

1 **CLEAN FUEL VEHICLE TAX CREDIT MODIFICATIONS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: V. Lowry Snow**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends income tax credits related to cleaner burning fuel vehicles.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ amends the eligibility requirements for cleaner burning fuels tax credits available
- 13 under the Individual Income Tax Act and the Corporate Franchise and Income
- 14 Taxes chapter;
- 15 ▶ extends a repeal date for the tax credits; and
- 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

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

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **59-7-605**, as last amended by Laws of Utah 2011, Chapter 358

24 **59-10-1009**, as last amended by Laws of Utah 2011, Chapter 358

26 *Be it enacted by the Legislature of the state of Utah:*

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



28 **59-7-605. Definitions -- Cleaner burning fuels tax credit.**

29 (1) As used in this section:

30 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than
31 the standards established in ~~[(i)]~~ bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6) ~~[(i)]~~.

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

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

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

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

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

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

45 (C) a reduction in emissions under Subsection (1)(c)(i)(B) is demonstrated by:

46 (I) certification of the conversion equipment by the federal Environmental Protection
47 Agency or by a state whose certification standards are recognized by the board;

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

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

54 (ii) special mobile equipment on which conversion equipment has been installed meets
55 the following criteria:

56 (A) the special mobile equipment's emissions of regulated pollutants, when operating
57 on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the
58 installation of conversion equipment; and

59 (B) a reduction in emissions under Subsection (1)(c)(ii)(A) is demonstrated by:

60 (I) certification of the conversion equipment by the federal Environmental Protection
61 Agency or by a state whose certification standards are recognized by the board; or

62 (II) any other test or standard recognized by board rule.

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

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

67 (f) "Fuel economy standards" means that a vehicle's combined fuel economy, as
68 determined in 40 C.F.R. [~~600.209-95(d)~~] 600.210-12(c) is equal to or greater than:

69 (i) [~~34~~] 40 miles per gallon for gasoline-fueled vehicles;

70 (ii) [~~36~~] 45 miles per gallon for diesel-fueled vehicles;

71 (iii) [~~19~~] 28 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%
72 gasoline;

73 (iv) [~~19~~] 28 miles per gallon for liquified petroleum gas-fueled vehicles; or

74 (v) standards consistent with 40 C.F.R. [~~600.209-95(d)~~] 600.210-12(c) that are adopted
75 by the Air Quality Board by rule.

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

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

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

80 [~~(j)~~] (i) "Special mobile equipment":

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

83 (ii) includes construction or maintenance equipment.

84 (2) For taxable years beginning on or after January 1, [~~2009~~] 2014, but beginning on or
85 before December 31, [~~2013~~] 2018, a taxpayer may claim a tax credit against tax otherwise due
86 under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to
87 Pay Corporate Franchise or Income Tax Act, in an amount equal to:

88 (a) [~~\$605~~] \$1,500 for the original purchase of a new vehicle that [~~is not fueled by~~
89 ~~compressed natural gas if the vehicle is registered in Utah and~~];

90 (i) is registered in this state;
91 (ii) is not described in Subsection (2)(b); and
92 (iii) meets air quality standards and fuel economy standards;
93 (b) \$3,000 for the original purchase of a new vehicle [~~fueled by compressed natural~~
94 ~~gas~~] that:
95 (i) is registered in [~~Utah, the lesser of:~~] this state; and
96 [~~(i) \$2,500; or~~
97 [~~(ii) 35% of the purchase price of the vehicle;~~
98 (ii) (A) is a new qualified plug-in electric drive motor vehicle, as defined in Section
99 30D, Internal Revenue Code; or
100 (B) is fueled by natural gas;
101 (c) 50% of the cost of equipment for conversion, if certified by the board, of a motor
102 vehicle registered in [~~Utah~~] this state minus the amount of any clean fuel grant received, up to a
103 maximum tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:
104 (i) be fueled by propane, natural gas, or electricity;
105 (ii) be fueled by other fuel the board determines annually on or before July 1 to be at
106 least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or
107 (iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act
108 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and
109 (d) 50% of the cost of equipment for conversion, if certified by the board, of a special
110 mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum
111 tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to
112 be fueled by:
113 (i) propane, natural gas, or electricity; or
114 (ii) other fuel the board determines annually on or before July 1 to be:
115 (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i);
116 or
117 (B) substantially more effective in reducing air pollution than the fuel for which the
118 engine was originally designed.
119 (3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is
120 allowed under this section by:

121 (a) providing proof to the board in the form the board requires by rule;
 122 (b) receiving a written statement from the board acknowledging receipt of the proof;

123 and

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

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

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

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

133 (c) once per vehicle.

