

Representative Rosalind J. McGee proposes the following substitute bill:

CLEAN AIR AND EFFICIENT VEHICLE TAX

INCENTIVES

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rosalind J. McGee

Senate Sponsor: Gregory S. Bell

LONG TITLE

General Description:

This bill provides a tax credit for new vehicles meeting air quality and fuel economy standards, eliminates the clean fuel certificate, and imposes a fuel tax on compressed natural gas for vehicles.

Highlighted Provisions:

This bill:

- ▶ eliminates the clean special fuel tax certificate;
- ▶ defines terms;
- ▶ reduces the tax credit available for certain vehicles to the lesser of \$2,500 or 35% of the vehicle's purchase price;
- ▶ provides a tax credit of \$750 for a new vehicle meeting air quality and fuel economy standards;
- ▶ eliminates a provision excluding hybrid electric-gasoline vehicles from the tax credit;
- ▶ imposes a fuel tax on the purchase of compressed natural gas for vehicles; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill takes effect on January 1, 2009.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **41-1a-418**, as last amended by Laws of Utah 2007, Chapters 173, 217, and 325

32 **41-6a-1508**, as renumbered and amended by Laws of Utah 2005, Chapter 2

33 **59-7-605**, as last amended by Laws of Utah 2007, Chapter 306

34 **59-10-1009**, as last amended by Laws of Utah 2007, Chapter 306

35 **59-13-103**, as last amended by Laws of Utah 1997, Chapter 271

36 **59-13-301**, as last amended by Laws of Utah 2003, Chapters 7 and 268

37 **59-13-304**, as last amended by Laws of Utah 2005, First Special Session, Chapter 1

38 **59-13-314**, as last amended by Laws of Utah 2003, Chapter 7

39 **72-2-124**, as last amended by Laws of Utah 2006, Chapters 11 and 135



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

42 Section 1. Section **41-1a-418** is amended to read:

43 **41-1a-418. Authorized special group license plates.**

44 (1) The division shall only issue special group license plates in accordance with this
45 section through Section 41-1a-422 to a person who is specified under this section within the
46 categories listed as follows:

47 (a) disability special group license plates issued in accordance with Section 41-1a-420;

48 (b) honor special group license plates, as in a war hero, which plates are issued for a:

49 (i) survivor of the Japanese attack on Pearl Harbor;

50 (ii) former prisoner of war;

51 (iii) recipient of a Purple Heart;

52 (iv) disabled veteran; or

53 (v) recipient of a gold star award issued by the United States Secretary of Defense if
54 the recipient is the spouse, parent, or sibling of a servicemember killed;

55 (c) unique vehicle type special group license plates, as for historical, collectors value,
56 or other unique vehicle type, which plates are issued for a:

- 57 (i) special interest vehicle;
- 58 (ii) vintage vehicle;
- 59 (iii) farm truck; or
- 60 (iv) vehicle powered by clean fuel [~~and for which a current clean special fuel certificate~~
- 61 ~~is maintained as provided in Section 59-13-304~~] as defined in Section 59-13-102;
- 62 (d) recognition special group license plates, as in a public official or an emergency
- 63 service giver, which plates are issued for a:
- 64 (i) current member of the Legislature;
- 65 (ii) current member of the United States Congress;
- 66 (iii) current member of the National Guard;
- 67 (iv) licensed amateur radio operator;
- 68 (v) currently employed, volunteer, or retired firefighter;
- 69 (vi) emergency medical technician;
- 70 (vii) current member of a search and rescue team; or
- 71 (viii) current honorary consulate designated by the United States Department of State;
- 72 and
- 73 (e) support special group license plates, as for a contributor to an institution or cause,
- 74 which plates are issued for a contributor to:
- 75 (i) an institution's scholastic scholarship fund;
- 76 (ii) the Division of Wildlife Resources;
- 77 (iii) the Department of Veterans' Affairs;
- 78 (iv) the Division of Parks and Recreation;
- 79 (v) the Department of Agriculture and Food;
- 80 (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- 81 (vii) the Boy Scouts of America;
- 82 (viii) spay and neuter programs through No More Homeless Pets in Utah;
- 83 (ix) the Boys and Girls Clubs of America;
- 84 (x) Utah public education; or
- 85 (xi) programs that provide support to organizations that create affordable housing for
- 86 those in severe need through the Division of Real Estate.
- 87 (2) Beginning January 1, 2003, the division may not issue a new type of special group

