

ASSEMBLY, No. 738

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

SYNOPSIS

Provides corporation business tax credits and gross income tax credits for purchase of hydrogen fuel cell vehicles.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** providing corporation business tax credits and gross
2 income tax credits for the purchase of hydrogen fuel cell
3 vehicles, and supplementing P.L.1945, c.162 (C.54:10A-1 et
4 seq.) and Title 54A of the New Jersey Statutes.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. a. For privilege periods beginning in 2019, 2020, and 2021,
10 a taxpayer shall be allowed a credit against the tax imposed
11 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for the
12 amount paid during the privilege period to purchase a hydrogen fuel
13 cell vehicle which is used directly and exclusively by the taxpayer
14 in the taxpayer's business, *trade, or occupation*.

15 For purchases made in privilege periods beginning in 2019, the
16 credit allowed pursuant to this section shall be in the amount of up
17 to \$3,500 for the purchase of a hydrogen fuel cell vehicle.

18 For purchases made in privilege periods beginning in 2020, the
19 credit allowed pursuant to this section shall be in the amount of up
20 to \$2,500 for the purchase of a hydrogen fuel cell vehicle.

21 For purchases made in privilege periods beginning in 2021, the
22 credit allowed pursuant to this section shall be in the amount of up
23 to \$1,500 for the purchase of a hydrogen fuel cell vehicle.

24 b. (1) To qualify for the tax credit allowed pursuant to this
25 section, the taxpayer shall file an application for a certification from
26 the Commissioner of Environmental Protection that the vehicle
27 purchased by the taxpayer qualifies as a passenger automobile that
28 is fueled by a hydrogen fuel cell. The certification shall specifically
29 indicate the date of purchase of the vehicle, a description of the
30 vehicle, and the amount paid for the vehicle. The commissioner
31 shall prescribe the form for the application and certification and
32 may require the submission of supplemental materials with an
33 application including but not limited to a copy of the receipt of
34 purchase.

35 (2) The Commissioner of Environmental Protection shall have
36 90 days from the date of receipt of a complete application to make a
37 determination as to the issuance of a certification.

38 (3) Upon certification, the Commissioner of Environmental
39 Protection shall submit a copy thereof to the taxpayer and the
40 director. In filing a tax return that includes a claim for the credit
41 allowed pursuant to this section, the taxpayer shall include a copy
42 of the certification.

43 c. The amount of the credit applied under this section against
44 the tax imposed pursuant to section 5 of P.L.1945, c.162, for a
45 privilege period, when taken together with any other credits allowed
46 against the tax imposed pursuant to section 5 of P.L.1945, c.162,
47 shall not exceed 50% of the tax liability otherwise due and shall not
48 reduce the tax liability to an amount less than the statutory

1 minimum provided in subsection (e) of section 5 of P.L.1945,
2 c.162. The priority in which credits allowed pursuant to this section
3 and any other credits shall be taken shall be as determined by the
4 Director of the Division of Taxation. The amount of the credit
5 otherwise allowable under this section which cannot be applied for
6 the privilege period due to the limitations of this subsection or
7 under other provisions of P.L.1945, c.162 may be carried over, if
8 necessary, to the seven privilege periods following the privilege
9 period for which the credit was allowed.

10
11 2. a. For privilege periods beginning in 2019, 2020, and 2021,
12 a taxpayer shall be allowed a credit against the tax imposed
13 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for the
14 amount paid during the privilege period to purchase a Class 8
15 hydrogen fuel cell truck which is used directly and exclusively by
16 the taxpayer in the taxpayer's business, *trade, or occupation*.

17 For purchases made in privilege periods beginning in 2019, the
18 credit allowed pursuant to this section shall be in the amount of up
19 to \$25,000 for the purchase of a Class 8 hydrogen fuel cell truck.

20 For purchases made in privilege periods beginning in 2020, the
21 credit allowed pursuant to this section shall be in the amount of up
22 to \$15,000 for the purchase of a Class 8 hydrogen fuel cell truck.

23 For purchases made in privilege periods beginning in 2021, the
24 credit allowed pursuant to this section shall be in the amount of up
25 to \$7,500 for the purchase of a Class 8 hydrogen fuel cell truck.

