

INCENTIVES TO PURCHASE CLEAN FUEL VEHICLES

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

AN ACT RELATING TO REVENUE AND TAXATION AND CLEAN FUEL VEHICLES; AUTHORIZING THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT TO GIVE GRANTS FOR THE PURCHASE OF CLEAN FUEL VEHICLES OR EXPENSES OF CONVERTING VEHICLES TO USE CLEAN FUEL, IF THE VEHICLES PURCHASED OR CONVERTED ARE USED FOR BUSINESS OR GOVERNMENTAL PURPOSES; DIRECTING THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT TO MAKE RULES TO IMPLEMENT THE GRANT PROGRAM; EXTENDING AND MODIFYING THE CORPORATE FRANCHISE AND INCOME TAX CREDIT AND INDIVIDUAL INCOME TAX CREDIT FOR PURCHASES OF CLEAN FUEL VEHICLES OR EXPENSES OF CONVERTING A VEHICLE TO USE CLEAN FUELS; IMPOSING A SURCHARGE ON CLEAN SPECIAL FUEL CERTIFICATES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING A COORDINATION CLAUSE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

9-1-702, as last amended by Chapter 178, Laws of Utah 1996

9-1-703, as last amended by Chapter 178, Laws of Utah 1996

9-1-706, as last amended by Chapter 178, Laws of Utah 1996

59-7-605, as last amended by Chapter 10, Laws of Utah 1997

59-10-127, as last amended by Chapter 257, Laws of Utah 1996

59-13-304, as last amended by Chapters 271 and 272, Laws of Utah 1997

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

Section 1. Section **9-1-702** is amended to read:

9-1-702. Definitions.

As used in this part:

(1) "Certified by the Air Quality Board" means that a motor vehicle on which conversion

equipment has been installed meets the following criteria:

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

(b) the motor vehicle's emissions of regulated pollutants, when operating with clean fuel, is less than the emissions were before the installation of conversion equipment; and

(c) a reduction in emissions under Subsection (1)(b) is demonstrated by:

(i) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the Air Quality Board;

(ii) testing the motor vehicle, before and after the installation of the conversion equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is capable of using; or

(iii) any other test or standard recognized by Air Quality Board rule.

~~[(1)]~~ (2) "Clean fuel" means:

(a) propane, compressed natural gas, or electricity;

(b) other fuel the Air Quality Board determines to be at least as effective as fuels under Subsection (2)(a) in reducing air pollution; or

(c) other fuel that meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, Title II, 42 U.S.C. Sec. 7521 et seq.

~~[(2)]~~ (3) "Clean-fuel vehicle" means a vehicle that:

(a) uses a clean fuel; and ~~[that]~~

(b) meets clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, Title II, 42 U.S.C. Sec. 7521 et seq.

~~[(3)]~~ (4) "Fund" means the Clean Fuels Vehicle ~~[Loan]~~ Fund created in Section 9-1-703.

~~[(4)]~~ (5) "Government vehicle" means a motor vehicle registered in Utah and owned and operated by the state, a public trust authority, a school district, a county, a municipality, a town, or a city, including a metropolitan rapid transit motor ~~[vehicles, buses, trucks, law enforcement vehicles, and emergency vehicles]~~ vehicle, bus, truck, law enforcement vehicle, or emergency vehicle.

~~[(5)]~~ (6) "Incremental ~~[costs]~~ cost" means the difference between the cost of the OEM vehicle and the same vehicle model manufactured without the clean-fuel fueling system.

~~[(6)]~~ (7) "OEM vehicle" means a vehicle manufactured by the original vehicle manufacturer or its contractor to use a clean fuel.

~~[(7)]~~ (8) "Private sector business vehicle" means ~~[one or more]~~ a motor [vehicles] vehicle registered in Utah that ~~[are]~~ is owned and operated solely in the conduct of a private business enterprise.

~~[(8)]~~ (9) "Refueling equipment" means compressors when used separately, compressors used in combination with cascade tanks, and other equipment that constitute a central refueling system capable of dispensing vehicle fuel.

Section 2. Section **9-1-703** is amended to read:

9-1-703. Clean Fuels Vehicle Fund -- Contents -- Loans or grants made with fund monies.

(1) (a) There is created a revolving fund known as the Clean Fuels Vehicle ~~[Loan]~~ Fund.

(b) The fund consists of:

(i) appropriations to the fund;

(ii) other public and private contributions made under Subsection (1)(d);

(iii) interest earnings on cash balances; and

(iv) all monies collected for loan repayments and interest on loans.