88 license plate unless the division receives:

89 (a) a start-up fee established under Section 63-38-3.2 for production and administrative
90 costs for providing the new special group license plates; or

91 (b) a legislative appropriation for the start-up fee provided under Subsection (2)(a).

92 (3) (a) A sponsoring organization that qualifies for tax-exempt status under Internal
93 Revenue Code Section 501(c)(3) may request the commission to authorize a new type of
94 special group license plate for the sponsoring organization. The sponsoring organization shall:

95 (i) collect a minimum of 200 applications; and

96 (ii) pay a start-up fee established under Section 63-38-3.2 for production and
97 administrative costs for providing the new type of special group license plates.

98 (b) If the provisions of Subsection (3)(a) are met, the commission shall approve the
99 request and the division shall:

100 (i) design a license plate in accordance with Section 41-1a-419; and

101 (ii) issue the new type of special group license plates.

102 Section 2. Section **41-6a-1508** is amended to read:

103 **41-6a-1508. Low-speed vehicle.**

104 (1) Except as otherwise provided in this section, a low-speed vehicle is considered a
105 motor vehicle for purposes of the Utah Code including requirements for:

106 (a) traffic rules under Title 41, Chapter 6a, Traffic Code;

107 (b) driver licensing under Title 53, Chapter 3, Uniform Driver License Act;

108 (c) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of
109 Motor Vehicle Owners and Operators Act;

110 (d) vehicle registration, titling, odometer statements, vehicle identification numbers,
111 license plates, and registration fees under Title 41, Chapter 1a, Motor Vehicle Act;

112 (e) vehicle taxation under Title 59, Chapter 13, Motor and Special Fuel Tax Act, and
113 fee in lieu of property taxes or in lieu fees under Section 59-2-405;

114 (f) motor vehicle dealer licensing under Title 41, Chapter 3, Motor Vehicle Business
115 Regulation Act;

116 (g) motor vehicle safety inspection requirements under Section 53-8-205; and

117 (h) safety belt requirements under Title 41, Chapter 6a, Part 18, Motor Vehicle Safety
118 Belt Usage Act.

119 (2) (a) A low-speed vehicle shall comply with federal safety standards established in 49
120 C.F.R. 571.500 and shall be equipped with:

121 (i) headlamps;

122 (ii) front and rear turn signals, tail lamps, and stop lamps;

123 (iii) turn signal lamps;

124 (iv) reflex reflectors one on the rear of the vehicle and one on the left and right side and
125 as far to the rear of the vehicle as practical;

126 (v) a parking brake;

127 (vi) a windshield that meets the standards under Section 41-6a-1635, including a
128 device for cleaning rain, snow, or other moisture from the windshield;

129 (vii) an exterior rearview mirror on the driver's side and either an interior rearview
130 mirror or an exterior rearview mirror on the passenger side;

131 (viii) a speedometer and odometer; and

132 (ix) braking for each wheel.

133 (b) A low-speed vehicle that complies with this Subsection (2) and Subsection (3) and
134 that is not altered from the manufacturer is considered to comply with equipment requirements
135 under Part 16, Vehicle Equipment.

136 (3) A person may not operate a low-speed vehicle that has been structurally altered
137 from the original manufacturer's design.

138 [~~4~~] A user of a low-speed vehicle shall obtain an annual clean special fuel tax
139 certificate for each low-speed vehicle as required under Section 59-13-304.]

