

# STATE OF NEW YORK

1153

2019-2020 Regular Sessions

## IN SENATE

January 11, 2019

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-ff to read as follows:

3 § 99-ff. 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-ff 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 (jjj) 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 eleven 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 twenty.

(jjj) 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 (xliv) and (xlv) to read as follows:

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

|                                      |                              |
|--------------------------------------|------------------------------|
| <u>(xlv) 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-four of section</u> |
| <u>stations under subsection</u>     | <u>two hundred ten-B</u>     |

(jjj)

§ 5. Section 210-B of the tax law is amended by adding two new subdivisions 53 and 54 to read as follows:

53. 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 eleven of section three hundred fifty-one of the public authorities law.

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

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

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

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

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

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

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

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

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

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

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

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

6 § 187-q. Alternative fuels credit. 1. General. A taxpayer shall be  
7 allowed a credit, to be credited against the taxes imposed under  
8 sections one hundred eighty-three, and one hundred eighty-four of this  
9 article. Such credit, to be computed as hereinafter provided, shall be  
10 allowed for fuel flexible and hybrid vehicles placed in service during  
11 the taxable year. Provided, however, that the amount of such credit  
12 allowable against the tax imposed by section one hundred eighty-four of  
13 this article shall be the excess of the credit allowed by this section  
14 over the amount of such credit allowable against the tax imposed by  
15 section one hundred eighty-three of this article.

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

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

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

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

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

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

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

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

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

47 6. Termination. This section shall not apply to property placed in  
48 service in taxable years beginning after December thirty-first, two  
49 thousand twenty.

50 § 187-r. Alternative fuel credit for installation or conversion of  
51 fueling stations. (1) Allowance of credit. A taxpayer shall be allowed a  
52 credit, to be computed as hereinafter provided, against the tax imposed  
53 by this article for the cost of installation construction, recon-  
54 struction or acquisition of an alternative fuel refueling facility that  
55 is directly attributable to the storage, compression, charging or



1 dispensing of alternative fuels to motor vehicles. The income tax cred-  
2 it shall be thirty percent of the costs associated with such expenses.

3 (2) Application of credit. If the amount of the credit allowable under  
4 this section for any taxable year exceeds the taxpayer's tax for such  
5 year, fifty percent of the excess shall be treated as an overpayment of  
6 tax to be credited or refunded as provided in section six hundred eight-  
7 y-six of this chapter, provided, however, that no interest shall be paid  
8 thereon. The balance of such credit not credited or refunded in such  
9 taxable year may be carried over to the immediately succeeding taxable  
10 year and may be deducted from the taxpayer's tax for such year. The  
11 excess, if any, of the amount of the credit over the tax for such  
12 succeeding year shall be treated as an overpayment of tax to be credited  
13 or refunded as provided in section six hundred eighty-six of this chap-  
14 ter, provided, however, that no interest shall be paid thereon.

15 § 7. The public authorities law is amended by adding a new section  
16 1884 to read as follows:

17 § 1884. Alternative fuel grants. The New York state energy research  
18 and development authority shall:

19 1. Oversee and promote research and development regarding fuel diver-  
20 sification and energy efficiency in the transportation sector; and

21 2. Provide grants for the creation of a cellulosic ethanol refinery.

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

25 10. To construct, reconstruct or improve on or along the thruway  
26 system in the manner herein provided, suitable facilities for gas  
27 stations, restaurants, and other facilities for the public, or to lease  
28 the right to construct, reconstruct or improve and operate such facili-  
29 ties; such facilities shall be publicly offered for leasing for opera-  
30 tion, or the right to construct, reconstruct or improve and operate such  
31 facilities shall be publicly offered under rules and regulations to be  
32 established by the authority, provided, however, that lessees operating  
33 such facilities at the time this act becomes effective, may reconstruct  
34 or improve them or may construct additional like facilities, in the  
35 manner and upon such terms and conditions as the board shall determine;  
36 and provided further, however, that such facilities constructed, recon-  
37 structed or improved on or along the canal system shall be consistent  
38 with the canal recreationway plan approved pursuant to section one  
39 hundred thirty-eight-c of the canal law and former section three hundred  
40 eighty-two of this title; and provided further, that each such facility  
41 which contains or consists of a gas station shall include a facility for  
42 selling to the public alternative fuel, as defined in section three  
43 hundred fifty-one of this article.

44 § 9. Section 351 of the public authorities law is amended by adding a  
45 new subdivision 11 to read as follows:

46 11. The term "alternative fuel" shall mean ethanol, methanol, natural  
47 gas, propane, electricity (including electricity from solar energy),  
48 hydrogen, and any other fuel identified which is substantially not  
49 petroleum-based, which is consistent with the goals of protecting the  
50 safety and health of the public and minimizing emissions of air pollu-  
51 tants, and which is consistent with any applicable federal alternative  
52 fuel requirements.

53 § 10. The sum of eighty-two million dollars (\$82,000,000), or so much  
54 thereof as may be necessary, is hereby appropriated as follows: thirty  
55 million dollars for research and development in regards to fuel diver-  
56 sification and energy efficiency in the transportation sector; twenty-

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

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