

**Representative Jack R. Draxler** proposes the following substitute bill:

**CLEANER BURNING FUELS TAX CREDITS AMENDMENTS**

**AND RELATED FUNDING**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jack R. Draxler**

Senate Sponsor: Kevin T. Van Tassell

**LONG TITLE**

**General Description:**

This bill amends corporate and individual income tax credits for cleaner burning fuels

**and provides for transfers from the General Fund into the Education Fund in the amount of tax credit claimed minus \$500,000**

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies eligibility requirements to claim tax credits for cleaner burning fuels;
- ▶ extends corporate and individual income tax credits for cleaner burning fuels until

the end of taxable year ~~2018~~ **2019** ; ~~and~~

**requires transfers from the General Fund into the Education Fund in the amount of tax credit claimed minus \$500,000;**

**grants rulemaking authority to the State Tax Commission; 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, 2013.



**1st Sub. H.B. 96**

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **59-7-605**, as last amended by Laws of Utah 2011, Chapter 358

25 **59-10-1009**, as last amended by Laws of Utah 2011, Chapter 358

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

57 (B) as a result of the installation of conversion equipment on the motor vehicle, the  
58 motor vehicle has reduced emissions; or

59 (ii) special mobile equipment on which conversion equipment has been installed  
60 [~~meets the following criteria:~~] has reduced emissions.

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

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

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

67 [~~(H) any other test or standard recognized by board rule.]~~

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

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

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

74 [~~(i) 31 miles per gallon for gasoline-fueled vehicles;]~~

75 [~~(ii) 36 miles per gallon for diesel-fueled vehicles;]~~

76 [~~(iii) 19 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%~~  
77 ~~gasoline;]~~

78 [~~(iv) 19 miles per gallon for liquified petroleum gas-fueled vehicles; or]~~

79 [~~(v) standards consistent with 40 C.F.R. 600.209-95(d) that are adopted by the Air~~  
80 ~~Quality Board by rule.]~~

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

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

83 [~~(i)] (g) "Original purchase" means the purchase of a vehicle that has never been titled  
84 or registered and has been driven less than 7,500 miles.~~

85 (h) "Qualifying electric or hybrid vehicle" means a vehicle that:

86 (i) meets air quality standards;

87 (ii) is not fueled by natural gas;

88 (iii) is fueled by:  
89 (A) electricity only; or  
90 (B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and  
91 ethanol, or liquified petroleum gas; and

92 (iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in  
93 Subsection (1)(h)(iii.)

94 (i) "Reduced emissions" means:

95 (i) for purposes of a motor vehicle on which conversion equipment has been installed,  
96 that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in  
97 Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the  
98 conversion equipment, as demonstrated by:

99 (A) certification of the conversion equipment by the federal Environmental Protection  
100 Agency or by a state that has certification standards recognized by the board;

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

104 (C) for a retrofit natural gas vehicle that is retrofit in accordance with Section  
105 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the  
106 emission standards applicable under Section 19-1-406; or

107 (D) any other test or standard recognized by board rule, made in accordance with Title  
108 63G, Chapter 3, Utah Administrative Rulemaking Act; or

109 (ii) for purposes of special mobile equipment on which conversion equipment has been  
110 installed, that the special mobile equipment's emissions of regulated pollutants, when operating  
111 on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the  
112 installation of conversion equipment, as demonstrated by:

113 (A) certification of the conversion equipment by the federal Environmental Protection  
114 Agency or by a state that has certification standards recognized by the board; or

115 (B) any other test or standard recognized by board rule, made in accordance with Title  
116 63G, Chapter 3, Utah Administrative Rulemaking Act.

117 (j) "Special mobile equipment":

118 (i) means any mobile equipment or vehicle that is not designed or used primarily for

119 the transportation of persons or property; and

120 (ii) includes construction or maintenance equipment.