140 [~~5~~] (4) A low-speed vehicle is exempt from a motor vehicle emissions inspection and
141 maintenance program requirements under Section 41-6a-1642.

142 [~~6~~] (5) (a) Except to cross a highway at an intersection, a low-speed vehicle may not
143 be operated on a highway with a posted speed limit of more than 35 miles per hour.

144 (b) In addition to the restrictions under Subsection [~~6~~] (5)(a), a highway authority,
145 may prohibit or restrict the operation of a low-speed vehicle on any highway under its
146 jurisdiction, if the highway authority determines the prohibition or restriction is necessary for
147 public safety.

148 [~~7~~] (6) A person may not operate a low-speed vehicle on a highway without
149 displaying on the rear of the low-speed vehicle, a slow-moving vehicle identification emblem

150 that complies with the Society of Automotive Engineers standard SAE J943.

151 ~~[(8)]~~ (7) A person who violates Subsection (2), (3), ~~[(6)]~~ (5), or ~~[(7)]~~ (6) is guilty of a
152 class C misdemeanor.

153 Section 3. Section **59-7-605** is amended to read:

154 **59-7-605. Definitions -- Tax credit -- Cleaner burning fuels.**

155 (1) As used in this section:

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

158 ~~[(a)]~~ (b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
159 Conservation Act.

160 ~~[(b)]~~ (c) "Certified by the board" means that:

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

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

166 (B) the motor vehicle's emissions of regulated pollutants, when operating on a fuel
167 listed in Subsection (2)~~[(a)(ii)(A)]~~(c)(i) or ~~[(2)(a)(ii)(B)]~~ (ii), is less than the emissions were
168 before the installation of conversion equipment; and

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

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

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

175 (III) any other test or standard recognized by board rule; or

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

178 (A) the special mobile equipment's emissions of regulated pollutants, when operating
179 on fuels listed in Subsection (2)~~[(a)(iii)(A)]~~(d)(i) or ~~[(2)(a)(iii)(B)]~~ (ii), is less than the
180 emissions were before the installation of conversion equipment; and

181 (B) a reduction in emissions under Subsection (1)~~[(b)]~~(c)(ii)(A) is demonstrated by:

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

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

185 ~~[(e)]~~ (d) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4,
186 Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the
187 incremental cost of an OEM vehicle or the cost of conversion equipment.

188 ~~[(d)]~~ (e) "Conversion equipment" means equipment referred to in Subsection

189 ~~(2)~~~~[(a)(ii)]~~(c) or ~~[(2)(a)(iii)]~~ (d).

190 ~~[(e)]~~ "Electric-hybrid vehicle" is as defined in ~~42 U.S.C. Sec. 13435.~~

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

193 (i) 31 miles per gallon for gasoline-fueled vehicles;

194 (ii) 36 miles per gallon for diesel-fueled vehicles;

195 (iii) 19 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%
196 gasoline;

197 (iv) 19 miles per gallon for liquified petroleum gas-fueled vehicles; or

198 (v) standards consistent with 40 C.F.R. 600.209-95(d) that are adopted by the Air
199 Quality Board by rule.

200 ~~[(f)]~~ (g) "Incremental cost" has the same meaning as in Section 19-1-402.

201 ~~[(g)]~~ (h) "OEM vehicle" has the same meaning as in Section 19-1-402.

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

204 ~~[(h)]~~ (j) "Special mobile equipment":

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

207 (ii) includes construction or maintenance equipment.

