

NATURAL GAS VEHICLE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses provisions relating to natural gas vehicles.

Highlighted Provisions:

This bill:

- ▶ provides an income tax credit for the purchase of a natural gas heavy duty vehicle;
- ▶ provides requirements for the tax credit and an aggregate limit on tax credits;
- ▶ authorizes the Air Quality Board to make rules relating to administration of the tax credit program;
- ▶ modifies a provision relating to the taxation of natural gas used in vehicles; and
- ▶ provides for the repeal of the tax credit provisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-13-301, as last amended by Laws of Utah 2011, Chapter 259

63I-1-259, as last amended by Laws of Utah 2014, Chapter 54

ENACTS:

59-7-618, Utah Code Annotated 1953



28 59-10-1033, Utah Code Annotated 1953

29

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

31 Section 1. Section **59-7-618** is enacted to read:

32 **59-7-618. Tax credit related to natural gas heavy duty vehicles.**

33 (1) As used in this section:

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

36 (b) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
37 vehicle classifications established by the Federal Highway Administration.

38 (c) "Natural gas" includes compressed natural gas and liquified natural gas.

39 (d) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

40 (i) has never been titled or registered and has been driven less than 7,500 miles; and

41 (ii) is fueled by natural gas.

42 (e) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

43 (f) "Qualified taxpayer" means a taxpayer who:

44 (i) purchases a qualified heavy duty vehicle; and

45 (ii) receives a tax credit certificate from the board.

46 (g) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
47 owned by a single taxpayer.

48 (h) "Tax credit certificate" means a certificate issued by the board certifying that a
49 taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax
50 credit.

51 (2) For a taxable year beginning on or after January 1, 2015, a qualified taxpayer may
52 claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts
53 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act:

54 (a) in an amount equal to:

55 (i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year
56 2016, or calendar year 2017;

57 (ii) \$20,000, if the qualified purchase occurs during calendar year 2018;

58 (iii) \$18,000, if the qualified purchase occurs during calendar year 2019; and

59 (iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and
60 (b) if the taxpayer certifies under oath that over 50% of the miles that the heavy duty
61 vehicle that is the subject of the qualified purchase will travel annually will be within the state.

62 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an
63 application for, and the board may not issue to the taxpayer, a tax credit certificate under this
64 section in any taxable year for a qualifying purchase if the board has already issued tax credit
65 certificates to the taxpayer for 10 qualifying purchases in the same taxable year.

66 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
67 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application
68 for, and the board may issue to the taxpayer, one or more tax credit certificates for up to eight
69 additional qualifying purchases, even if the board has already issued to that taxpayer tax credit
70 certificates for the maximum number of qualifying purchases allowed under Subsection (3)(a).

71 (4) (a) Subject to Subsection (4)(b), the board shall reserve 25% of all tax credits
72 available under this section for taxpayers with a small fleet.

73 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or
74 the board from issuing, a tax credit certificate if the amount reserved under Subsection (4)(a)
75 for taxpayers with a small fleet has not been claimed by a date that is 90 days before the end of
76 the year.

77 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
78 certificates that the board issues under this section, when combined with the aggregate annual
79 total amount of tax credits represented by tax credit certificates that the board issues under
80 Section [59-10-1033](#), may not exceed \$2,000,000.

81 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
82 Rulemaking Act, make rules to establish a process whereby a taxpayer may reserve a potential
83 tax credit under this section for a limited time to allow the taxpayer to make a qualifying
84 purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met
85 before the taxpayer is able to submit an application for a tax credit certificate.

86 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms
87 the board requires by rule:

88 (A) submit to the board an application for a tax credit;

89 (B) provide the board proof of a qualifying purchase; and

90 (C) submit to the board the certification under oath required under Subsection (2)(b).

91 (ii) Upon receiving the application, proof, and certification required under Subsection
92 (6)(a)(i), the board shall provide the taxpayer a written statement from the board
93 acknowledging receipt of the proof.

94 (b) If the board determines that a taxpayer qualifies for a tax credit under this section,
95 the board shall:

96 (i) determine the amount of tax credit the taxpayer is allowed under this section; and

97 (ii) provide the qualifying taxpayer with a written tax credit certificate:

98 (A) stating that the taxpayer has qualified for a tax credit; and

99 (B) showing the amount of tax credit for which the taxpayer has qualified under this
100 section.

101 (c) A taxpayer shall retain the tax credit certificate.

102 (d) The board shall at least annually submit to the commission a list of all taxpayers to
103 whom the board has issued a tax credit certificate and the amount of each tax credit represented
104 by the tax credit certificates.

