

INCOME TAX CREDITS FOR CLEANER BURNING FUELS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

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

Utah Code Sections Affected:

AMENDS:

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

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

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

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



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

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 bin [2] 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

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

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

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

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

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

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

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

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

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

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

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

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

58 (I) certification of the conversion equipment by the federal Environmental Protection

- 59 Agency or by a state whose certification standards are recognized by the board; or
60 (II) any other test or standard recognized by board rule.
- 61 (d) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean
62 Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental
63 cost of an OEM vehicle or the cost of conversion equipment.
- 64 (e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).
- 65 (f) "Fuel economy standards" means that a vehicle's combined fuel economy, as
66 determined in 40 C.F.R. 600.209-95(d) is equal to or greater than:
- 67 (i) 31 miles per gallon for gasoline-fueled vehicles;
68 (ii) 36 miles per gallon for diesel-fueled vehicles;
69 (iii) 19 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%
70 gasoline;
- 71 (iv) 19 miles per gallon for liquified petroleum gas-fueled vehicles; or
72 (v) standards consistent with 40 C.F.R. 600.209-95(d) that are adopted by the Air
73 Quality Board by rule.
- 74 (g) "Incremental cost" has the same meaning as in Section 19-1-402.
- 75 (h) "OEM vehicle" has the same meaning as in Section 19-1-402.
- 76 (i) "Original purchase" means the purchase of a vehicle that has never been titled or
77 registered and has been driven less than 7,500 miles.
- 78 (j) "Special mobile equipment":
79 (i) means any mobile equipment or vehicle that is not designed or used primarily for
80 the transportation of persons or property; and
81 (ii) includes construction or maintenance equipment.
- 82 (2) For taxable years beginning on or after January 1, 2009, but beginning on or before
83 December 31, 2013, a taxpayer may claim a tax credit against tax otherwise due under this
84 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
85 Corporate Franchise or Income Tax Act, in an amount equal to:
- 86 (a) \$750 for the original purchase of a new vehicle that is not fueled by compressed
87 natural gas if the vehicle is registered in Utah and meets air quality and fuel economy
88 standards;
- 89 (b) for the purchase of a vehicle fueled by compressed natural gas that is registered in

90 Utah, the lesser of:

91 (i) \$2,500; or

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

93 (c) 50% of the cost of equipment for conversion, if certified by the board, of a motor

94 vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum
95 tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:

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

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

99 (iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act

100 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

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

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

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

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

108 or

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

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

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

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

115 and

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

117 (4) Except as provided by Subsection (5), the tax credit under this section is allowed

118 only:

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

120 (b) in the taxable year in which the item is purchased for which the tax credit is

121 claimed; and

122 (c) once per vehicle.

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

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

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

129 **59-10-1009. Definitions -- Cleaner burning fuels tax credit.**

130 (1) As used in this section:

131 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than
132 the standards established in bin [2] 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

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

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

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

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

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

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

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

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

150 (III) any other test or standard recognized by board rule, which may not include a
151 retrofit compressed natural gas vehicle that is retrofit in accordance with Section 19-1-406,

152 unless that motor vehicle also satisfies Subsection (1)(c)(i)(C)(I); or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

179 (j) "Special mobile equipment":

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

182 (ii) includes construction or maintenance equipment.

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

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

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

191 (i) \$2,500; or

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

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

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

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

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

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

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

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

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

208 or

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

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

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

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

215 and

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

217 (4) Except as provided by Subsection (5), the tax credit under this section is allowed

218 only:

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

220 (b) in the taxable year in which the item is purchased for which the tax credit is

221 claimed; and

222 (c) once per vehicle.

223 (5) If the amount of a tax credit claimed by a claimant, estate, or trust under this

224 section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable

225 year, the amount of the tax credit exceeding the tax liability may be carried forward for a period

226 that does not exceed the next five taxable years.

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

228 **Section 3. Retrospective operation.**

229 This bill has retrospective operation for a taxable year beginning on or after January 1,

230 2011.

Legislative Review Note

as of 2-9-11 3:07 PM

Office of Legislative Research and General Counsel