208 (2) ~~[(a) Except as provided in Subsection (2)(b), for]~~ For taxable years beginning on or
209 after January 1, ~~[2001]~~ 2009, but beginning on or before December 31, ~~[2010]~~ 2013, a taxpayer
210 may claim a ~~§~~ → [one-time] ~~←~~ § tax credit ~~§~~ → [per vehicle] ~~←~~ § against tax otherwise due under
210a this chapter or

211 Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate

212 Franchise or Income Tax Act, in an amount equal to:

213 ~~[(i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the~~
 214 ~~amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if~~
 215 ~~the vehicle:]~~

216 ~~[(A) is fueled by propane, natural gas, or electricity;]~~

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

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

221 (a) \$750 for the original purchase of a new vehicle that is not fueled by compressed
 222 natural gas if the vehicle is registered in Utah and meets air quality and fuel economy
 223 standards;

224 (b) for the purchase of a vehicle fueled by compressed natural gas that is registered in
 225 Utah, the lesser of:

226 (i) \$2,500; or

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

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

231 ~~[(A)]~~ (i) be fueled by propane, natural gas, or electricity;

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

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

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

241 ~~[(A)]~~ (i) propane, natural gas, or electricity; or

242 ~~[(B)]~~ (ii) other fuel the board determines annually on or before July 1 to be:

243 ~~[(F)]~~ (A) at least as effective in reducing air pollution as the fuels under Subsection
244 (2)~~[(a)(iii)(A)]~~(d)(i); or

245 ~~[(H)]~~ (B) substantially more effective in reducing air pollution than the fuel for which
246 the engine was originally designed.

247 ~~[(b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January~~
248 ~~1, 2006, a taxpayer may not claim a tax credit under this section with respect to an~~
249 ~~electric-hybrid vehicle.]~~

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

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

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

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

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

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

259 (b) in the taxable year in which the item is purchased for which the tax credit is
260 claimed; and

261 (c) once per vehicle.

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

265a **§→ (6) The tax credit provided by this section may be taken only once per vehicle. ←§**

266 Section 4. Section **59-10-1009** is amended to read:

267 **59-10-1009. Definitions -- Cleaner burning fuels tax credit.**

268 (1) As used in this section:

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

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

273 ~~[(b)]~~ (c) "Certified by the board" means that:

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

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

279 (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels
 280 listed in Subsection (2)[(a)(ii)(A)](c)(i) or [(2)(a)(ii)(B)] (ii), is less than the emissions were
 281 before the installation of conversion equipment; and

282 (C) a reduction in emissions under Subsection (1)[(b)](d)(i)(B) is demonstrated by:

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

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

288 (III) any other test or standard recognized by board rule; or

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

291 (A) the special mobile equipment's emissions of regulated pollutants, when operating
 292 on fuels listed in Subsection (2)[(a)(iii)(A)](c)(i) or [(2)(a)(iii)(B)] (ii), is less than the
 293 emissions were before the installation of conversion equipment; and

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

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

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

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

302 [(d)] (e) "Conversion equipment" means equipment referred to in Subsection
 303 (2)[(a)(ii)] ~~S~~→ [(b)] (c) ←~~S~~ or [(2)(a)(iii)] ~~S~~→ [(c)] (d) ←~~S~~ .

304 [(e)] "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.]

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

307 (i) 31 miles per gallon for gasoline-fueled vehicles;

308 (ii) 36 miles per gallon for diesel-fueled vehicles;

309 (iii) 19 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%
 310 gasoline;

311 (iv) 19 miles per gallon for liquified petroleum gas-fueled vehicles; or

312 (v) standards consistent with 40 C.F.R. 600.209-95(d) that are adopted by the Air
 313 Quality Board by rule.

314 ~~[(f)]~~ (g) "Incremental cost" has the same meaning as in Section 19-1-402.

315 ~~[(g)]~~ (h) "OEM vehicle" has the same meaning as in Section 19-1-402.

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

318 ~~[(h)]~~ (k) "Special mobile equipment":

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

321 (ii) includes construction or maintenance equipment.

