

**CLEANER BURNING FUELS TAX CREDITS AMENDMENTS
AND RELATED FUNDING**

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jack R. Draxler

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

This bill amends corporate and individual income tax credits for cleaner burning fuels and provides for transfers from the General Fund into the Education Fund in the amount by which the tax credit claimed exceeds \$500,000.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies eligibility requirements to claim tax credits for cleaner burning fuels;
- ▶ extends corporate and individual income tax credits for cleaner burning fuels until the end of taxable year 2014;
- ▶ requires transfers from the General Fund into the Education Fund in the amount by which the tax credit claimed exceeds \$500,000;
- ▶ grants rulemaking authority to the State Tax Commission; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect for a taxable year beginning on or after January 1, 2014.

Utah Code Sections Affected:

AMENDS:

59-7-605, as last amended by Laws of Utah 2011, Chapter 358

30 **59-10-1009**, as last amended by Laws of Utah 2011, Chapter 358



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **59-7-605** is amended to read:

34 **59-7-605. Definitions -- Cleaner burning fuels tax credit.**

35 (1) As used in this section:

36 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than
37 the standards established in:

38 (i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6); or

39 (ii) for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D,
40 Internal Revenue Code, bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

41 (b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
42 Conservation Act.

43 (c) "Certified by the board" means that:

44 (i) a motor vehicle on which conversion equipment has been installed meets the
45 following criteria:

46 (A) before the installation of conversion equipment, the vehicle does not exceed the
47 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51,
48 Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;
49 and

50 ~~[(B) the motor vehicle's emissions of regulated pollutants, when operating on a fuel~~
51 ~~listed in Subsection (2)(c)(i) or (ii), is less than the emissions were before the installation of~~
52 ~~conversion equipment; and]~~

53 ~~[(C) a reduction in emissions under Subsection (1)(c)(i)(B) is demonstrated by:]~~

54 ~~[(D) certification of the conversion equipment by the federal Environmental Protection~~
55 ~~Agency or by a state whose certification standards are recognized by the board;]~~

56 ~~[(H) testing the motor vehicle, before and after installation of the conversion~~
57 ~~equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use~~

58 Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using; or]

59 [~~(H) any other test or standard recognized by board rule, which may not include a~~
60 ~~retrofit compressed natural gas vehicle that is retrofit in accordance with Section 19-1-406,~~
61 ~~unless that motor vehicle also satisfies Subsection (1)(c)(i)(C)(I); or]~~

62 (B) as a result of the installation of conversion equipment on the motor vehicle, the
63 motor vehicle has reduced emissions; or

64 (ii) special mobile equipment on which conversion equipment has been installed
65 [~~meets the following criteria:~~] has reduced emissions.

66 [~~(A) the special mobile equipment's emissions of regulated pollutants, when operating~~
67 ~~on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the~~
68 ~~installation of conversion equipment; and]~~

69 [~~(B) a reduction in emissions under Subsection (1)(c)(ii)(A) is demonstrated by:]~~

70 [~~(f) certification of the conversion equipment by the federal Environmental Protection~~
71 ~~Agency or by a state whose certification standards are recognized by the board; or]~~

72 [~~(H) any other test or standard recognized by board rule.]~~

73 (d) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean
74 Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental
75 cost of an OEM vehicle or the cost of conversion equipment.

76 (e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

77 [~~(f) "Fuel economy standards" means that a vehicle's combined fuel economy, as~~
78 ~~determined in 40 C.F.R. 600.209-95(d) is equal to or greater than:]~~

79 [~~(i) 31 miles per gallon for gasoline-fueled vehicles;]~~

80 [~~(ii) 36 miles per gallon for diesel-fueled vehicles;]~~

81 [~~(iii) 19 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%~~
82 ~~gasoline;]~~

83 [~~(iv) 19 miles per gallon for liquified petroleum gas-fueled vehicles; or]~~

84 [~~(v) standards consistent with 40 C.F.R. 600.209-95(d) that are adopted by the Air~~
85 ~~Quality Board by rule.]~~

86 [~~(g)~~] "~~Incremental cost~~" has the same meaning as in Section 19-1-402.];

87 [~~(h)~~] (f) "OEM vehicle" has the same meaning as in Section 19-1-402.

88 [~~(i)~~] (g) "Original purchase" means the purchase of a vehicle that has never been titled
89 or registered and has been driven less than 7,500 miles.