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

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

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

141 **59-10-1009. Definitions -- Cleaner burning fuels tax credit.**

142 (1) As used in this section:

143 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than
 144 the standards established in~~[-(i)]~~ bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6)~~[-or]~~.

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

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

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

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

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

155 (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels
156 listed in Subsection (2)(c)(i) or (ii), is less than the emissions were before the installation of
157 conversion equipment; and

158 (C) a reduction in emissions under Subsection (1)(c)(i)(B) is demonstrated by:

159 (I) certification of the conversion equipment by the federal Environmental Protection
160 Agency or by a state whose certification standards are recognized by the board;

161 (II) testing the motor vehicle, before and after installation of the conversion equipment,
162 in accordance with 40 C.F.R. Part 86, Control Emissions from New and In-use Highway
163 Vehicles and Engines, using all fuels the motor vehicle is capable of using; or

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

167 (ii) special mobile equipment on which conversion equipment has been installed meets
168 the following criteria:

169 (A) the special mobile equipment's emissions of regulated pollutants, when operating
170 on fuels listed in Subsection (2)(c)(i) or (ii), is less than the emissions were before the
171 installation of conversion equipment; and

172 (B) a reduction in emissions under Subsection (1)(c)(ii)(A) is demonstrated by:

173 (I) certification of the conversion equipment by the federal Environmental Protection
174 Agency or by a state whose certification standards are recognized by the board; or

175 (II) any other test or standard recognized by the board.

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

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

180 (f) "Fuel economy standards" means that a vehicle's combined fuel economy, as
181 determined in 40 C.F.R. [~~600.209-95(d)~~] 600.210-12(c) is equal to or greater than:

182 (i) [~~34~~] 40 miles per gallon for gasoline-fueled vehicles;

- 183 (ii) ~~[36]~~ 45 miles per gallon for diesel-fueled vehicles;
- 184 (iii) ~~[19]~~ 28 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%
- 185 gasoline;
- 186 (iv) ~~[19]~~ 28 miles per gallon for liquified petroleum gas-fueled vehicles; or
- 187 (v) standards consistent with 40 C.F.R. ~~[600.209-95(d)]~~ 600.210-12(c) that are adopted
- 188 by the Air Quality Board by rule.

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

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

191 ~~[(i)]~~ (h) "Original purchase" means the purchase of a vehicle that has never been titled

192 or registered and has been driven less than 7,500 miles.

193 ~~[(j)]~~ (i) "Special mobile equipment":

194 (i) means any mobile equipment or vehicle not designed or used primarily for the

195 transportation of persons or property; and

196 (ii) includes construction or maintenance equipment.

197 (2) For taxable years beginning on or after January 1, ~~[2009]~~ 2014, but beginning on or

198 before December 31, ~~[2013]~~ 2018, a claimant, estate, or trust may claim a nonrefundable tax

199 credit against tax otherwise due under this chapter in an amount equal to:

200 (a) ~~[\$605]~~ \$1,500 for the original purchase of a new vehicle that ~~[is not fueled by~~

201 ~~compressed natural gas if the vehicle is registered in Utah and];~~

202 (i) is registered in this state;

203 (ii) is not described in Subsection (2)(b); and

204 (iii) meets air quality standards and fuel economy standards;

205 (b) for the original purchase of a new vehicle ~~[fueled by compressed natural gas]~~ that:

206 (i) is registered in [Utah, the lesser of:] this state; and

207 ~~[(i) \$2,500; or]~~

208 ~~[(ii) 35% of the purchase price of the vehicle;]~~

209 (ii) (A) is a new qualified plug-in electric drive motor vehicle, as defined in Section

210 30D, Internal Revenue Code; or

211 (B) is fueled by natural gas;

212 (c) 50% of the cost of equipment for conversion, if certified by the board, of a motor

213 vehicle registered in ~~[Utah]~~ this state minus the amount of any clean fuel conversion grant

214 received, up to a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:

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

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

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

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

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

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

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

227 or

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

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

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

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

234 and

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

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

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

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

243 (c) once per vehicle.

244 (5) If the amount of a tax credit claimed by a claimant, estate, or trust under this

245 section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable
246 year, the amount of the tax credit exceeding the tax liability may be carried forward for a period
247 that does not exceed the next five taxable years.

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

249 Section 3. **Effective date.**

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

Legislative Review Note
as of 1-29-13 2:25 PM

Office of Legislative Research and General Counsel