322 (2) ~~[(a) Except as provided in Subsection (2)(b), for]~~ For taxable years beginning on or
 323 after January 1, ~~[2001]~~ 2009, but beginning on or before December 31, ~~[2010]~~ 2013, a

324 claimant, estate, or trust may claim ~~⌘~~ ~~→~~ [one-time] ~~←~~ ~~⌘~~ a nonrefundable tax credit ~~⌘~~ ~~→~~ [per vehicle] ~~←~~ ~~⌘~~
 324a against tax

325 otherwise due under this chapter in an amount equal to:

326 ~~[(i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the~~
 327 ~~amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if~~
 328 ~~the vehicle:]~~

329 ~~[(A) is fueled by propane, natural gas, or electricity;]~~

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

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

334 (a) \$750 for the original purchase of a new vehicle that is not fueled by compressed
 335 natural gas if the vehicle is registered in Utah and meets air quality and fuel economy

336 standards:

337 (b) for the purchase of a vehicle fueled by compressed natural gas that is registered in

338 Utah, ~~§~~ → [a one-time credit per vehicle equal to] ← ~~§~~ the lesser of:

339 (i) \$2,500; or

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

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

344 ~~[(A)] (i) is to be fueled by propane, natural gas, or electricity;~~

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

347 ~~(2)[(a)(ii)(A)](c)(i); or~~

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

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

354 ~~[(A)] (i) propane, natural gas, or electricity; or~~

355 ~~[(B)] (ii) other fuel the board determines annually on or before July 1 to be:~~

356 ~~[(C)] (A) at least as effective in reducing air pollution as the fuels under Subsection~~
 357 ~~(2)[(a)(iii)(A)](d)(i); or~~

358 ~~[(D)] (B) substantially more effective in reducing air pollution than the fuel for which~~
 359 ~~the engine was originally designed.~~

360 ~~[(b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January~~
 361 ~~1, 2006, a claimant, estate, or trust may not claim a tax credit under this section with respect to~~
 362 ~~an electric-hybrid vehicle.]~~

363 (3) A claimant, estate, or trust shall provide proof of the purchase of an item for which
 364 a tax credit is allowed under this section by:

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

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

367 and

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

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

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

372 (b) in the taxable year in which the item is purchased for which the tax credit is
373 claimed; and

374 (c) once per vehicle.

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

378a **§→ (6) The tax credit provided by this section may be taken only once per vehicle. ←§**

379 Section 5. Section **59-13-103** is amended to read:

380 **59-13-103. List of clean fuels provided to tax commission -- Report to the**
381 **Legislature.**

382 (1) The Air Quality Board shall annually provide to the tax commission a list of fuels
383 that are clean fuels under Section 59-13-102.

384 (2) The Air Quality Board created under Section 19-2-103 shall in conjunction with the
385 State Tax Commission prepare and submit to the Legislature before January 1, 1995, a report
386 evaluating the impacts, benefits, and economic consequences of the clean fuel [certificate]
387 provisions of Sections 59-13-201 and 59-13-301.

388 Section 6. Section **59-13-301** is amended to read:

389 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
390 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

391 (1) (a) Except as provided in Subsections (2), (3), [and] (11), and (12) and Section
392 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:

393 (i) removal of undyed diesel fuel from any refinery;

394 (ii) removal of undyed diesel fuel from any terminal;

395 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
396 warehousing;

397 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under

398 this part unless the tax has been collected under this section;

399 (v) any untaxed special fuel blended with undyed diesel fuel; or

400 (vi) use of untaxed special fuel~~[, other than a clean special fuel]~~ **§→ other than propane or**
 400a **electricity ←§ .**

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

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

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

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

410 (b) No special fuel tax is imposed on undyed diesel fuel [~~which~~] or clean fuel that:

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

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

415 (iii) is used in a vehicle off-highway;

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

417 (v) is used for off-highway agricultural uses;

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

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

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

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

425 [~~(b)~~] (ii) used pursuant to the conditions of a state implementation plan approved under
 426 Title 19, Chapter 2, Air Conservation Act~~[:]~~; or

427 (b) propane or electricity.

428 (4) Upon request of a buyer meeting the requirements under Subsection (3), the

429 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

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

431 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
432 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

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

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

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

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

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

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

451 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
452 commission shall make rules governing the application and refund provided for in Subsection
453 (9)(a).

