

**ENERGY EFFICIENT VEHICLE TAX CREDITS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: J. Stuart Adams

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**LONG TITLE**

**General Description:**

This bill addresses tax credits related to energy efficient vehicles.

**Highlighted Provisions:**

This bill:

- ▶ modifies the amount of tax credit that may be claimed for the purchase of certain energy efficient vehicles; 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, 2015.

**Utah Code Sections Affected:**

AMENDS:

**59-7-605**, as last amended by Laws of Utah 2013, Chapter 184

**59-10-1009**, as last amended by Laws of Utah 2013, Chapter 184

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

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

**59-7-605. Definitions -- Tax credits related to energy efficient vehicles.**

(1) As used in this section:



28 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than  
29 the standards established in ~~[(i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6); or (ii)~~  
30 ~~for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D, Internal~~  
31 ~~Revenue Code;]~~ bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

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

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

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

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

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

43 (ii) special mobile equipment on which conversion equipment has been installed has  
44 reduced emissions.

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

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

49 (f) "OEM vehicle" has the same meaning as in Section 19-1-402.

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

52 (h) "Qualifying electric ~~[or hybrid]~~ vehicle" means a vehicle that:

53 (i) meets air quality standards;

54 (ii) is not fueled by natural gas;

55 (iii) is fueled by ~~[(A)]~~ electricity only; ~~[or]~~ and

56 ~~[(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and~~  
57 ~~ethanol, or propane; and]~~

58 (iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in

59 Subsection (1)(h)(iii).

60 (i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

61 (i) meets air quality standards;

62 (ii) is not fueled by natural gas;

63 (iii) has a battery capacity that meets or exceeds the battery capacity described in

64 Section 30D(b)(3), Internal Revenue Code; and

65 (iv) is fueled by a combination of electricity and diesel fuel, gasoline, a mixture of  
66 gasoline and ethanol, or propane.

67 [(†)] (j) "Reduced emissions" means:

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

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

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

77 (C) for a retrofit natural gas vehicle that is retrofit in accordance with Section  
78 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the  
79 emission standards applicable under Section 19-1-406; or

80 (D) any other test or standard recognized by board rule, made in accordance with Title  
81 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

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

88 (B) any other test or standard recognized by board rule, made in accordance with Title  
89 63G, Chapter 3, Utah Administrative Rulemaking Act.

90           ~~(j)~~ (k) "Special mobile equipment":

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

93           (ii) includes construction or maintenance equipment.

94           (2) For the taxable year beginning on or after January 1, ~~[2014]~~ 2015, but beginning on  
95 or before December 31, ~~[2014]~~ 2015, a taxpayer may claim a tax credit against tax otherwise  
96 due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required  
97 to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

98           (a) (i) ~~[\$605]~~ for the original purchase of a new qualifying electric ~~[or hybrid]~~ vehicle  
99 that is registered in this state~~;~~, the lesser of:

100           (A) \$2,500; or

101           (B) 35% of the purchase price of the vehicle; or

102           (ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is  
103 registered in this state, \$1,250;

104           (b) for the purchase of a vehicle fueled by natural gas that is registered in this state, the  
105 lesser of:

106           (i) \$2,500; or

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

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

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

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

114           (iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act  
115 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; ~~[and]~~

