

CLEAN AIR AND EFFICIENT VEHICLE TAX

CREDIT

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rosalind J. McGee

Senate Sponsor: Gregory S. Bell

LONG TITLE

General Description:

This bill provides a nonrefundable tax credit for the purchase or conversion of a vehicle meeting air quality and fuel economy standards.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a nonrefundable income or corporate franchise tax credit for the purchase or conversion of a vehicle meeting air quality and fuel economy standards of:
 - \$2,000 for the purchase of a new vehicle;
 - up to \$2,000 for the conversion of a vehicle under 8,500 GVWR; or
 - up to \$5,000 for the conversion of a vehicle 8,500 GVWR or above; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2-104, as last amended by Chapter 223, Laws of Utah 2006



28 REPEALS AND REENACTS:

29 **59-7-605**, as last amended by Chapters 108 and 294, Laws of Utah 2005

30 **59-10-1009**, as renumbered and amended by Chapter 223, Laws of Utah 2006

31

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

33 Section 1. Section **19-2-104** is amended to read:

34 **19-2-104. Powers of board.**

35 (1) The board may make rules in accordance with Title 63, Chapter 46a, Utah

36 Administrative Rulemaking Act:

37 (a) regarding the control, abatement, and prevention of air pollution from all sources
38 and the establishment of the maximum quantity of air contaminants that may be emitted by any
39 air contaminant source;

40 (b) establishing air quality standards;

41 (c) requiring persons engaged in operations which result in air pollution to:

42 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

43 (ii) file periodic reports containing information relating to the rate, period of emission,
44 and composition of the air contaminant; and

45 (iii) provide access to records relating to emissions which cause or contribute to air
46 pollution;

47 (d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter
48 II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management
49 plans submitted by local education agencies under that act;

50 (e) establishing a requirement for a diesel emission opacity inspection and maintenance
51 program for diesel-powered motor vehicles;

52 (f) implementing an operating permit program as required by and in conformity with
53 Titles IV and V of the federal Clean Air Act Amendments of 1990;

54 (g) establishing requirements for county emissions inspection and maintenance
55 programs after obtaining agreement from the counties that would be affected by the
56 requirements;

57 (h) with the approval of the governor, implementing in air quality nonattainment areas
58 employer-based trip reduction programs applicable to businesses having more than 100

59 employees at a single location and applicable to federal, state, and local governments to the
60 extent necessary to attain and maintain ambient air quality standards consistent with the state
61 implementation plan and federal requirements under the standards set forth in Subsection (2);
62 and

63 (i) implementing lead-based paint remediation training, certification, and performance
64 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
65 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406.

66 (2) When implementing Subsection (1)(h) the board shall take into consideration:

67 (a) the impact of the business on overall air quality; and

68 (b) the need of the business to use automobiles in order to carry out its business
69 purposes.

70 (3) The board may:

71 (a) hold hearings relating to any aspect of or matter in the administration of this chapter
72 and compel the attendance of witnesses and the production of documents and other evidence,
73 administer oaths and take testimony, and receive evidence as necessary;

74 (b) issue orders necessary to enforce the provisions of this chapter, enforce the orders
75 by appropriate administrative and judicial proceedings, and institute judicial proceedings to
76 secure compliance with this chapter;

77 (c) settle or compromise any civil action initiated to compel compliance with this
78 chapter and the rules made under this chapter;

79 (d) secure necessary scientific, technical, administrative, and operational services,
80 including laboratory facilities, by contract or otherwise;

81 (e) prepare and develop a comprehensive plan or plans for the prevention, abatement,
82 and control of air pollution in this state;

83 (f) encourage voluntary cooperation by persons and affected groups to achieve the
84 purposes of this chapter;

85 (g) encourage local units of government to handle air pollution within their respective
86 jurisdictions on a cooperative basis and provide technical and consultative assistance to them;

87 (h) encourage and conduct studies, investigations, and research relating to air
88 contamination and air pollution and their causes, effects, prevention, abatement, and control;

89 (i) determine by means of field studies and sampling the degree of air contamination

90 and air pollution in all parts of the state;

91 (j) monitor the effects of the emission of air contaminants from motor vehicles on the
92 quality of the outdoor atmosphere in all parts of this state and take appropriate action with
93 respect to them;

94 (k) collect and disseminate information and conduct educational and training programs
95 relating to air contamination and air pollution;

96 (l) advise, consult, contract, and cooperate with other agencies of the state, local
97 governments, industries, other states, interstate or interlocal agencies, the federal government,
98 and with interested persons or groups;

99 (m) consult, upon request, with any person proposing to construct, install, or otherwise
100 acquire an air contaminant source in the state concerning the efficacy of any proposed control
101 device, or system for this source, or the air pollution problem which may be related to the
102 source, device, or system, but a consultation does not relieve any person from compliance with
103 this chapter, the rules adopted under it, or any other provision of law;

