

1 **INCOME TAX CREDITS FOR CLEANER BURNING FUELS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen H. Urquhart**

5 House Sponsor: Patrick Painter

7 **LONG TITLE**

8 **General Description:**

9 This bill amends income tax credits related to cleaner burning fuels.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ amends the eligibility requirements for cleaner burning fuels tax credits available
13 under the Individual Income Tax Act and the Corporate Franchise and Income
14 Taxes chapter; and

15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 This bill has retrospective operation for a taxable year beginning on or after January 1,
20 2011.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **59-7-605**, as last amended by Laws of Utah 2010, Chapter 236

24 **59-10-1009**, as last amended by Laws of Utah 2010, Chapter 236

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

27 Section 1. Section **59-7-605** is amended to read:

28 **59-7-605. Definitions -- Cleaner burning fuels tax credit.**

29 (1) As used in this section:

30 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than
31 the standards established in;

32 (i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6)[-]; or

33 (ii) for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D,
34 Internal Revenue Code, bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

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

37 (c) "Certified by the board" means that:

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

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

43 (B) the motor vehicle's emissions of regulated pollutants, when operating on a fuel
44 listed in Subsection (2)(c)(i) or (ii), is less than the emissions were before the installation of
45 conversion equipment; and

46 (C) a reduction in emissions under Subsection (1)(c)(i)(B) is demonstrated by:

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

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

52 (III) any other test or standard recognized by board rule, which may not include a
53 retrofit compressed natural gas vehicle that is retrofit in accordance with Section 19-1-406,
54 unless that motor vehicle also satisfies Subsection (1)(c)(i)(C)(I); or

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

57 (A) the special mobile equipment's emissions of regulated pollutants, when operating

58 on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the
59 installation of conversion equipment; and

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

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

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

64 (d) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean
65 Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental
66 cost of an OEM vehicle or the cost of conversion equipment.

67 (e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

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

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

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

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

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

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

77 (g) "Incremental cost" has the same meaning as in Section 19-1-402.

78 (h) "OEM vehicle" has the same meaning as in Section 19-1-402.

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

81 (j) "Special mobile equipment":

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

84 (ii) includes construction or maintenance equipment.

85 (2) For taxable years beginning on or after January 1, 2009, but beginning on or before

86 December 31, 2013, a taxpayer may claim a tax credit against tax otherwise due under this
87 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
88 Corporate Franchise or Income Tax Act, in an amount equal to:

89 (a) [~~\$750~~] \$605 for the original purchase of a new vehicle that is not fueled by
90 compressed natural gas if the vehicle is registered in Utah and meets air quality standards and
91 fuel economy standards;

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

94 (i) \$2,500; or

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

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

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

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

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

104 (d) 50% of the cost of equipment for conversion, if certified by the board, of a special
105 mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum
106 tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to
107 be fueled by:

108 (i) propane, natural gas, or electricity; or

109 (ii) other fuel the board determines annually on or before July 1 to be:

110 (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i);

111 or

112 (B) substantially more effective in reducing air pollution than the fuel for which the
113 engine was originally designed.

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

- 116 (a) providing proof to the board in the form the board requires by rule;
- 117 (b) receiving a written statement from the board acknowledging receipt of the proof;

118 and

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

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

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

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

- 130 (6) The tax credit provided by this section may be taken only once per vehicle.

131 Section 2. Section **59-10-1009** is amended to read:

132 **59-10-1009. Definitions -- Cleaner burning fuels tax credit.**

133 (1) As used in this section:

134 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than
135 the standards established in:

- 136 (i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6)[-]; or
- 137 (ii) for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D,
138 Internal Revenue Code, bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

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

141 (c) "Certified by the board" means that:

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

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

147 (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels
148 listed in Subsection (2)(c)(i) or (ii), is less than the emissions were before the installation of
149 conversion equipment; and

150 (C) a reduction in emissions under Subsection (1)(c)(i)(B) is demonstrated by:

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

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

156 (III) any other test or standard recognized by board rule, which may not include a
157 retrofit compressed natural gas vehicle that is retrofit in accordance with Section 19-1-406,
158 unless that motor vehicle also satisfies Subsection (1)(c)(i)(C)(I); or

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

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

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

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

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

168 (d) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19,
169 Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a

170 portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

171 (e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

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

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

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

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

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

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

181 (g) "Incremental cost" has the same meaning as in Section 19-1-402.

182 (h) "OEM vehicle" has the same meaning as in Section 19-1-402.

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

185 (j) "Special mobile equipment":

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

188 (ii) includes construction or maintenance equipment.

189 (2) For taxable years beginning on or after January 1, 2009, but beginning on or before
190 December 31, 2013, a claimant, estate, or trust may claim a nonrefundable tax credit against
191 tax otherwise due under this chapter in an amount equal to:

192 (a) [~~\$750~~] \$605 for the original purchase of a new vehicle that is not fueled by
193 compressed natural gas if the vehicle is registered in Utah and meets air quality standards and
194 fuel economy standards;

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

197 (i) \$2,500; or

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

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

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

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

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

207 (d) 50% of the cost of equipment for conversion, if certified by the board, of a special
208 mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a
209 maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile
210 equipment is to be fueled by:

211 (i) propane, natural gas, or electricity; or

212 (ii) other fuel the board determines annually on or before July 1 to be:

213 (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i);
214 or

215 (B) substantially more effective in reducing air pollution than the fuel for which the
216 engine was originally designed.

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

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

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

221 and

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

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

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

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

228 (c) once per vehicle.

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

233 (6) The tax credit provided by this section may be taken only once per vehicle.

234 **Section 3. Retrospective operation.**

235 This bill has retrospective operation for a taxable year beginning on or after January 1,
236 2011.