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

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

121 (ii) other fuel the board determines annually on or before July 1 to be:  
 122 (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i);  
 123 or  
 124 (B) substantially more effective in reducing air pollution than the fuel for which the  
 125 engine was originally designed[-]; and  
 126 (e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the  
 127 product of:  
 128 (i) the amount of tax credit the taxpayer would otherwise qualify to claim under  
 129 Subsection (2)(a) or (b) had the taxpayer purchased the vehicle, except that the purchase price  
 130 described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to be the value of the vehicle at  
 131 the beginning of the lease; and  
 132 (ii) a percentage calculated by:  
 133 (A) determining the difference between the value of the vehicle at the beginning of the  
 134 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
 135 stated in the lease agreement; and  
 136 (B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of  
 137 the vehicle at the beginning of the lease, as stated in the lease agreement.  
 138 (3) (a) The board shall:  
 139 (i) determine the amount of tax credit a taxpayer is allowed under this section; and  
 140 (ii) provide the taxpayer with a written certification of the amount of tax credit the  
 141 taxpayer is allowed under this section.  
 142 ~~[(3)]~~ (b) A taxpayer shall provide proof of the purchase or lease of an item for which a  
 143 tax credit is allowed under this section by:  
 144 ~~[(a)]~~ (i) providing proof to the board in the form the board requires by rule;  
 145 ~~[(b)]~~ (ii) receiving a written statement from the board acknowledging receipt of the  
 146 proof; and  
 147 ~~[(c)]~~ (iii) retaining the written statement described in Subsection (3)(b)(ii).  
 148 (c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).  
 149 (4) Except as provided by Subsection (5), the tax credit under this section is allowed  
 150 only:  
 151 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain

152 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year  
153 by the taxpayer;

154 (b) for the taxable year in which ~~[an item]~~ a vehicle described in Subsection (2)(a) or  
155 (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment  
156 described in Subsection (2)(c) or (d) is installed; and

157 (c) once per vehicle.

158 (5) A taxpayer may not assign a tax credit under this section to another person.

159 ~~[(5)]~~ (6) If the amount of a tax credit claimed by a taxpayer under this section exceeds  
160 the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain  
161 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year,  
162 the amount of the tax credit exceeding the tax liability may be carried forward for a period that  
163 does not exceed the next five taxable years.

164 ~~[(6)]~~ (7) In accordance with any rules prescribed by the commission under Subsection  
165 ~~[(7)]~~ (8), the commission shall transfer at least annually from the General Fund into the  
166 Education Fund the amount by which the amount of tax credit claimed under this section for a  
167 taxable year exceeds \$500,000.

168 ~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
169 Act, the commission may make rules for making a transfer from the General Fund into the  
170 Education Fund as required by Subsection ~~[(6)]~~ (7).

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

172 **59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.**

173 (1) As used in this section:

174 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than  
175 the standards established in ~~[(i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6); or (ii)~~  
176 ~~for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D, Internal~~  
177 ~~Revenue Code,]~~ bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

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

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

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

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

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

189 (ii) special mobile equipment on which conversion equipment has been installed has  
 190 reduced emissions.

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

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

195 (f) "OEM vehicle" has the same meaning as in Section 19-1-402.

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

198 (h) "Qualifying electric [~~or hybrid~~] vehicle" means a vehicle that:

199 (i) meets air quality standards;

200 (ii) is not fueled by natural gas;

201 (iii) is fueled by[~~-(A)~~] electricity only; [~~or~~] and

202 [~~(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and~~  
 203 ~~ethanol, or propane; and]~~

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

206 (i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

207 (i) meets air quality standards;

208 (ii) is not fueled by natural gas;

209 (iii) has a battery capacity that meets or exceeds the battery capacity described in  
 210 Section 30D(b)(3), Internal Revenue Code; and

211 (iv) is fueled by a combination of electricity and diesel fuel, gasoline, a mixture of  
 212 gasoline and ethanol, or propane.

213 [~~(i)~~] (j) "Reduced emissions" means:

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

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

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

223 (C) for a retrofit natural gas vehicle that is retrofit in accordance with Section  
224 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the  
225 emission standards applicable under Section 19-1-406; or

226 (D) any other test or standard recognized by board rule, made in accordance with Title  
227 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

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

234 (B) any other test or standard recognized by board rule, made in accordance with Title  
235 63G, Chapter 3, Utah Administrative Rulemaking Act.

236 [(j)] (k) "Special mobile equipment":

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

239 (ii) includes construction or maintenance equipment.

