

HB0406S01 compared with HB0406

~~{deleted text}~~ shows text that was in HB0406 but was deleted in HB0406S01.

inserted text shows text that was not in HB0406 but was inserted into HB0406S01.

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Representative Stephen G. Handy proposes the following substitute bill:

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

HB0406S01 compared with HB0406

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

59-10-1033, Utah Code Annotated 1953

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

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

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

(1) As used in this section:

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

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

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

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

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

(ii) is fueled by natural gas.

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

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

(i) purchases a qualified heavy duty vehicle; and

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

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

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

HB0406S01 compared with HB0406

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

(a) in an amount equal to:

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

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

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

(iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and

(b) if the taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

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

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

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

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

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

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative

HB0406S01 compared with HB0406

Rulemaking Act, make rules to establish a process whereby a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualifying purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) once per vehicle.

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

HB0406S01 compared with HB0406

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

(ii) is fueled by natural gas; and

(iii) meets air quality standards.

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

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

(i) purchases a qualified heavy duty vehicle; and

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

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

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

HB0406S01 compared with HB0406

amount of the tax credit.

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

(a) in an amount equal to:

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

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

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

(iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and

(b) if the claimant, estate, or trust certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase or qualified conversion will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the board may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualifying purchase if the board has already issued to the claimant, estate, or trust 10 tax credits for qualifying purchases in the same taxable year.

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

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

(b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the board from issuing, a tax credit certificate if the amount reserved under Subsection (4)(a) for claimants, estates, or trusts with a small fleet has not been claimed by a date that is 90 days before the end of the year.

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the board issues under this section, when combined with the aggregate annual

HB0406S01 compared with HB0406

total amount of tax credits represented by tax credit certificates that the board issues under Section 59-7-618, may not exceed \$2,000,000.

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

(6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section shall, using forms the board requires by rule:

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

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

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

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the board shall provide the claimant, estate, or trust a written statement from the board acknowledging receipt of the proof.

(b) If the board determines that a claimant, estate, or trust qualifies for a tax credit under this section, the board shall:

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

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

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

(B) showing the amount of tax credit for which the claimant, estate, or trust has qualified under this section.

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

(d) The board shall at least annually submit to the commission a list of all claimants, estates, and trusts to which the board has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

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

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

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

(c) once per vehicle.

HB0406S01 compared with HB0406

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

(9) If the amount of a tax credit claimed by a qualifying taxpayer under this section exceeds the qualifying taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

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

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

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

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

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

- (i) removal of undyed diesel fuel from any refinery;
 - (ii) removal of undyed diesel fuel from any terminal;
 - (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or warehousing;
 - (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under this part unless the tax has been collected under this section;
 - (v) any untaxed special fuel blended with undyed diesel fuel; or
 - (vi) use of untaxed special fuel other than propane or electricity.
- (b) The tax imposed under this section shall only be imposed once upon any special fuel.

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

- (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon the public highways of the state, but this exemption applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the commission that the

HB0406S01 compared with HB0406

special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state; or

(ii) is sold to this state or any of its political subdivisions.

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

(i) sold to the United States government or any of its instrumentalities or to this state or any of its political subdivisions;

(ii) exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) used in a vehicle off-highway;

(iv) used to operate a power take-off unit of a vehicle;

(v) used for off-highway agricultural uses;

(vi) used in a separately fueled engine on a vehicle that does not propel the vehicle upon the highways of the state; or

(vii) used in machinery and equipment not registered and not required to be registered for highway use.

(3) No tax is imposed or collected on special fuel if it is:

(a) (i) purchased for business use in machinery and equipment not registered and not required to be registered for highway use; and

(ii) used pursuant to the conditions of a state implementation plan approved under Title 19, Chapter 2, Air Conservation Act; or

(b) propane or electricity.

(4) Upon request of a buyer meeting the requirements under Subsection (3), the Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

(5) The special fuel tax shall be paid by the supplier.

(6) (a) The special fuel tax shall be paid by every user who is required by Sections 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

(b) The user shall receive a refundable credit for special fuel taxes paid on purchases which are delivered into vehicles and for which special fuel tax liability is reported.

(7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the commission from taxes and license fees under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

HB0406S01 compared with HB0406

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the special fuel tax.

(c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303 may be used by the commission as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303.

(8) The commission may either collect no tax on special fuel exported from the state or, upon application, refund the tax paid.

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

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

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

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

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

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

(i) the Navajo Nation imposes a tax on the special fuel;

(ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (11) for the administration of the reduction of tax.

HB0406S01 compared with HB0406

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

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

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

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

(A) the amount of tax imposed on the special fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the special fuel.

(c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on the special fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (11).

(e) The agreement required under Subsection (11)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (11); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo

HB0406S01 compared with HB0406

Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of suppliers, distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

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

(A) from the Navajo Nation; and

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

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

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

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

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

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

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

~~ff~~(12) (a) ~~Beginning on January 1, 2009, a~~ A tax imposed under this section on compressed natural gas is imposed at a ~~reduced~~ rate of ~~8-1/2 cents~~:

(i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent ~~to be increased or decreased proportionately with any increase or decrease in the rate in Subsection 59-13-201(1)(a).~~ ~~ff~~

HB0406S01 compared with HB0406

~~— (b) —~~

(ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;

(iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and

(iv) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

(b) [Beginning on July 1, 2011, a] A tax imposed under this section on liquified natural gas is imposed at a [reduced] rate of [8-1/2 cents]:

(i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent ~~[to be increased or decreased proportionately with any increase or decrease in the rate in Subsection 59-13-201(1)(a)].~~

~~(12) A tax imposed under this section on compressed natural gas or liquified natural gas is imposed at a rate~~ (ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent ~~{ that is:~~

~~— (a) 35% of the rate in Subsection 59-13-201(1)(a), rounded up to the nearest cent, beginning July 1, 2015};~~

(iii) beginning on July 1, 2017, and until June 30, 2017;

~~— (b) 55% of the rate in Subsection 59-13-201(1)(a), rounded up to the nearest cent, beginning July 1, 2017 until June 30, 2019;~~

~~— (c) 75% of the rate in Subsection 59-13-201(1)(a), rounded up to the nearest cent, beginning July 1, 2019 until June 30, 2021; and~~

~~— (d) the rate in Subsection 59-13-201(1)(a), beginning July 1, 2021};~~ 2018, 14-1/2 cents per gasoline gallon equivalent; and

(iv) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

Section 4. Section **63I-1-259** is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.

(2) Section 59-2-924.3 is repealed on December 31, 2016.

(3) Section 59-7-618 is repealed July 1, 2020.

~~[(3)]~~ (4) Section 59-9-102.5 is repealed December 31, 2020.

(5) Section 59-10-1033 is repealed July 1, 2020.

HB0406S01 compared with HB0406

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Legislative Review Note

~~as of 2-24-15 7:22 PM~~

~~Office of Legislative Research and General Counsel~~