26 b. (1) To qualify for the tax credit allowed pursuant to this
27 section, the taxpayer shall file an application for a certification from
28 the Commissioner of Environmental Protection that the truck
29 purchased by the taxpayer qualifies as a Class 8 hydrogen fuel cell
30 truck. The certification shall specifically indicate the date of
31 purchase of the truck, a description of the truck, and the amount
32 paid for the truck. The commissioner shall prescribe the form for
33 the application and certification and may require the submission of
34 supplemental materials with an application including but not limited
35 to a copy of the receipt of purchase.

36 (2) The Commissioner of Environmental Protection shall have
37 90 days from the date of receipt of a complete application to make a
38 determination as to the issuance of a certification.

39 (3) Upon certification, the Commissioner of Environmental
40 Protection shall submit a copy thereof to the taxpayer and the
41 director. In filing a tax return that includes a claim for the credit
42 allowed pursuant to this section, the taxpayer shall include a copy
43 of the certification.

44 c. The amount of the credit applied under this section against
45 the tax imposed pursuant to section 5 of P.L.1945, c.162, for a
46 privilege period, when taken together with any other credits allowed
47 against the tax imposed pursuant to section 5 of P.L.1945, c.162,
48 shall not exceed 50% of the tax liability otherwise due and shall not

1 reduce the tax liability to an amount less than the statutory
2 minimum provided in subsection (e) of section 5 of P.L.1945,
3 c.162. The priority in which credits allowed pursuant to this section
4 and any other credits shall be taken shall be as determined by the
5 Director of the Division of Taxation. The amount of the credit
6 otherwise allowable under this section which cannot be applied for
7 the privilege period due to the limitations of this subsection or
8 under other provisions of P.L.1945, c.162 may be carried over, if
9 necessary, to the seven privilege periods following the privilege
10 period for which the credit was allowed.

11

12 3. a. For taxable years beginning in 2019, 2020, and 2021, a
13 taxpayer shall be allowed a credit against the tax imposed pursuant
14 to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
15 for the amount paid by the taxpayer during the taxable year to
16 purchase a hydrogen fuel cell vehicle. No taxpayer shall be allowed
17 more than one credit pursuant to this section per taxable year,
18 except that a taxpayer filing a joint return shall be allowed no more
19 than two credits pursuant to this section per taxable year.

20 For taxable years beginning in 2019, a taxpayer shall be allowed
21 a credit of up to \$3,500 for the amount paid to purchase a hydrogen
22 fuel cell vehicle.

23 For taxable years beginning in 2020, a taxpayer shall be allowed
24 a credit of up to \$2,500 for the amount paid to purchase a hydrogen
25 fuel cell vehicle.

26 For taxable years beginning in 2021, a taxpayer shall be allowed
27 a credit of up to \$1,500 for the amount paid to purchase a hydrogen
28 fuel cell vehicle.

29 b. (1) To qualify for the tax credit allowed pursuant to this
30 section, the taxpayer shall file an application for a certification from
31 the Commissioner of Environmental Protection that the vehicle
32 purchased by the taxpayer qualifies as a passenger automobile that
33 is fueled by hydrogen fuel cell. The certification shall specifically
34 indicate the date of purchase of the vehicle, a description of the
35 vehicle, and the amount paid for the vehicle. The commissioner
36 shall prescribe the form for the application and certification and
37 may require the submission of supplemental materials with an
38 application including but not limited to a copy of the receipt of
39 purchase.

40 (2) The Commissioner of Environmental Protection shall have
41 90 days from the date of receipt of a complete application to make a
42 determination as to the issuance of a certification.

43 (3) Upon certification, the Commissioner of Environmental
44 Protection shall submit a copy thereof to the taxpayer and the
45 director. In filing a tax return that includes a claim for the credit
46 allowed pursuant to this section, the taxpayer shall include a copy
47 of the certification.

1 4. a. For taxable years beginning in 2019, 2020, and 2021, a
2 taxpayer operating a business as a sole proprietor or through a
3 partnership shall be allowed a credit against the tax imposed
4 pursuant to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
5 et seq., for the amount paid during the taxable year to purchase a
6 hydrogen fuel cell vehicle which is used directly and exclusively by
7 the taxpayer in the taxpayer’s business, *trade, or occupation*.

8 For purchases made in taxable years beginning in 2019, the
9 credit allowed pursuant to this section shall be in the amount of up
10 to \$3,500 for the purchase of a hydrogen fuel cell vehicle.