(c) All money appropriated to the fund is nonlapsing.

(d) The department may accept contributions from other public and private sources for deposit into the fund.

(2) (a) ~~[Monies]~~ The department may make loans or grants with monies available in the fund ~~[may be loaned by the department]~~ for ~~[expenses for]~~:

(i) the conversion of private sector business vehicles and government vehicles to use a clean fuel, if certified by the Air Quality Board; or

(ii) ~~[to]~~ the purchase of OEM vehicles for use as private sector business vehicles or government vehicles.

(b) The amount ~~[loaned per]~~ of a loan for any vehicle may not exceed:

- (i) the actual cost of the vehicle conversion ~~[if loaned under Subsection (a)(i)];~~
- (ii) the incremental cost of purchasing the OEM vehicle ~~[if loaned under Subsection (a)(ii)];~~

or

(iii) the cost of purchasing the OEM vehicle if ~~[the purchase cost is loaned under Subsection (2)(a)(ii) and]~~ there is no documented incremental cost.

(c) The amount of a grant for any vehicle may not exceed:

(i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-127 for the vehicle for which a grant is requested; or

(ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-127 for the vehicle for which a grant is requested.

~~[(e)]~~ (d) (i) Subject to the availability of [funds] monies in the fund, [monies may be loaned by the division] the department may make loans for the purchase of vehicle refueling equipment for private sector business vehicles and government vehicles.

(ii) The maximum amount loaned per installation of refueling equipment may not exceed the actual cost of ~~[this] the~~ refueling equipment.

(3) Administrative costs of the fund shall be paid from the fund.

(4) (a) The fund balance may not exceed \$10,000,000.

(b) Interest on cash balances and repayment of loans in excess of the amount necessary to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

(5) (a) ~~[Expenditures]~~ Loans made from monies in the fund shall be supported by loan documents evidencing the intent of the borrower to repay the loan.

(b) The original loan documents shall be filed with the Division of Finance and a copy shall be filed with the department.

Section 3. Section **9-1-706** is amended to read:

9-1-706. Rulemaking -- Department duties -- Loan repayment.

(1) The department shall:

(a) establish and administer the loan and grant program to encourage government officials

and private sector business vehicle owners and operators to obtain and use clean-fuel vehicles; and

(b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act[, to establish criteria and conditions for]:

~~[(i) the amount loaned per incremental costs of:]~~

~~[(A) vehicle conversion to clean fuel or OEM purchase or lease; and]~~

~~[(B) purchase, or lease and installation of refueling equipment;]~~

(i) specifying the amount of money in the fund to be dedicated annually for grants;

(ii) limiting the amount of a grant given to any person claiming a tax credit under Section 59-7-605 or 59-10-127 for the motor vehicle for which a grant is requested to assure that the sum of the tax credit and grant does not exceed:

(A) 50% of the incremental cost of the OEM vehicle; or

(B) 50% of the cost of conversion equipment;

(iii) limiting the number of motor vehicles per fleet operator that may be eligible for a grant in a year;

~~[(ii) (iv) specifying criteria the department shall consider in prioritizing and awarding loans[; including establishing a minimum loan amount] and grants;~~

~~[(iii) (v) specifying repayment [by the loan recipient] periods;~~

(vi) specifying procedures for:

(A) awarding loans and grants; and

~~[(iv) (B) [collection of the] collecting loans [authorized by this section]; and~~

~~[(v) awarding program monies to loan recipients who meet the criteria and conditions under Subsection (b); and]~~

~~[(vi) (vii) requiring all loan and grant applicants [who wish to receive a loan under the loan program] to:~~

(A) apply on forms provided by the department;

(B) agree in writing to use the clean fuel for which each vehicle is converted or purchased using loan or grant proceeds for a minimum of [60%] 70% of the vehicle miles traveled beginning from the time of conversion[, lease;] or purchase of the vehicle;

(C) agree in writing to notify the department if a vehicle converted or purchased using loan or grant proceeds becomes inoperable through mechanical failure or accident and to pursue a remedy outlined in department rules;

(D) provide reasonable data to the department on vehicles converted~~[, leased,]~~ or purchased with loan or grant proceeds; and

(E) submit vehicles converted~~[, leased,]~~ or purchased with loan or grant proceeds to inspections by the department as required in department rules and as necessary for administration of the loan and grant program.

(2) (a) When developing repayment schedules for the loans, the department shall consider the projected savings from use of the clean-fuel vehicle.

(b) A repayment schedule may not exceed ten years.

(c) Loans made from the fund for private sector vehicles shall be made at an interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as determined the month immediately preceding the closing date of the loan.