121 (2) For taxable years beginning on or after January 1, [2009] ~~H~~→ [2013] 2014 ←~~H~~ ,

121a but beginning on or

122 before December 31, [2013] ~~H~~→ [2018] 2019 ←~~H~~ , a taxpayer may claim a tax credit against

122a tax otherwise due

123 under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to

124 Pay Corporate Franchise or Income Tax Act, in an amount equal to:

125 (a) \$605 for the original purchase of a new qualifying electric or hybrid vehicle that is

126 [~~not fueled by compressed natural gas if the vehicle is~~] registered in [~~Utah and meets air quality~~

127 ~~standards and fuel economy standards~~] this state;

128 (b) for the purchase of a vehicle fueled by [~~compressed~~] natural gas that is registered in

129 [~~Utah~~] this state, the lesser of:

130 (i) \$2,500; or

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

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

133 vehicle registered in [~~Utah~~] this state minus the amount of any clean fuel grant received, up to a

134 maximum tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:

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

136 (ii) be fueled by other fuel the board determines annually on or before July 1 to be at

137 least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

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

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

140 (d) 50% of the cost of equipment for conversion, if certified by the board, of a special

141 mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum

142 tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to

143 be fueled by:

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

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

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

147 or

148 (B) substantially more effective in reducing air pollution than the fuel for which the

149 engine was originally designed.

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

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

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

154 and

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

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

158 (a) against ~~[any Utah]~~ a tax owed under this chapter or Chapter 8, Gross Receipts Tax  
159 on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the  
160 taxable year by the taxpayer;

161 (b) ~~[in]~~ for the taxable year in which ~~[the]~~ ~~it~~ ~~→~~ ~~[-, or the next taxable year after which,]~~ ~~←~~ ~~it~~  
161a an item

162 ~~[is purchased for which the tax credit is claimed]~~ described in Subsection (2)(a) or (b) is  
163 purchased or conversion equipment described in Subsection (2)(c) or (d) is installed; and

164 (c) once per vehicle.

165 (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the  
166 taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain  
167 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year,  
168 the amount of the tax credit exceeding the tax liability may be carried forward for a period that  
169 does not exceed the next five taxable years.

170 ~~[(6) The tax credit provided by this section may be taken only once per vehicle.]~~

170a ~~it~~ ~~→~~ **(6) In accordance with any rules prescribed by the commission under Subsection (7),**  
170b **the commission shall transfer at least annually from the General Fund into the Education**  
170c **Fund an amount equal to the difference between:**

170d **(a) the amount of tax credit claimed under this section; and**

170e **(b) \$500,000.**

170f **(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the**  
170g **commission may make rules for making a transfer from the General Fund into th Education**  
170h **Fund as required by Subsection (6).** ~~←~~ ~~it~~

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

172 **59-10-1009. Definitions -- Cleaner burning fuels tax credit.**

173 (1) As used in this section:

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

- 176 (i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6); or  
177 (ii) for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D,  
178 Internal Revenue Code, bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).  
179 (b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air  
180 Conservation Act.



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

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

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

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

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

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

194 [~~(H) testing the motor vehicle, before and after installation of the conversion  
195 equipment, in accordance with 40 C.F.R. Part 86, Control Emissions from New and In-use  
196 Highway Vehicles and Engines, using all fuels the motor vehicle is capable of using; or]~~

197 [~~(HH) any other test or standard recognized by board rule, which may not include a  
198 retrofit compressed natural gas vehicle that is retrofit in accordance with Section 19-1-406,  
199 unless that motor vehicle also satisfies Subsection (1)(c)(i)(C)(F); or]~~

200 (B) as a result of the installation of conversion equipment on the motor vehicle, the  
201 motor vehicle has reduced emissions; or

202 (ii) special mobile equipment on which conversion equipment has been installed  
203 [~~meets the following criteria:]~~ has reduced emissions.

204 [~~(A) the special mobile equipment's emissions of regulated pollutants, when operating  
205 on fuels listed in Subsection (2)(c)(i) or (ii), is less than the emissions were before the  
206 installation of conversion equipment; and]~~

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

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

210 [~~(H) any other test or standard recognized by the board.]~~

211 (d) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19,

212 Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a  
213 portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

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

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

217 [~~(i) 31 miles per gallon for gasoline-fueled vehicles;~~]

218 [~~(ii) 36 miles per gallon for diesel-fueled vehicles;~~]

219 [~~(iii) 19 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%  
220 gasoline;~~]

221 [~~(iv) 19 miles per gallon for liquified petroleum gas-fueled vehicles; or]~~

222 [~~(v) standards consistent with 40 C.F.R. 600.209-95(d) that are adopted by the Air  
223 Quality Board by rule.]~~

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

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

226 [(+) (g) "Original purchase" means the purchase of a vehicle that has never been titled  
227 or registered and has been driven less than 7,500 miles.