105 (7) The tax credit under this section is allowed only:

106 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
107 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year
108 by the qualified taxpayer;

109 (b) for the taxable year in which the qualifying purchase occurs; and

110 (c) once per vehicle.

111 (8) A qualifying taxpayer may not assign a tax credit or a tax credit certificate under
112 this section to another person.

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

118 (10) (a) In accordance with any rules prescribed by the commission under Subsection
119 (10)(b), the commission shall transfer at least annually from the General Fund into the
120 Education Fund the aggregate amount of all tax credits claimed under this section.

121 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
122 commission may make rules for making a transfer from the General Fund into the Education
123 Fund as required by Subsection (10)(a).

124 Section 2. Section **59-10-1033** is enacted to read:

125 **59-10-1033. Tax credit related to natural gas heavy duty vehicles.**

126 (1) As used in this section:

127 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
128 Conservation Act.

129 (b) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
130 vehicle classifications established by the Federal Highway Administration.

131 (c) "Natural gas" includes compressed natural gas and liquified natural gas.

132 (d) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

133 (i) has never been titled or registered and has been driven less than 7,500 miles;

134 (ii) is fueled by natural gas; and

135 (iii) meets air quality standards.

136 (e) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

137 (f) "Qualified taxpayer" means a claimant, estate, or trust that:

138 (i) purchases a qualified heavy duty vehicle; and

139 (ii) receives a tax credit certificate from the board.

140 (g) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
141 owned by a single claimant, estate, or trust.

142 (h) "Tax credit certificate" means a certificate issued by the board certifying that a
143 claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the
144 amount of the tax credit.

145 (2) For a taxable year beginning on or after January 1, 2015, a qualified taxpayer may
146 claim a nonrefundable tax credit against tax otherwise due under this chapter:

147 (a) in an amount equal to:

148 (i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year
149 2016, or calendar year 2017;

150 (ii) \$20,000, if the qualified purchase occurs during calendar year 2018;

151 (iii) \$18,000, if the qualified purchase occurs during calendar year 2019; and

- 152 (iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and
153 (b) if the claimant, estate, or trust certifies under oath that over 50% of the miles that
154 the heavy duty vehicle that is the subject of the qualified purchase or qualified conversion will
155 travel annually will be within the state.
- 156 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not
157 submit an application for, and the board may not issue to the claimant, estate, or trust, a tax
158 credit certificate under this section in any taxable year for a qualifying purchase if the board has
159 already issued to the claimant, estate, or trust 10 tax credits for qualifying purchases in the
160 same taxable year.
- 161 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
162 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit
163 an application for, and the board may issue to the claimant, estate, or trust, one or more tax
164 credit certificates for up to eight additional qualifying purchases, even if the board has already
165 issued to that claimant, estate, or trust tax credit certificates for the maximum number of
166 qualifying purchases allowed under Subsection (3)(a).
- 167 (4) (a) Subject to Subsection (4)(b), the board shall reserve 25% of all tax credits
168 available under this section for claimants, estates, or trusts with a small fleet.
- 169 (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an
170 application for, or the board from issuing, a tax credit certificate if the amount reserved under
171 Subsection (4)(a) for claimants, estates, or trusts with a small fleet has not been claimed by a
172 date that is 90 days before the end of the year.
- 173 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
174 certificates that the board issues under this section, when combined with the aggregate annual
175 total amount of tax credits represented by tax credit certificates that the board issues under
176 Section [59-7-618](#), may not exceed \$2,000,000.
- 177 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
178 Rulemaking Act, make rules to establish a process whereby a taxpayer may reserve a potential
179 tax credit under this section for a limited time to allow the taxpayer to make a qualifying
180 purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met
181 before the taxpayer is able to submit an application for a tax credit certificate.
- 182 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section

183 shall, using forms the board requires by rule:

184 (A) submit to the board an application for a tax credit;

185 (B) provide the board proof of a qualifying purchase or qualifying conversion; and

186 (C) submit to the board the certification under oath required under Subsection (2)(b).

187 (ii) Upon receiving the application, proof, and certification required under Subsection

188 (6)(a)(i), the board shall provide the claimant, estate, or trust a written statement from the board

189 acknowledging receipt of the proof.

190 (b) If the board determines that a claimant, estate, or trust qualifies for a tax credit

191 under this section, the board shall:

192 (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this

193 section; and

194 (ii) provide the qualifying taxpayer with a written tax credit certificate:

195 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and

196 (B) showing the amount of tax credit for which the claimant, estate, or trust has

197 qualified under this section.