240 (2) For the taxable year beginning on or after January 1, [2014] 2015, but beginning on  
241 or before December 31, [2014] 2015, a claimant, estate, or trust may claim a nonrefundable tax  
242 credit against tax otherwise due under this chapter in an amount equal to:

243 (a) (i) [\$605] for the original purchase of a new qualifying electric [or hybrid] vehicle  
244 that is registered in this state[;], the lesser of:



245           (A) \$2,500; or  
246           (B) 35% of the purchase price of the vehicle; or  
247           (ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is  
248 registered in this state, \$1,250;  
249           (b) for the purchase of a vehicle fueled by natural gas that is registered in this state, the  
250 lesser of:  
251           (i) \$2,500; or  
252           (ii) 35% of the purchase price of the vehicle;  
253           (c) 50% of the cost of equipment for conversion, if certified by the board, of a motor  
254 vehicle registered in this state minus the amount of any clean fuel conversion grant received, up  
255 to a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:  
256           (i) is to be fueled by propane, natural gas, or electricity;  
257           (ii) is to be fueled by other fuel the board determines annually on or before July 1 to be  
258 at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or  
259           (iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act  
260 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; [~~and~~]  
261           (d) 50% of the cost of equipment for conversion, if certified by the board, of a special  
262 mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a  
263 maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile  
264 equipment is to be fueled by:  
265           (i) propane, natural gas, or electricity; or  
266           (ii) other fuel the board determines annually on or before July 1 to be:  
267           (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i);  
268 or  
269           (B) substantially more effective in reducing air pollution than the fuel for which the  
270 engine was originally designed[-]; and  
271           (e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the  
272 product of:  
273           (i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to  
274 claim under Subsection (2)(a) or (b) had the claimant, estate, or trust purchased the vehicle,  
275 except that the purchase price described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to

276 be the value of the vehicle at the beginning of the lease; and

277 (ii) a percentage calculated by:

278 (A) determining the difference between the value of the vehicle at the beginning of the  
279 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as

280 stated in the lease agreement; and

281 (B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of  
282 the vehicle at the beginning of the lease, as stated in the lease agreement.

283 (3) (a) The board shall:

284 (i) determine the amount of tax credit a claimant, estate, or trust is allowed under this  
285 section; and

286 (ii) provide the claimant, estate, or trust with a written certification of the amount of  
287 tax credit the claimant, estate, or trust is allowed under this section.

288 ~~[(3)]~~ (b) A claimant, estate, or trust shall provide proof of the purchase or lease of an  
289 item for which a tax credit is allowed under this section by:

290 ~~[(a)]~~ (i) providing proof to the board in the form the board requires by rule;

291 ~~[(b)]~~ (ii) receiving a written statement from the board acknowledging receipt of the  
292 proof; and

293 ~~[(c)]~~ (iii) retaining the written statement described in Subsection (3)(b)(ii).

294 (c) A claimant, estate, or trust shall retain the written certification described in  
295 Subsection (3)(a)(ii).

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

298 (a) against a tax owed under this chapter in the taxable year by the claimant, estate, or  
299 trust;

300 (b) for the taxable year in which ~~[an item]~~ a vehicle described in Subsection (2)(a) or  
301 (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment  
302 described in Subsection (2)(c) or (d) is installed; and

303 (c) once per vehicle.

304 (5) A claimant, estate, or trust may not assign a tax credit under this section to another  
305 person.

306 ~~[(5)]~~ (6) If the amount of a tax credit claimed by a claimant, estate, or trust under this

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

310 ~~[(6)]~~ (7) In accordance with any rules prescribed by the commission under Subsection  
311 ~~[(7)]~~ (8), the commission shall transfer at least annually from the General Fund into the  
312 Education Fund the amount by which the amount of tax credit claimed under this section for a  
313 taxable year exceeds \$500,000.

314 ~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
315 Act, the commission may make rules for making a transfer from the General Fund into the  
316 Education Fund as required by Subsection ~~[(6)]~~ (7).

317 Section 3. **Effective date.**

318 This bill takes effect for a taxable year beginning on or after January 1, 2015.

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**Legislative Review Note**

**as of 1-22-14 2:03 PM**

**Office of Legislative Research and General Counsel**