228 (h) "Qualifying electric or hybrid vehicle" means a vehicle that:

229 (i) meets air quality standards;

230 (ii) is not fueled by natural gas; and

231 (iii) is fueled by:

232 (A) electricity only; or

233 (B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and  
234 ethanol, or liquified petroleum gas.

235 (i) "Reduced emissions" means:

236 (i) for purposes of a motor vehicle on which conversion equipment has been installed,  
237 that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in  
238 Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the  
239 conversion equipment, as demonstrated by:

240 (A) certification of the conversion equipment by the federal Environmental Protection  
241 Agency or by a state that has certification standards recognized by the board;

242 (B) testing the motor vehicle, before and after installation of the conversion equipment,

243 in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway  
 244 Vehicles and Engines, using all fuel the motor vehicle is capable of using;

245 (C) for a retrofit natural gas vehicle that is retrofit in accordance with Section  
 246 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the  
 247 emission standards applicable under Section 19-1-406; or

248 (D) any other test or standard recognized by board rule, made in accordance with Title  
 249 63G, Chapter 3, Utah Administrative Rulemaking Act; or

250 (ii) for purposes of special mobile equipment on which conversion equipment has been  
 251 installed, that the special mobile equipment's emissions of regulated pollutants, when operating  
 252 on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the  
 253 installation of conversion equipment, as demonstrated by:

254 (A) certification of the conversion equipment by the federal Environmental Protection  
 255 Agency or by a state that has certification standards recognized by the board; or

256 (B) any other test or standard recognized by board rule, made in accordance with Title  
 257 63G, Chapter 3, Utah Administrative Rulemaking Act.

258 (j) "Special mobile equipment":

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

261 (ii) includes construction or maintenance equipment.

262 (2) For taxable years beginning on or after January 1, [2009] ~~H~~→ [2013] 2014 ←~~H~~ , but  
 262a beginning on or  
 263 before December 31, [2013] ~~H~~→ [2018] 2019 ←~~H~~ , a claimant, estate, or trust may claim a  
 263a nonrefundable tax

264 credit against tax otherwise due under this chapter in an amount equal to:

265 (a) \$605 for the original purchase of a new qualifying electric or hybrid vehicle that is  
 266 ~~[not fueled by compressed natural gas if the vehicle is]~~ registered in ~~[Utah and meets air quality~~  
 267 ~~standards and fuel economy standards]~~ this state;

268 (b) for the purchase of a vehicle fueled by ~~[compressed]~~ natural gas that is registered in  
 269 ~~[Utah]~~ this state, the lesser of:

270 (i) \$2,500; or

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

272 (c) 50% of the cost of equipment for conversion, if certified by the board, of a motor  
 273 vehicle registered in ~~[Utah]~~ this state minus the amount of any clean fuel conversion grant

274 received, up to a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:

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

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

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

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

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

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

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

287 or

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

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

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

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

294 and

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

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

298 (a) against ~~[any Utah]~~ a tax owed under this chapter in the taxable year by the claimant,  
299 estate, or trust;

300 (b) ~~[in]~~ for the taxable year in which ~~[the]~~ ~~it~~ ~~→~~ [, or the next taxable year after which,] ~~←~~ ~~it~~  
300a an item

301 ~~[is purchased for which the tax credit is claimed]~~ described in Subsection (2)(a) or (b) is  
302 purchased or conversion equipment described in Subsection (2)(c) or (d) is installed; and

303 (c) once per vehicle.

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

305 section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable  
306 year, the amount of the tax credit exceeding the tax liability may be carried forward for a period  
307 that does not exceed the next five taxable years.

308 [~~(6) The tax credit provided by this section may be taken only once per vehicle.~~]

308a **H→ (6) In accordance with any rules prescribed by the commission under Subsection (7),**  
308b **the commission shall transfer at least annually from the General Fund into the Education**  
308c **Fund an amount equal to the difference between:**

308d **(a) the amount of tax credit claimed under this section; and**

308e **(b) \$500,000.**

308f **(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the**  
308g **commission may make rules for making a transfer from the General Fund into th Education**  
308h **Fund as required by Subsection (6).** ←H

309 Section 3. **Retrospective operation**

310 **This bill has retrospective operation for a taxable year beginning on or after January 1,**  
311 **2013.**