454 (10) (a) The purchaser shall pay the tax on diesel fuel ~~or~~ **or clean fuel** purchased for
454a uses under

455 Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as
456 provided in Subsection (9) and this Subsection (10).

457 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
458 commission shall make rules governing the application and refund for off-highway and
459 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

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

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

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

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

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

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

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

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

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

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

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

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

482 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
483 commission shall make rules governing the procedures for administering the reduction of tax
484 provided under this Subsection (11).

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

486 (i) may not:

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

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

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

- 491 (ii) shall:
- 492 (A) be in writing;
- 493 (B) be signed by:
- 494 (I) the chair of the commission or the chair's designee; and
- 495 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
- 496 (C) be conditioned on obtaining any approval required by federal law;
- 497 (D) state the effective date of the agreement; and
- 498 (E) state any accommodation the Navajo Nation makes related to the construction and
- 499 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
- 500 Nation; and
- 501 (iii) may:
- 502 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
- 503 Navajo Nation information that is:
- 504 (I) contained in a document filed with the commission; and
- 505 (II) related to the tax imposed under this section;
- 506 (B) provide for maintaining records by the commission or the Navajo Nation; or
- 507 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers
- 508 located or doing business within the Utah portion of the Navajo Nation.
- 509 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
- 510 imposed on special fuel, any change in the amount of the reduction of taxes under this
- 511 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
- 512 calendar quarter after a 60-day period beginning on the date the commission receives notice:
- 513 (A) from the Navajo Nation; and
- 514 (B) meeting the requirements of Subsection (11)(f)(ii).
- 515 (ii) The notice described in Subsection (11)(f)(i) shall state:
- 516 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
- 517 special fuel;
- 518 (B) the effective date of the rate change of the tax described in Subsection
- 519 (11)(f)(ii)(A); and
- 520 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).
- 521 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not

522 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
523 30-day period beginning on the day the agreement terminates.

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

526 (12) Beginning on January 1, 2009, a tax imposed under this section on compressed
527 natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be
528 increased or decreased proportionately with any increase or decrease in the rate in Subsection
529 59-13-201(1)(a).

530 Section 7. Section **59-13-304** is amended to read:

531 **59-13-304. Inspection of clean fuel vehicles.**

532 [~~(1)(a) Except as provided in Subsection (4), a user of special fuel who owns a vehicle~~
533 ~~powered by a clean special fuel as defined under Section 59-13-102 shall pay a clean special~~
534 ~~fuel tax as provided under this section for use of clean special fuel.]~~

535 [~~(b) A user of special fuel who qualifies for the clean special fuel tax shall annually~~
536 ~~purchase from the commission a clean special fuel tax certificate for each vehicle owned or~~
537 ~~leased that is powered by a clean special fuel.]~~

538 [~~(c) Clean special fuel tax certificates are provided to encourage the use of clean fuels~~
539 ~~to reduce air pollution.]~~

540 [~~(2)(a) The fee for a clean special fuel tax certificate is:]~~

541 [~~(i) 70/100 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded up~~
542 ~~to the nearest dollar, for qualified motor vehicles as defined under Section 59-13-102; and]~~

543 [~~(ii) 36/100 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded~~
544 ~~up to the nearest dollar, for other vehicles.]~~

545 [~~(b)] (1) The commission may require each clean fuel vehicle to be inspected for safe~~
546 ~~operation [before issuing the certificate].~~

547 [~~(c)] (2) Each clean fuel vehicle shall be equipped with an approved and properly~~
548 ~~installed carburetion system if it is powered by a fuel that is gaseous at standard atmospheric~~
549 ~~conditions.~~

550 [~~(3)(a) Beginning January 1, 2001 through December 31, 2010, there is imposed a~~
551 ~~surcharge of \$35 on each clean special fuel tax certificate issued under this section.]~~

552 [~~(b)(i) Until Subsection (3)(b)(ii) applies, surcharges imposed under Subsection (3)(a)~~

553 shall be deposited into the Centennial Highway Fund Restricted Account created under Section
554 72-2-118.]