198 (c) A claimant, estate, or trust shall retain the tax credit certificate.

199 (d) The board shall at least annually submit to the commission a list of all claimants,

200 estates, and trusts to which the board has issued a tax credit certificate and the amount of each

201 tax credit represented by the tax credit certificates.

202 (7) The tax credit under this section is allowed only:

203 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

204 (b) for the taxable year in which the qualifying purchase occurs; and

205 (c) once per vehicle.

206 (8) A qualifying taxpayer may not assign a tax credit or a tax credit certificate under

207 this section to another person.

208 (9) If the amount of a tax credit claimed by a qualifying taxpayer under this section

209 exceeds the qualifying taxpayer's tax liability under this chapter for a taxable year, the amount

210 of the tax credit exceeding the tax liability may be carried forward for a period that does not

211 exceed the next five taxable years.

212 (10) (a) In accordance with any rules prescribed by the commission under Subsection

213 (10)(b), the commission shall transfer at least annually from the General Fund into the

214 Education Fund the aggregate amount of all tax credits claimed under this section.

215 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
216 commission may make rules for making a transfer from the General Fund into the Education
217 Fund as required by Subsection (10)(a).

218 Section 3. Section **59-13-301** is amended to read:

219 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
220 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

221 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section
222 **59-13-304**, a tax is imposed at the same rate imposed under Subsection **59-13-201**(1)(a) on the:

- 223 (i) removal of undyed diesel fuel from any refinery;
- 224 (ii) removal of undyed diesel fuel from any terminal;
- 225 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
- 226 warehousing;
- 227 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
- 228 this part unless the tax has been collected under this section;

- 229 (v) any untaxed special fuel blended with undyed diesel fuel; or
- 230 (vi) use of untaxed special fuel other than propane or electricity.

231 (b) The tax imposed under this section shall only be imposed once upon any special
232 fuel.

233 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

- 234 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
- 235 the public highways of the state, but this exemption applies only in those cases where the
- 236 purchasers or the users of special fuel establish to the satisfaction of the commission that the
- 237 special fuel was used for purposes other than to operate a motor vehicle upon the public
- 238 highways of the state; or
- 239 (ii) is sold to this state or any of its political subdivisions.

240 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:

- 241 (i) sold to the United States government or any of its instrumentalities or to this state or
- 242 any of its political subdivisions;
- 243 (ii) exported from this state if proof of actual exportation on forms prescribed by the
- 244 commission is made within 180 days after exportation;

- 245 (iii) used in a vehicle off-highway;
- 246 (iv) used to operate a power take-off unit of a vehicle;
- 247 (v) used for off-highway agricultural uses;
- 248 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
249 upon the highways of the state; or
- 250 (vii) used in machinery and equipment not registered and not required to be registered
251 for highway use.
- 252 (3) No tax is imposed or collected on special fuel if it is:
- 253 (a) (i) purchased for business use in machinery and equipment not registered and not
254 required to be registered for highway use; and
- 255 (ii) used pursuant to the conditions of a state implementation plan approved under Title
256 19, Chapter 2, Air Conservation Act; or
- 257 (b) propane or electricity.
- 258 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
259 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.
- 260 (5) The special fuel tax shall be paid by the supplier.
- 261 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
262 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.
- 263 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases
264 which are delivered into vehicles and for which special fuel tax liability is reported.
- 265 (7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the
266 commission from taxes and license fees under this part shall be deposited daily with the state
267 treasurer and credited to the Transportation Fund.
- 268 (b) An appropriation from the Transportation Fund shall be made to the commission to
269 cover expenses incurred in the administration and enforcement of this part and the collection of
270 the special fuel tax.
- 271 (c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303
272 may be used by the commission as a dedicated credit to cover the costs of electronic
273 credentialing as provided in Section 41-1a-303.
- 274 (8) The commission may either collect no tax on special fuel exported from the state
275 or, upon application, refund the tax paid.

276 (9) (a) The United States government or any of its instrumentalities, this state, or a
277 political subdivision of this state that has purchased special fuel from a supplier or from a retail
278 dealer of special fuel and has paid the tax on the special fuel as provided in this section is
279 entitled to a refund of the tax and may file with the commission for a quarterly refund in a
280 manner prescribed by the commission.

281 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
282 commission shall make rules governing the application and refund provided for in Subsection
283 (9)(a).

284 (10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses
285 under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid
286 as provided in Subsection (9) and this Subsection (10).

287 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
288 commission shall make rules governing the application and refund for off-highway and
289 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

290 (c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural
291 uses shall be made in accordance with the tax return procedures under Section [59-13-202](#).