(d) Loans made from the fund for government vehicles shall be made at a zero interest rate.

(3) The Division of Finance is responsible for collection of and accounting for the loans and has custody of all loan documents, including all notes and contracts, evidencing the indebtedness of the fund.

Section 4. Section **59-7-605** is amended to read:

59-7-605. Definitions -- Credit -- Cleaner burning fuels.

(1) As used in this section:

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

(b) "Certified by the board" means that:

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

~~(i)~~ (A) ~~[prior to]~~ before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 CFR 51, Appendix

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

~~[(ii)]~~ (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels listed in [Subsections 59-7-605] Subsection (2)(b) [and 59-10-127(2)(b)], is less than [prior to] the emissions were before the installation of conversion equipment; and

~~[(iii)]~~ (C) a reduction in emissions under Subsection ~~[(b)(ii)]~~ (1)(b)(i)(B) is demonstrated by:

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

~~[(B)]~~ (II) testing the motor vehicle [is tested], before and after installation of the conversion equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is capable of using; or

~~[(C)]~~ (III) any other test or standard recognized by board rule[-]; or

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

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

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

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

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

(c) "Clean fuel grant" means a grant awarded under Title 9, Chapter 1, Part 7, Clean Fuels Conversion Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

~~[(e)]~~ (d) "Conversion equipment" means equipment referred to in Subsection [59-7-605](2)(b) or (2)(c).

(e) "Incremental cost" has the same meaning as in Section 9-1-702.

(f) "OEM vehicle" has the same meaning as in Section 9-1-702.

~~(d)~~ (g) "Special ~~fuel~~ mobile equipment":

(i) means any mobile equipment or vehicle that ~~uses special fuel and~~ is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For ~~tax~~ taxable years beginning on or after January 1, ~~[1997, and ending]~~ 2001, but beginning on or before December 31, ~~[2001, there is]~~ 2005, a taxpayer may claim a 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, in an amount equal to:

(a) ~~[20%, up to a maximum of \$500 per vehicle;]~~ 50% of the incremental cost of ~~[new motor vehicles being]~~ an OEM vehicle registered in Utah ~~[and for the first time that]~~ minus the amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if the vehicle:

(i) ~~[are]~~ is fueled by propane, natural gas, or electricity;

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

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

(b) ~~[20%, up to a maximum of \$400;]~~ 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:

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

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

(iii) meet the federal clean-fuel vehicle standards ~~[under Subsection (2)(a)(iii)]~~ in the federal Clean Air Act Amendments of 1990, Title II, 42 U.S.C. Sec. 7521 et seq.; and

(c) ~~[20%, up to a maximum of \$500;]~~ 50% of the cost of equipment for conversion, if certified by the board, of a special ~~fuel~~ mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the

special mobile equipment is to be fueled by:

- (i) propane, natural gas, or electricity; or
- (ii) other fuel the board determines annually on or before July 1 to be:
 - (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(c)(i); or
 - (B) substantially more effective in reducing air pollution than the fuel for which the engine

was originally designed.

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

- (a) providing proof to the board in the form ~~[it]~~ the board requires by rule;
- (b) receiving a written statement from the board acknowledging receipt of the proof; and
- (c) attaching the written statement obtained from the board to the tax return in which the credit is claimed.

credit is claimed.

(4) ~~[This]~~ Except as provided by Subsection (5), this credit is allowed only:

- (a) against any Utah tax owed in the taxable year by the taxpayer; ~~[and]~~
- (b) in the taxable year in which the item is purchased for which the credit is claimed~~[-]; and~~
- (c) once per vehicle.

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

Section 5. Section **59-10-127** is amended to read:

59-10-127. Definition -- Credit -- Cleaner burning fuels.

(1) As used in this section:

(a) "Board" means the Air Quality Board created in Title 19, Chapter 2, ~~[Environmental Quality Code]~~ Air Conservation Act.