90 (h) "Qualifying electric or hybrid vehicle" means a vehicle that:

91 (i) meets air quality standards;

92 (ii) is not fueled by natural gas;

93 (iii) is fueled by:

94 (A) electricity only; or

95 (B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and
96 ethanol, or propane; and

97 (iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in
98 Subsection (1)(h)(iii).

99 (i) "Reduced emissions" means:

100 (i) for purposes of a motor vehicle on which conversion equipment has been installed,
101 that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in
102 Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the
103 conversion equipment, as demonstrated by:

104 (A) certification of the conversion equipment by the federal Environmental Protection
105 Agency or by a state that has certification standards recognized by the board;

106 (B) testing the motor vehicle, before and after installation of the conversion equipment,
107 in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway
108 Vehicles and Engines, using all fuel the motor vehicle is capable of using;

109 (C) for a retrofit natural gas vehicle that is retrofit in accordance with Section
110 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the
111 emission standards applicable under Section 19-1-406; or

112 (D) any other test or standard recognized by board rule, made in accordance with Title
113 63G, Chapter 3, Utah Administrative Rulemaking Act; or

114 (ii) for purposes of special mobile equipment on which conversion equipment has been
 115 installed, that the special mobile equipment's emissions of regulated pollutants, when operating
 116 on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the
 117 installation of conversion equipment, as demonstrated by:

118 (A) certification of the conversion equipment by the federal Environmental Protection
 119 Agency or by a state that has certification standards recognized by the board; or

120 (B) any other test or standard recognized by board rule, made in accordance with Title
 121 63G, Chapter 3, Utah Administrative Rulemaking Act.

122 (j) "Special mobile equipment":

123 (i) means any mobile equipment or vehicle that is not designed or used primarily for
 124 the transportation of persons or property; and

125 (ii) includes construction or maintenance equipment.

126 (2) For the taxable [years] year beginning on or after January 1, ~~[2009]~~ 2014, but
 127 beginning on or before December 31, ~~[2013]~~ 2014, a taxpayer may claim a tax credit against
 128 tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations
 129 Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

130 (a) \$605 for the original purchase of a new qualifying electric or hybrid vehicle that is
 131 ~~[not fueled by compressed natural gas if the vehicle is]~~ registered in ~~[Utah and meets air quality~~
 132 ~~standards and fuel economy standards]~~ this state;

133 (b) for the purchase of a vehicle fueled by ~~[compressed]~~ natural gas that is registered in
 134 ~~[Utah]~~ this state, the lesser of:

135 (i) \$2,500; or

136 (ii) 35% of the purchase price of the vehicle;

137 (c) 50% of the cost of equipment for conversion, if certified by the board, of a motor
 138 vehicle registered in ~~[Utah]~~ this state minus the amount of any clean fuel grant received, up to a
 139 maximum tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:

140 (i) be fueled by propane, natural gas, or electricity;

141 (ii) be fueled by other fuel the board determines annually on or before July 1 to be at

142 least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

143 (iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act

144 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

145 (d) 50% of the cost of equipment for conversion, if certified by the board, of a special
146 mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum
147 tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to
148 be fueled by:

149 (i) propane, natural gas, or electricity; or

150 (ii) other fuel the board determines annually on or before July 1 to be:

151 (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i);

152 or

153 (B) substantially more effective in reducing air pollution than the fuel for which the
154 engine was originally designed.

155 (3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is
156 allowed under this section by:

157 (a) providing proof to the board in the form the board requires by rule;

158 (b) receiving a written statement from the board acknowledging receipt of the proof;

159 and

160 (c) retaining the written statement described in Subsection (3)(b).

161 (4) Except as provided by Subsection (5), the tax credit under this section is allowed
162 only:

163 (a) against ~~[any Utah]~~ a tax owed under this chapter or Chapter 8, Gross Receipts Tax
164 on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the
165 taxable year by the taxpayer;

166 (b) ~~[in]~~ for the taxable year in which ~~[the]~~ an item ~~[is purchased for which the tax~~
167 ~~credit is claimed]~~ described in Subsection (2)(a) or (b) is purchased or conversion equipment
168 described in Subsection (2)(c) or (d) is installed; and

169 (c) once per vehicle.

170 (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the
171 taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain
172 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year,
173 the amount of the tax credit exceeding the tax liability may be carried forward for a period that
174 does not exceed the next five taxable years.