292 (11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is
293 reduced to the extent provided in Subsection (11)(b) if:

- 294 (i) the Navajo Nation imposes a tax on the special fuel;
- 295 (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the
296 person required to pay the tax is an enrolled member of the Navajo Nation; and
- 297 (iii) the commission and the Navajo Nation execute and maintain an agreement as
298 provided in this Subsection (11) for the administration of the reduction of tax.

299 (b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this
300 section:

301 (A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that
302 difference is greater than \$0; and

303 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
304 if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

305 (ii) The difference described in Subsection (11)(b)(i) is equal to the difference
306 between:

- 307 (A) the amount of tax imposed on the special fuel by this section; less
- 308 (B) the tax imposed and collected by the Navajo Nation on the special fuel.
- 309 (c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on
- 310 the special fuel does not include any interest or penalties a taxpayer may be required to pay to
- 311 the Navajo Nation.
- 312 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 313 commission shall make rules governing the procedures for administering the reduction of tax
- 314 provided under this Subsection (11).
- 315 (e) The agreement required under Subsection (11)(a):
- 316 (i) may not:
- 317 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 318 (B) provide a reduction of taxes greater than or different from the reduction described
- 319 in this Subsection (11); or
- 320 (C) affect the power of the state to establish rates of taxation;
- 321 (ii) shall:
- 322 (A) be in writing;
- 323 (B) be signed by:
- 324 (I) the chair of the commission or the chair's designee; and
- 325 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
- 326 (C) be conditioned on obtaining any approval required by federal law;
- 327 (D) state the effective date of the agreement; and
- 328 (E) state any accommodation the Navajo Nation makes related to the construction and
- 329 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
- 330 Nation; and
- 331 (iii) may:
- 332 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
- 333 Navajo Nation information that is:
- 334 (I) contained in a document filed with the commission; and
- 335 (II) related to the tax imposed under this section;
- 336 (B) provide for maintaining records by the commission or the Navajo Nation; or
- 337 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers

338 located or doing business within the Utah portion of the Navajo Nation.

339 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
340 imposed on special fuel, any change in the amount of the reduction of taxes under this
341 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
342 calendar quarter after a 60-day period beginning on the date the commission receives notice:

343 (A) from the Navajo Nation; and

344 (B) meeting the requirements of Subsection (11)(f)(ii).

345 (ii) The notice described in Subsection (11)(f)(i) shall state:

346 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
347 special fuel;

348 (B) the effective date of the rate change of the tax described in Subsection
349 (11)(f)(ii)(A); and

350 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

351 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
352 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
353 30-day period beginning on the day the agreement terminates.

354 (h) If there is a conflict between this Subsection (11) and the agreement required by
355 Subsection (11)(a), this Subsection (11) governs.

356 ~~[(12)(a) Beginning on January 1, 2009, a tax imposed under this section on~~
357 ~~compressed natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon~~
358 ~~equivalent to be increased or decreased proportionately with any increase or decrease in the rate~~
359 ~~in Subsection 59-13-201(1)(a).]~~

360 ~~[(b) Beginning on July 1, 2011, a tax imposed under this section on liquified natural~~
361 ~~gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be increased or~~
362 ~~decreased proportionately with any increase or decrease in the rate in Subsection~~
363 ~~59-13-201(1)(a).]~~

364 (12) A tax imposed under this section on compressed natural gas or liquified natural
365 gas is imposed at a rate per gasoline gallon equivalent that is:

366 (a) 35% of the rate in Subsection 59-13-201(1)(a), rounded up to the nearest cent,
367 beginning July 1, 2015 until June 30, 2017;

368 (b) 55% of the rate in Subsection 59-13-201(1)(a), rounded up to the nearest cent,

- 369 beginning July 1, 2017 until June 30, 2019;
370 (c) 75% of the rate in Subsection 59-13-201(1)(a), rounded up to the nearest cent,
371 beginning July 1, 2019 until June 30, 2021; and
372 (d) the rate in Subsection 59-13-201(1)(a), beginning July 1, 2021.
373 Section 4. Section **63I-1-259** is amended to read:
374 **63I-1-259. Repeal dates, Title 59.**
375 (1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.
376 (2) Section 59-2-924.3 is repealed on December 31, 2016.
377 (3) Section 59-7-618 is repealed July 1, 2020.
378 [~~3~~] (4) Section 59-9-102.5 is repealed December 31, 2020.
379 (5) Section 59-10-1033 is repealed July 1, 2020.

Legislative Review Note
as of 2-24-15 7:22 PM

Office of Legislative Research and General Counsel