104 (n) accept, receive, and administer grants or other funds or gifts from public and
105 private agencies, including the federal government, for the purpose of carrying out any of the
106 functions of this chapter;

107 (o) require the owner and operator of each new source which directly emits or has the
108 potential to emit 100 tons per year or more of any air contaminant or the owner or operator of
109 each existing source which by modification will increase emissions or have the potential of
110 increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee
111 sufficient to cover the reasonable costs of:

112 (i) reviewing and acting upon the notice required under Section 19-2-108; and

113 (ii) implementing and enforcing requirements placed on the sources by any approval
114 order issued pursuant to notice, not including any court costs associated with any enforcement
115 action;

116 (p) assess and collect noncompliance penalties as required in Section 120 of the federal
117 Clean Air Act, 42 U.S.C. Sec. 7420;

118 (q) meet the requirements of federal air pollution laws;

119 (r) establish work practice, certification, and clearance air sampling requirements for
120 persons who:

121 (i) contract for hire to conduct demolition, renovation, salvage, encapsulation work
122 involving friable asbestos-containing materials, or asbestos inspections;

123 (ii) conduct work described in Subsection (3)(r)(i) in areas to which the general public
124 has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard
125 Emergency Response Act of 1986;

126 (iii) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
127 Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

128 (iv) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
129 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

130 (s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
131 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
132 be accredited as inspectors, management planners, abatement project designers, asbestos
133 abatement contractors and supervisors, or asbestos abatement workers;

134 (t) establish certification requirements for asbestos project monitors, which shall
135 provide for experience-based certification of persons who, prior to establishment of the
136 certification requirements, had received relevant asbestos training, as defined by rule, and had
137 acquired at least 1,000 hours of experience as project monitors;

138 (u) establish certification procedures and requirements for certification of the
139 conversion of a motor vehicle [~~to a clean-fuel vehicle~~], certifying the vehicle is eligible for the
140 tax credit granted in Section 59-7-605 or 59-10-1009;

141 (v) establish a program to certify private sector air quality permitting professionals
142 (AQPP), as described in Section 19-2-109.5; and

143 (w) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
144 seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as
145 inspectors, risk assessors, supervisors, project designers, or abatement workers.

146 (4) Any rules adopted under this chapter shall be consistent with provisions of federal
147 laws, if any, relating to control of motor vehicles or motor vehicle emissions.

148 (5) Nothing in this chapter authorizes the board to require installation of or payment for
149 any monitoring equipment by the owner or operator of a source if the owner or operator has
150 installed or is operating monitoring equipment that is equivalent to equipment which the board
151 would require under this section.

152 Section 2. Section **59-7-605** is repealed and reenacted to read:

153 **59-7-605. Definitions -- Clean and Efficient Vehicle Tax Credit.**

154 (1) As used in this section:

155 (a) "Air quality standards" means that a vehicle's emissions are equal to or less than the
156 standards established in bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

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

159 (c) "Conversion" means the conversion of a motor vehicle by the installation of
160 equipment designed to improve the vehicle's emissions, if:

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

164 (ii) the conversion actually results in a reduction in emissions of regulated pollutants;
165 and

166 (iii) the reduction in emissions under Subsection (1)(c)(i) is demonstrated by:

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

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

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

173 (d) "Fuel economy standards" means that a vehicle's combined fuel economy, as
174 determined in 40 C.F.R. 600.209-95(d) is equal to or greater than:

175 (i) 36 miles per gallon for gasoline-fueled vehicles;

176 (ii) 41 miles per gallon for diesel-fueled vehicles;

177 (iii) 26 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%
178 gasoline;

179 (iv) 23 miles per gallon for liquified petroleum gas-fueled vehicles; or

180 (v) 27 miles per gallon for compressed natural gas-fueled vehicles.

181 (e) "Gross vehicle weight rating (GVWR)" means the original manufacturer's gross
182 vehicle weight rating, whether or not the vehicle is modified by use of parts not originally

183 installed by the original manufacturer.

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

186 (2) For taxable years beginning on or after January 1, 2008, but beginning on or before
187 December 31, 2011, a taxpayer may claim a nonrefundable tax credit of:

188 (a) \$2,000 against tax otherwise due under this chapter or Chapter 8, Gross Receipts
189 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for
190 the original purchase of a new vehicle if the vehicle meets air quality and fuel economy
191 standards;

192 (b) 50% of the cost of conversion, up to \$2,000, against tax otherwise due under this
193 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
194 Corporate Franchise or Income Tax Act, for the conversion of a vehicle under 8,500 GVWR, if
195 the credit allowed by Subsection (2)(a) is not claimed for the vehicle; or

196 (c) 50% of the cost of conversion, up to \$5,000, against tax otherwise due under this
197 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
198 Corporate Franchise or Income Tax Act, for the conversion of a vehicle 8,500 GVWR or over,
199 if the credit allowed by Subsection (2)(a) is not claimed for the vehicle.

