11 hereinafter provided, shall be allowed for fuel flexible and hybrid  
12 vehicles placed in service during the taxable year. Provided, however,  
13 that the amount of such credit allowable against the tax imposed by  
14 section one hundred eighty-four of this article shall be the excess of  
15 the credit allowed by this section over the amount of such credit allow-  
16 able against the tax imposed by section one hundred eighty-three of this  
17 article.

18 2. Fuel flexible and hybrid vehicles. The credit under this subdivi-  
19 sion for fuel flexible and qualified hybrid vehicles shall equal five  
20 hundred dollars per vehicle registered in this state.

21 3. Definitions. (a) The term "fuel flexible vehicle" means a vehicle,  
22 which is equipped to use alternative fuel as defined in subdivision  
23 fourteen of section three hundred fifty-one of the public authorities  
24 law.

25 (b) The term "qualified hybrid vehicle" shall have the same meaning as  
26 provided for in subparagraph (B) of paragraph three of subsection (p-1)  
27 of section six hundred six of this chapter.

28 4. Carryovers. In no event shall the credit under this section be  
29 allowed in an amount which will reduce the tax payable to less than the  
30 applicable minimum tax fixed by section one hundred eighty-three or one  
31 hundred eighty-five of this article. If, however, the amount of credit  
32 allowable under this section for any taxable year reduces the tax to  
33 such amount, any amount of credit not deductible in such taxable year  
34 may be carried over to the following year or years and may be deducted  
35 from the taxpayer's tax for such year or years.

36 5. Credit recapture. (a) If, within three full years from the date a  
37 qualified hybrid vehicle is placed in service ceases to be qualified, a  
38 recapture amount must be added back in the tax year in which such cessa-  
39 tion occurs.

40 (b) A qualified hybrid vehicle ceases to be qualified if:

41 (i) it is modified by the taxpayer so that it no longer meets the  
42 requirements of a qualified hybrid vehicle as defined in subparagraph  
43 (B) of paragraph three of subsection (p-1) of section six hundred six of  
44 this chapter, or

45 (ii) the taxpayer receiving the credit under this section sells or  
46 disposes of the vehicle and knows or has reason to know that the vehicle  
47 will be so modified.

48 (c) The recapture amount is equal to the credit allowable under this  
49 section.

50 6. Termination. This section shall not apply to property placed in  
51 service in taxable years beginning after December thirty-first, two  
52 thousand eighteen.

53 § 187-u. Alternative fuel credit for installation or conversion of  
54 fueling stations. (1) Allowance of credit. A taxpayer shall be allowed a  
55 credit, to be computed as hereinafter provided, against the tax imposed  
56 by this article for the cost of installation construction, recon-

struction 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.

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

§ 1884. Alternative fuel 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 the creation of a cellulosic ethanol refinery.

§ 8. Subdivision 10 of section 354 of the public authorities law, as amended by section 2 of part TT of chapter 54 of the laws of 2016, is amended to read as follows:

10. To construct, reconstruct or improve on or along the thruway system in the manner herein provided, suitable facilities for gas stations, restaurants, and other facilities for the public, or to lease the right to construct, reconstruct or improve and operate such facilities; such facilities shall be publicly offered for leasing for operation, or the right to construct, reconstruct or improve and operate such facilities shall be publicly offered under rules and regulations to be established by the authority, provided, however, that lessees operating such facilities at the time this act becomes effective, may reconstruct or improve them or may construct additional like facilities, in the manner and upon such terms and conditions as the board shall determine; and provided further, however, that such facilities constructed, reconstructed or improved on or along the canal system shall be consistent with the canal recreationway plan approved pursuant to section one hundred thirty-eight-c of the canal law and section three hundred eighty-two of this title; and provided further, that each such facility which contains or consists of a gas station shall include a facility for selling to the public alternative fuel, as defined in section three hundred fifty-one of this article.

§ 9. Section 351 of the public authorities law is amended by adding a new subdivision 14 to read as follows:

14. "Alternative fuel" shall mean ethanol, methanol, natural gas, propane, electricity (including electricity from solar energy), hydrogen, and any other fuel identified which is substantially not petroleum-based, which is consistent with the goals of protecting the safety and health of the public and minimizing emissions of air pollutants, and which is consistent with any applicable federal alternative fuel requirements.

§ 10. The sum of eighty-two million dollars (\$82,000,000), or so much thereof as may be necessary, is hereby appropriated as follows: thirty

1 million dollars for research and development in regards to fuel diver-  
2 sification and energy efficiency in the transportation sector; twenty-  
3 seven million dollars for the installation of alternative fueling  
4 stations at each of the twenty-seven travel plazas on the New York state  
5 thruway; twenty million dollars for a cellulosic ethanol refinery; and  
6 five million dollars for administrative costs borne by the department of  
7 taxation and finance and the New York state energy research and develop-  
8 ment authority to the department of taxation and finance; out of moneys  
9 in the state treasury in the general fund to the credit of the alterna-  
10 tive fuel incentive fund, not otherwise appropriated, and made imme-  
11 diately available, for the purpose of carrying out the provisions of  
12 this act. Such moneys shall be payable on the audit and warrant of the  
13 comptroller on vouchers certified or approved in the manner prescribed  
14 by law.

15 § 11. This act shall take effect on the one hundred eightieth day  
16 after it shall have become a law; provided, however, that the commis-  
17 sioner of taxation and finance shall be authorized on and after the date  
18 this act shall have become a law to adopt and amend any rules or regu-  
19 lations and to take any steps necessary to implement the provisions of  
20 this act.