11 For purchases made in taxable years beginning in 2020, the
12 credit allowed pursuant to this section shall be in the amount of up
13 to \$2,500 for the purchase of a hydrogen fuel cell vehicle.

14 For purchases made in taxable years beginning in 2021, the
15 credit allowed pursuant to this section shall be in the amount of up
16 to \$1,500 for the purchase of a hydrogen fuel cell vehicle.

17 b. (1) To qualify for the tax credit allowed pursuant to this
18 section, the taxpayer shall file an application for a certification from
19 the Commissioner of Environmental Protection that the vehicle
20 purchased by the taxpayer qualifies as a passenger automobile that
21 is fueled by a hydrogen fuel cell. The certification shall specifically
22 indicate the date of purchase of the vehicle, a description of the
23 vehicle, and the amount paid for the vehicle. The commissioner
24 shall prescribe the form for the application and certification and
25 may require the submission of supplemental materials with an
26 application including but not limited to a copy of the receipt of
27 purchase.

28 (2) The Commissioner of Environmental Protection shall have
29 90 days from the date of receipt of a complete application to make a
30 determination as to the issuance of a certification.

31 (3) Upon certification, the Commissioner of Environmental
32 Protection shall submit a copy thereof to the taxpayer and the
33 director. In filing a tax return that includes a claim for the credit
34 allowed pursuant to this section, the taxpayer shall include a copy
35 of the certification.

36 c. The amount of the credit applied under this section against
37 the tax imposed pursuant to the “New Jersey Gross Income Tax
38 Act,” N.J.S.54A:1-1 et seq., for a taxable year, when taken together
39 with any other credits allowed against the tax imposed pursuant to
40 the “New Jersey Gross Income Tax Act,” shall not exceed 50% of
41 the tax liability otherwise due. The priority in which credits
42 allowed pursuant to this section and any other credits shall be taken
43 shall be as determined by the Director of the Division of Taxation.

44 d. A partnership shall not be allowed a credit under this section
45 directly, but the amount of credit of a taxpayer in respect of a
46 distributive share of partnership income under the “New Jersey
47 Gross Income Tax Act,” N.J.S.54A:1-1 et seq., shall be determined
48 by allocating to the taxpayer that proportion of the credit that is

1 equal to the taxpayer's share, whether or not distributed, of the total
2 distributive income or gain of the partnership for its taxable year
3 ending within or with the taxpayer's taxable year.
4

5 5. a. For taxable years beginning in 2019, 2020, and 2021, a
6 taxpayer operating a business as a sole proprietor or through a
7 partnership shall be allowed a credit against the tax imposed
8 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
9 et seq., for the amount paid during the privilege period to purchase
10 a Class 8 hydrogen fuel cell truck which is used directly and
11 exclusively by the taxpayer in the taxpayer's business, *trade, or*
12 *occupation*.

13 For purchases made in taxable years beginning in 2019, the
14 credit allowed pursuant to this section shall be in the amount of up
15 to \$25,000 for the purchase of a Class 8 hydrogen fuel cell truck.

16 For purchases made in taxable years beginning in 2020, the
17 credit allowed pursuant to this section shall be in the amount of up
18 to \$15,000 for the purchase of a Class 8 hydrogen fuel cell truck.

19 For purchases made in taxable years beginning in 2021, the
20 credit allowed pursuant to this section shall be in the amount of up
21 to \$7,500 for the purchase of a Class 8 hydrogen fuel cell truck.

22 b. (1) To qualify for the tax credit allowed pursuant to this
23 section, the taxpayer shall file an application for a certification from
24 the Commissioner of Environmental Protection that the truck
25 purchased by the taxpayer qualifies as a Class 8 hydrogen fuel cell
26 truck. The certification shall specifically indicate the date of
27 purchase of the truck, a description of the truck, and the amount
28 paid for the truck. The commissioner shall prescribe the form for
29 the application and certification and may require the submission of
30 supplemental materials with an application including but not limited
31 to a copy of the receipt of purchase.

32 (2) The Commissioner of Environmental Protection shall have
33 90 days from the date of receipt of a complete application to make a
34 determination as to the issuance of a certification.