175 [~~(6) The tax credit provided by this section may be taken only once per vehicle.~~]

176 (6) In accordance with any rules prescribed by the commission under Subsection (7),
177 the commission shall transfer at least annually from the General Fund into the Education Fund
178 the amount by which the amount of tax credit claimed under this section for a taxable year
179 exceeds \$500,000.

180 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
181 commission may make rules for making a transfer from the General Fund into the Education
182 Fund as required by Subsection (6).

183 Section 2. Section **59-10-1009** is amended to read:

184 **59-10-1009. Definitions -- Cleaner burning fuels tax credit.**

185 (1) As used in this section:

186 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than
187 the standards established in:

188 (i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6); or

189 (ii) for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D,
190 Internal Revenue Code, bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

191 (b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air
192 Conservation Act.

193 (c) "Certified by the board" means that:

194 (i) a motor vehicle on which conversion equipment has been installed meets the
195 following criteria:

196 (A) before the installation of conversion equipment, the vehicle does not exceed the
197 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51,

198 Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;
199 and

200 ~~[(B) the motor vehicle's emissions of regulated pollutants, when operating on fuels~~
201 ~~listed in Subsection (2)(c)(i) or (ii), is less than the emissions were before the installation of~~
202 ~~conversion equipment; and]~~

203 ~~[(C) a reduction in emissions under Subsection (1)(c)(i)(B) is demonstrated by:]~~

204 ~~[(F) certification of the conversion equipment by the federal Environmental Protection~~
205 ~~Agency or by a state whose certification standards are recognized by the board;]~~

206 ~~[(H) testing the motor vehicle, before and after installation of the conversion~~
207 ~~equipment, in accordance with 40 C.F.R. Part 86, Control Emissions from New and In-use~~
208 ~~Highway Vehicles and Engines, using all fuels the motor vehicle is capable of using; or]~~

209 ~~[(HH) any other test or standard recognized by board rule, which may not include a~~
210 ~~retrofit compressed natural gas vehicle that is retrofit in accordance with Section 19-1-406;~~
211 ~~unless that motor vehicle also satisfies Subsection (1)(c)(i)(C)(I); or]~~

212 (B) as a result of the installation of conversion equipment on the motor vehicle, the
213 motor vehicle has reduced emissions; or

214 (ii) special mobile equipment on which conversion equipment has been installed
215 ~~[meets the following criteria:]~~ has reduced emissions.

216 ~~[(A) the special mobile equipment's emissions of regulated pollutants, when operating~~
217 ~~on fuels listed in Subsection (2)(c)(i) or (ii), is less than the emissions were before the~~
218 ~~installation of conversion equipment; and]~~

219 ~~[(B) a reduction in emissions under Subsection (1)(c)(ii)(A) is demonstrated by:]~~

220 ~~[(F) certification of the conversion equipment by the federal Environmental Protection~~
221 ~~Agency or by a state whose certification standards are recognized by the board; or]~~

222 ~~[(H) any other test or standard recognized by the board.]~~

223 (d) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19,
224 Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a
225 portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

226 (e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

227 [~~(f) "Fuel economy standards" means that a vehicle's combined fuel economy, as~~
228 ~~determined in 40 C.F.R. 600.209-95(d) is equal to or greater than:~~]

229 [~~(i) 31 miles per gallon for gasoline-fueled vehicles;~~]

230 [~~(ii) 36 miles per gallon for diesel-fueled vehicles;~~]

231 [~~(iii) 19 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%~~
232 ~~gasoline;~~]

233 [~~(iv) 19 miles per gallon for liquified petroleum gas-fueled vehicles; or]~~

234 [~~(v) standards consistent with 40 C.F.R. 600.209-95(d) that are adopted by the Air~~
235 ~~Quality Board by rule;~~]

236 [~~(g) "Incremental cost" has the same meaning as in Section 19-1-402.~~]

237 [~~(h)~~ (f) "OEM vehicle" has the same meaning as in Section 19-1-402.

238 [(†) (g) "Original purchase" means the purchase of a vehicle that has never been titled
239 or registered and has been driven less than 7,500 miles.

240 (h) "Qualifying electric or hybrid vehicle" means a vehicle that:

241 (i) meets air quality standards;

242 (ii) is not fueled by natural gas;

243 (iii) is fueled by:

244 (A) electricity only; or

245 (B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and
246 ethanol, or propane; and

247 (iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in
248 Subsection (1)(h)(iii).