555 ~~[(ii) When the highway general obligation bonds have been paid off and the highway~~
556 ~~projects completed that are intended to be paid from revenues deposited in the Centennial~~
557 ~~Highway Fund Restricted Account as determined by the Executive Appropriations Committee~~
558 ~~under Subsection 72-2-118(6)(d), the surcharge imposed under Subsection (3)(a) shall be~~
559 ~~deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

560 ~~[(4) A governmental entity identified in Subsection 59-13-301(9) that owns or leases a~~
561 ~~vehicle powered by a special fuel that qualifies as a clean special fuel is exempt from the clean~~
562 ~~special fuel tax imposed under this section.]~~

563 Section 8. Section **59-13-314** is amended to read:

564 **59-13-314. Special fuel user permit required before registration of vehicle.**

565 Before registering any motor vehicle which is operated by special fuels, the registered
566 owner or lessee of the vehicle shall obtain~~[(1)]~~ a valid special fuel user permit for the current
567 year if required under Section 59-13-303~~[; or]~~.

568 ~~[(2) a valid clean special fuel tax certificate for the current year if required under~~
569 ~~Section 59-13-304.]~~

570 Section 9. Section **72-2-124** is amended to read:

571 **72-2-124. Transportation Investment Fund of 2005.**

572 (1) There is created a special revenue fund entitled the Transportation Investment Fund
573 of 2005.

574 (2) The fund consists of monies generated from the following sources:

575 (a) any voluntary contributions received for the maintenance, construction,
576 reconstruction, or renovation of state and federal highways; and

577 (b) appropriations made to the fund by the Legislature.

578 (3) When the highway general obligation bonds have been paid off and the highway
579 projects completed that are intended to be paid from revenues deposited in the Centennial
580 Highway Fund Restricted Account as determined by the Executive Appropriations Committee
581 under Subsection 72-2-118(6)(d), the fund shall also consist of monies generated from the
582 following sources:

583 (a) registration fees designated under Subsection 41-1a-1201(6)(a); and

584 ~~[(b) the clean special fuel tax certificate surcharge under Subsection 59-13-304(3);~~
585 and]

586 ~~[(c)]~~ (b) the sales and use tax amounts provided for in Section 59-12-103.

587 (4) (a) The fund shall earn interest.

588 (b) All interest earned on fund monies shall be deposited into the fund.

589 (5) (a) Except as provided in Subsections (5)(b) and (c), the executive director may use
590 fund monies only to pay the costs of maintenance, construction, reconstruction, or renovation
591 to state and federal highways prioritized by the Transportation Commission through the
592 prioritization process for new transportation capacity projects adopted under Section 72-1-304.

593 (b) The executive director may use fund monies deposited into the fund in fiscal year
594 2006 only to pay the costs of maintenance, construction, reconstruction, or renovation to state
595 and federal highways prioritized by the Transportation Commission.

596 (c) The executive director may use fund monies to exchange for an equal or greater
597 amount of federal transportation funds to be used as provided in Subsection (5)(a).

598 Section 10. **Effective date.**

599 This bill takes effect on January 1, 2009.

H.B. 106 1st Sub. (Buff) - Clean Air and Efficient Vehicle Tax Incentives

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill would decrease the Education Fund by \$15,100 in FY 2009 and by \$3,600 in FY 2010. There is a potential increase in Transportation Fund revenues of \$10,800 in FY 2009 and by \$68,900 in FY 2010. There is a potential increase in sales tax revenue as clean fuels become subject to the sales tax.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Education Fund	\$0	\$0	\$0	\$0	(\$15,100)	(\$3,600)
Transportation Fund	\$0	\$0	\$0	\$0	\$10,800	\$68,900
Total	\$0	\$0	\$0	\$0	(\$4,300)	\$65,300

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Certain individuals and businesses would receive potential tax credits. There is also a potential tax increase for individuals resulting from the imposition of a clean fuel tax.