200 (3) A taxpayer shall provide proof of the purchase of a vehicle or conversion for which
201 a tax credit is allowed under this section by:

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

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

204 and

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

206 (4) Except as provided by Subsection (5), a tax credit under this section is allowed
207 only:

208 (a) against any Utah tax owed in the taxable year by the taxpayer;

209 (b) in the taxable year in which the original purchase or conversion is completed; and

210 (c) once per vehicle.

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

214 five taxable years.

215 Section 3. Section **59-10-1009** is repealed and reenacted to read:

216 **59-10-1009. Definitions -- Clean and Efficient Vehicle Tax Credit.**

217 (1) As used in this section:

218 (a) "Air quality standards" means a vehicle's emissions are equal to or less than the
219 standards established in bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

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

222 (c) "Conversion" means the conversion of a motor vehicle by the installation of
223 equipment designed to improve the vehicle's emissions, if:

224 (i) before the installation of conversion equipment, the vehicle does not exceed the
225 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51,

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

227 (ii) the conversion actually results in a reduction in emissions of regulated pollutants;

228 and

229 (iii) the reduction in emissions under Subsection (1)(c)(i) is demonstrated by:

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

232 (B) testing the motor vehicle, before and after installation of the conversion equipment,
233 in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway

234 Vehicles and Engines, using all fuel the motor vehicle is capable of using; or

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

236 (d) "Fuel economy standards" means that a vehicle's combined fuel economy, as
237 determined in 40 C.F.R. 600.209-95(d) is equal to or greater than:

238 (i) 36 miles per gallon for gasoline-fueled vehicles;

239 (ii) 41 miles per gallon for diesel-fueled vehicles;

240 (iii) 26 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%

241 gasoline;

242 (iv) 23 miles per gallon for liquified petroleum gas-fueled vehicles; or

243 (v) 27 miles per gallon for compressed natural gas-fueled vehicles.

244 (e) "Gross vehicle weight rating (GVWR)" means the original manufacturer's gross

245 vehicle weight rating, whether or not the vehicle is modified by use of parts not originally
246 installed by the original manufacturer.

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

249 (2) For taxable years beginning on or after January 1, 2008, but beginning on or before
250 December 31, 2011, a claimant, estate, or trust may claim a nonrefundable tax credit of:

251 (a) \$2,000 against tax otherwise due under this chapter or Chapter 8, Gross Receipts
252 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for
253 the original purchase of a vehicle if the vehicle meets air quality and fuel economy standards;

254 (b) 50% of the cost of conversion, up to \$2,000, against tax otherwise due under this
255 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
256 Corporate Franchise or Income Tax Act, for the conversion of a vehicle under 8,500 GVWR, if
257 the credit allowed by Subsection (2)(a) is not claimed for the vehicle; or

258 (c) 50% of the cost of conversion, up to \$5,000, against tax otherwise due under this
259 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
260 Corporate Franchise or Income Tax Act, for the conversion of a vehicle 8,500 GVWR or over,
261 if the credit allowed by Subsection (2)(a) is not claimed for the vehicle.

262 (3) A claimant, estate, or trust shall provide proof of the purchase of a vehicle or
263 conversion for which a tax credit is allowed under this section by:

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

265 (b) receiving a written statement from the board acknowledging receipt of the proof;
266 and

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

268 (4) Except as provided by Subsection (5), a tax credit under this section is allowed
269 only:

270 (a) against any Utah tax owed in the taxable year by the claimant, estate, or trust;

271 (b) in the taxable year in which the original purchase or conversion is completed; and

272 (c) once per vehicle.

273 (5) If the amount of the credit claimed by a claimant, estate, or trust under this section
274 exceeds the claimant, estate, or trust's tax liability under this chapter for a taxable year, the
275 amount of the tax credit exceeding the tax liability may be carried forward for a period that

276 does not exceed the next five taxable years.

Legislative Review Note
as of **1-16-07 9:27 AM**

Office of Legislative Research and General Counsel

H.B. 122 - Clean Air and Efficient Vehicle Tax Credit

Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill could result in a decrease of Uniform School Fund of \$1,151,800 beginning in FY 2009. The Department of Environmental Quality would need an appropriation of \$17,300 in FY 2009 to implement the processing provisions of the bill.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$17,300	\$17,300	\$0	\$0	\$0
General Fund, One-Time	\$0	(\$17,300)	\$0	\$0	\$0	\$0
Uniform School Fund	\$0	\$0	\$0	\$0	(\$1,151,800)	(\$1,151,800)
Uniform School Fund, One-time	\$0	\$0	\$0	\$0	\$1,151,800	\$0
Total	\$0	\$0	\$17,300	\$0	\$0	(\$1,151,800)

Individual, Business and/or Local Impact

Individuals and businesses would receive potential tax credits which would be dependent upon the cost of conversion or purchase.