249 (i) "Reduced emissions" means:

250 (i) for purposes of a motor vehicle on which conversion equipment has been installed,
251 that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in
252 Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the
253 conversion equipment, as demonstrated by:

254 (A) certification of the conversion equipment by the federal Environmental Protection
255 Agency or by a state that has certification standards recognized by the board;

256 (B) testing the motor vehicle, before and after installation of the conversion equipment,
257 in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway
258 Vehicles and Engines, using all fuel the motor vehicle is capable of using;

259 (C) for a retrofit natural gas vehicle that is retrofit in accordance with Section
260 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the
261 emission standards applicable under Section 19-1-406; or

262 (D) any other test or standard recognized by board rule, made in accordance with Title
263 63G, Chapter 3, Utah Administrative Rulemaking Act; or

264 (ii) for purposes of special mobile equipment on which conversion equipment has been
265 installed, that the special mobile equipment's emissions of regulated pollutants, when operating
266 on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the
267 installation of conversion equipment, as demonstrated by:

268 (A) certification of the conversion equipment by the federal Environmental Protection
269 Agency or by a state that has certification standards recognized by the board; or

270 (B) any other test or standard recognized by board rule, made in accordance with Title
271 63G, Chapter 3, Utah Administrative Rulemaking Act.

272 (j) "Special mobile equipment":

273 (i) means any mobile equipment or vehicle not designed or used primarily for the
274 transportation of persons or property; and

275 (ii) includes construction or maintenance equipment.

276 (2) For the taxable [years] year beginning on or after January 1, ~~[2009]~~ 2014, but
277 beginning on or before December 31, ~~[2013]~~ 2014, a claimant, estate, or trust may claim a
278 nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

279 (a) \$605 for the original purchase of a new qualifying electric or hybrid vehicle that is
280 ~~[not fueled by compressed natural gas if the vehicle is]~~ registered in ~~[Utah and meets air quality~~
281 ~~standards and fuel economy standards]~~ this state;

282 (b) for the purchase of a vehicle fueled by [~~compressed~~] natural gas that is registered in
283 [~~Utah~~] this state, the lesser of:

284 (i) \$2,500; or

285 (ii) 35% of the purchase price of the vehicle;

286 (c) 50% of the cost of equipment for conversion, if certified by the board, of a motor
287 vehicle registered in [~~Utah~~] this state minus the amount of any clean fuel conversion grant
288 received, up to a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:

289 (i) is to be fueled by propane, natural gas, or electricity;

290 (ii) is to be fueled by other fuel the board determines annually on or before July 1 to be
291 at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

292 (iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act
293 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

294 (d) 50% of the cost of equipment for conversion, if certified by the board, of a special
295 mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a
296 maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile
297 equipment is to be fueled by:

298 (i) propane, natural gas, or electricity; or

299 (ii) other fuel the board determines annually on or before July 1 to be:

300 (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i);

301 or

302 (B) substantially more effective in reducing air pollution than the fuel for which the
303 engine was originally designed.

304 (3) A claimant, estate, or trust shall provide proof of the purchase of an item for which
305 a tax credit is allowed under this section by:

306 (a) providing proof to the board in the form the board requires by rule;

307 (b) receiving a written statement from the board acknowledging receipt of the proof;

308 and

309 (c) retaining the written statement described in Subsection (3)(b).

310 (4) Except as provided by Subsection (5), the tax credit under this section is allowed
311 only:

312 (a) against ~~[any Utah]~~ a tax owed under this chapter in the taxable year by the claimant,
313 estate, or trust;

314 (b) ~~[in]~~ for the taxable year in which ~~[the]~~ an item ~~[is purchased for which the tax~~
315 ~~credit is claimed]~~ described in Subsection (2)(a) or (b) is purchased or conversion equipment
316 described in Subsection (2)(c) or (d) is installed; and

317 (c) once per vehicle.

318 (5) If the amount of a tax credit claimed by a claimant, estate, or trust under this
319 section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable
320 year, the amount of the tax credit exceeding the tax liability may be carried forward for a period
321 that does not exceed the next five taxable years.

322 ~~[(6) The tax credit provided by this section may be taken only once per vehicle.]~~

323 (6) In accordance with any rules prescribed by the commission under Subsection (7),
324 the commission shall transfer at least annually from the General Fund into the Education Fund
325 the amount by which the amount of tax credit claimed under this section for a taxable year
326 exceeds \$500,000.

327 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
328 commission may make rules for making a transfer from the General Fund into the Education
329 Fund as required by Subsection (6).

330 **Section 3. Effective date.**

331 This bill takes effect for a taxable year beginning on or after January 1, 2014.