(b) "Certified by the board" means that:

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

~~[(i)]~~ (A) ~~[prior to]~~ before the installation of conversion equipment, the vehicle does not

exceed the emission cut points for a transient test driving cycle, as specified in 40 CFR 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

~~[(ii)]~~ (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels listed in Subsection ~~[59-7-605(2)(b) and 59-10-127](2)(b)~~, is less than ~~[prior to]~~ the emissions were before the installation of conversion equipment; and

(iii) a reduction in emissions under Subsection ~~[(b)(ii)] (1)(b)(i)(B)~~ is demonstrated by:

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

~~[(B)]~~ (II) testing the motor vehicle ~~[is tested]~~, before and after installation of the conversion equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use Motor Vehicle Engines: Certification and Test Procedures, using all fuels the motor vehicle is capable of using; or

~~[(C)]~~ (III) any other test or standard recognized by board rule~~[-]; or~~

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

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

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

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

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

(c) "Clean fuel grant" means a grant the taxpayer receives under Title 9, Chapter 1, Part 7, Clean Fuels Conversion Program Act for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

~~[(e)]~~ (d) "Conversion equipment" means equipment referred to in ~~[Subsection 59-7-605(2)(b) and]~~ Subsection ~~[59-10-127](2)(b)~~ or (2)(c).

(e) "Incremental cost" has the same meaning as in Section 9-1-702.

(f) "OEM vehicle" has the same meaning as in Section 9-1-702.

~~(d)~~ (g) "Special ~~fuel~~ mobile equipment":

(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property~~[-including];~~ and

(ii) includes construction or maintenance equipment.

(2) For ~~tax~~ taxable years beginning on or after January 1, ~~[1997, and ending] 2001, but beginning on or before~~ December 31, ~~[2001, there is allowed]~~ 2005, a taxpayer may claim a credit against tax otherwise due under this chapter in an amount equal to:

(a) ~~[20%, up to a maximum of \$500 per vehicle,]~~ 50% of the incremental cost of ~~[new motor vehicles being]~~ an OEM vehicle registered in Utah ~~[and for the first time that]~~ minus the amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if the vehicle:

(i) ~~[are]~~ is fueled by propane, natural gas, or electricity;

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

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

(b) ~~[20%, up to a maximum of \$400,]~~ 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in Utah ~~[to]~~ minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:

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

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

(iii) will meet the federal clean fuel vehicle standards ~~[under Subsection (2)(a)(iii)]~~ in the federal Clean Air Act Amendments of 1990, Title II, 42 U.S.C. Sec. 7521 et seq.; and

(c) ~~[20%, up to a maximum of \$500,]~~ 50% of the cost of equipment for conversion, if certified by the board, of a special ~~fuel~~ mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or
 (ii) other fuel the board determines annually on or before July 1 to be:
 (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(c)(i); or
 (B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

(3) An individual shall provide proof of the purchase of an item for which a credit is allowed under this section by:

(a) providing proof to the board in the form [it] the board requires by rule;
 (b) receiving a written statement from the board acknowledging receipt of the proof; and
 (c) attaching the written statement obtained from the board to the tax return in which the credit is claimed.

(4) [~~This~~] Except as provided by Subsection (5), this credit is allowed only:

(a) against any Utah tax owed in the taxable year by the taxpayer; [~~and~~]
 (b) in the taxable year in which the item is purchased for which the credit is claimed[~~]; and~~
 (c) once per vehicle.

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

Section 6. Section **59-13-304** is amended to read:

59-13-304. Exemptions from special fuel tax -- Certificate required -- Fees for certificates -- Inspection of vehicles.

(1) (a) A user of special fuel who owns a vehicle powered by a clean fuel as defined under Section 59-13-102, shall pay a clean special fuel tax as provided under this section for use of clean special fuel.

(b) A user who qualifies for the clean special fuel tax shall annually purchase from the commission a clean special fuel certificate for each vehicle owned that is described under Subsection (1)(a).

(c) Clean special fuel certificates are provided to encourage the use of clean fuels to reduce

air pollution.

(2) (a) The fee for a clean special fuel certificate is:

(i) 70/.19 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded up to the nearest dollar, for qualified motor vehicles as defined under Section 59-13-102; and

(ii) 36/.19 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded up to the nearest dollar, for other vehicles.

(b) The commission may require each vehicle to be inspected for safe operation before issuing the certificate.

(c) Each vehicle shall be equipped with an approved and properly installed carburetion system if it is powered by a fuel that is gaseous at standard atmospheric conditions.

(3) (a) Beginning January 1, 2001 through December 31, 2005, there is imposed a surcharge of \$35 on each clean fuel certificate issued under this section.

(b) Surcharges imposed under Subsection (3)(a) shall be deposited into the Centennial Highway Fund created under Section 72-2-118.

Section 7. Effective date.

This act takes effect on January 1, 2001.

Section 8. Coordination clause.

It is the intent of the Legislature that if this bill and S.B. 1, Appropriations Act, both pass, S.B. 1 shall be amended to reduce the General Fund appropriation to the Centennial Highway Fund by \$104,000 and a General Fund appropriation shall be made to the Uniform School Fund of \$104,000.