35 (3) Upon certification, the Commissioner of Environmental
36 Protection shall submit a copy thereof to the taxpayer and the
37 director. In filing a tax return that includes a claim for the credit
38 allowed pursuant to this section, the taxpayer shall include a copy
39 of the certification.

40 c. The amount of the credit applied under this section against
41 the tax imposed pursuant to the "New Jersey Gross Income Tax
42 Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken together
43 with any other credits allowed against the tax imposed pursuant to
44 the "New Jersey Gross Income Tax Act," shall not exceed 50% of
45 the tax liability otherwise due. The priority in which credits
46 allowed pursuant to this section and any other credits shall be taken
47 shall be as determined by the Director of the Division of Taxation.
48 The amount of the credit otherwise allowable under this section

1 which cannot be applied for the taxable year due to the limitations
2 of this section or under other provisions of “New Jersey Gross
3 Income Tax Act” may be carried over, if necessary, to the seven
4 taxable years following the taxable year for which the credit was
5 allowed.

6 d. A partnership shall not be allowed a credit under this section
7 directly, but the amount of credit of a taxpayer in respect of a
8 distributive share of partnership income under the “New Jersey
9 Gross Income Tax Act,” N.J.S.54A:1-1 et seq., shall be determined
10 by allocating to the taxpayer that proportion of the credit that is
11 equal to the taxpayer's share, whether or not distributed, of the total
12 distributive income or gain of the partnership for its taxable year
13 ending within or with the taxpayer's taxable year.

14
15 6. This act shall take effect immediately.
16
17

18 STATEMENT

19
20 This bill provides corporation business tax credits and gross
21 income tax credits for the purchase of certain hydrogen fuel cell
22 vehicles. The tax credits are available for purchases made in tax
23 years beginning in 2019, 2020, and 2021.

24 For business entities, the bill provides a credit for the purchase
25 of hydrogen fuel cell passenger automobiles and a credit for the
26 purchase of Class 8 hydrogen fuel cell trucks. Each credit is
27 available under the corporation business tax and gross income tax.
28 To qualify for these credits, a business taxpayer must use the
29 vehicle directly and exclusively in the taxpayer's business, *trade, or*
30 *occupation*.

31 These business credits are allowed for tax years beginning in a
32 three-year period and are gradually reduced each year. For
33 hydrogen fuel cell passenger automobiles purchased in a tax year
34 beginning in 2019 a business taxpayer is allowed a credit of up to
35 \$3,500. For hydrogen fuel cell passenger automobiles purchased in
36 a tax year beginning in 2020 a business taxpayer is allowed a credit
37 of up to \$2,500. For hydrogen fuel cell passenger automobiles
38 purchased in a tax year beginning in 2021 a business taxpayer is
39 allowed a credit of up to \$1,500. For Class 8 hydrogen fuel cell
40 trucks purchased in a tax year beginning in 2019 a business
41 taxpayer is allowed a credit of up to \$25,000. For Class 8 hydrogen
42 fuel cell trucks purchased in a tax year beginning in 2020 a business
43 taxpayer is allowed a credit of up to \$15,000. For Class 8 hydrogen
44 fuel cell trucks purchased in a tax year beginning in 2021 a business
45 taxpayer is allowed a credit of up to \$7,500.

46 For personal income taxpayers, the bill provides a gross income
47 tax credit for the purchase of hydrogen fuel cell passenger
48 automobiles. These personal income taxpayer credits are allowed

1 for tax years beginning in a three-year period and are gradually
2 reduced each year. For hydrogen fuel cell passenger automobiles
3 purchased in a tax year beginning in 2019 a personal income
4 taxpayer is allowed a credit of up to \$3,500. For hydrogen fuel cell
5 passenger automobiles purchased in a tax year beginning in 2020 a
6 personal income taxpayer is allowed a credit of up to \$2,500. For
7 hydrogen fuel cell passenger automobiles purchased in a tax year
8 beginning in 2021 a personal income taxpayer is allowed a credit of
9 up to \$1,500. The bill limits personal income taxpayers to one of
10 these credits per tax year, except joint filers are allowed two credits
11 per tax year.

12 To qualify for any of the credits allowed under this bill a
13 taxpayer must file an application for a certification from the
14 Commissioner of Environmental Protection that the vehicle or truck
15 purchased by the taxpayer qualifies as a passenger automobile
16 fueled by a hydrogen fuel cell or a Class 8 hydrogen fuel cell truck.