

CLEANER BURNING FUELS TAX CREDITS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jack R. Draxler

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ 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; 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.

Utah Code Sections Affected:

AMENDS:

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

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

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 -- 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 and

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

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

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

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

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

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

58 (ii) special mobile equipment on which conversion equipment has been installed

59 ~~[meets the following criteria:]~~ has reduced emissions.

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

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

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

66 ~~[(H) any other test or standard recognized by board rule:]~~

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

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

71 (f) "Fuel economy standards" means that a vehicle's combined fuel economy, as
72 determined in 40 C.F.R. ~~[600.209-95(d)]~~ 600.210-12(c), is equal to or greater than:

73 (i) ~~[34]~~ 35 miles per gallon for gasoline-fueled vehicles;

74 (ii) ~~[36]~~ 40 miles per gallon for diesel-fueled vehicles;

75 (iii) ~~[19]~~ 25 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%
76 gasoline;

77 (iv) ~~[19]~~ 25 miles per gallon for liquified petroleum gas-fueled vehicles; or

78 (v) standards consistent with 40 C.F.R. ~~[600.209-95(d)]~~ 600.210-12(c) that are adopted
79 by the Air Quality Board by rule.

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

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

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

84 (i) "Reduced emissions" means:

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

89 (A) certification of the conversion equipment by the federal Environmental Protection

90 Agency or by a state that has certification standards recognized by the board;

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

94 (C) for a retrofit natural gas vehicle that is retrofit in accordance with Section
95 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the
96 emission standards applicable under Section 19-1-406; or

97 (D) any other test or standard recognized by board rule, made in accordance with Title
98 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

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

105 (B) any other test or standard recognized by board rule, made in accordance with Title
106 63G, Chapter 3, Utah Administrative Rulemaking Act.

107 (j) "Special mobile equipment":

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

110 (ii) includes construction or maintenance equipment.

111 (2) For taxable years beginning on or after January 1, [~~2009~~] 2013, but beginning on or
112 before December 31, [~~2013~~] 2018, a taxpayer may claim a tax credit against tax otherwise due
113 under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to
114 Pay Corporate Franchise or Income Tax Act, in an amount equal to:

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

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

120 (i) \$2,500; or

- 121 (ii) 35% of the purchase price of the vehicle;
- 122 (c) 50% of the cost of equipment for conversion, if certified by the board, of a motor
123 vehicle registered in [~~Utah~~] this state minus the amount of any clean fuel grant received, up to a
124 maximum tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:
- 125 (i) be fueled by propane, natural gas, or electricity;
- 126 (ii) be fueled by other fuel the board determines annually on or before July 1 to be at
127 least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or
- 128 (iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act
129 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and
- 130 (d) 50% of the cost of equipment for conversion, if certified by the board, of a special
131 mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum
132 tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to
133 be fueled by:
- 134 (i) propane, natural gas, or electricity; or
- 135 (ii) other fuel the board determines annually on or before July 1 to be:
- 136 (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i);
137 or
- 138 (B) substantially more effective in reducing air pollution than the fuel for which the
139 engine was originally designed.
- 140 (3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is
141 allowed under this section by:
- 142 (a) providing proof to the board in the form the board requires by rule;
- 143 (b) receiving a written statement from the board acknowledging receipt of the proof;
144 and
- 145 (c) retaining the written statement described in Subsection (3)(b).
- 146 (4) Except as provided by Subsection (5), the tax credit under this section is allowed
147 only:
- 148 (a) against [~~any Utah~~] a tax owed under this chapter or Chapter 8, Gross Receipts Tax
149 on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the
150 taxable year by the taxpayer;
- 151 (b) [~~in~~] for the taxable year in which [the], or the next taxable year after which, an item

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

154 (c) once per vehicle.

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

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

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

162 **59-10-1009. Definitions -- Cleaner burning fuels tax credit.**

163 (1) As used in this section:

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

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

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

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

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

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

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

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

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

182 ~~[(D) certification of the conversion equipment by the federal Environmental Protection~~

183 ~~Agency or by a state whose certification standards are recognized by the board;]~~
 184 ~~[(H) testing the motor vehicle, before and after installation of the conversion~~
 185 ~~equipment, in accordance with 40 C.F.R. Part 86, Control Emissions from New and In-use~~
 186 ~~Highway Vehicles and Engines, using all fuels the motor vehicle is capable of using; or]~~
 187 ~~[(H) any other test or standard recognized by board rule, which may not include a~~
 188 ~~retrofit compressed natural gas vehicle that is retrofit in accordance with Section 19-1-406;~~
 189 ~~unless that motor vehicle also satisfies Subsection (1)(c)(i)(C)(I); or]~~
 190 (B) as a result of the installation of conversion equipment on the motor vehicle, the
 191 motor vehicle has reduced emissions; or
 192 (ii) special mobile equipment on which conversion equipment has been installed
 193 ~~[meets the following criteria:]~~ has reduced emissions.
 194 ~~[(A) the special mobile equipment's emissions of regulated pollutants, when operating~~
 195 ~~on fuels listed in Subsection (2)(c)(i) or (ii), is less than the emissions were before the~~
 196 ~~installation of conversion equipment; and]~~
 197 ~~[(B) a reduction in emissions under Subsection (1)(c)(ii)(A) is demonstrated by:]~~
 198 ~~[(f) certification of the conversion equipment by the federal Environmental Protection~~
 199 ~~Agency or by a state whose certification standards are recognized by the board; or]~~
 200 ~~[(H) any other test or standard recognized by the board.]~~
 201 (d) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19,
 202 Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a
 203 portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.
 204 (e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).
 205 (f) "Fuel economy standards" means that a vehicle's combined fuel economy, as
 206 determined in 40 C.F.R. ~~[600.209-95(d)]~~ 600.210-12(c), is equal to or greater than:
 207 (i) ~~[34]~~ 35 miles per gallon for gasoline-fueled vehicles;
 208 (ii) ~~[36]~~ 40 miles per gallon for diesel-fueled vehicles;
 209 (iii) ~~[19]~~ 25 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15%
 210 gasoline;
 211 (iv) ~~[19]~~ 25 miles per gallon for liquified petroleum gas-fueled vehicles; or
 212 (v) standards consistent with 40 C.F.R. ~~[600.209-95(d)]~~ 600.210-12(c) that are adopted
 213 by the Air Quality Board by rule.

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

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

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

218 [~~(j)~~] (i) "Reduced emissions" means:

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

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

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

228 (C) for a retrofit natural gas vehicle that is retrofit in accordance with Section
229 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the
230 emission standards applicable under Section 19-1-406; or

231 (D) any other test or standard recognized by board rule, made in accordance with Title
232 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

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

239 (B) any other test or standard recognized by board rule, made in accordance with Title
240 63G, Chapter 3, Utah Administrative Rulemaking Act.

241 (j) "Special mobile equipment":

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

244 (ii) includes construction or maintenance equipment.

245 (2) For taxable years beginning on or after January 1, [~~2009~~] 2013, but beginning on or
246 before December 31, [~~2013~~] 2018, a claimant, estate, or trust may claim a nonrefundable tax
247 credit against tax otherwise due under this chapter in an amount equal to:

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

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

253 (i) \$2,500; or

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

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

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

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

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

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

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

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

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

270 or

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

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

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

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

277 and

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

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

280 only:

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

283 (b) ~~[it]~~ for the taxable year in which [the], or the next taxable year after which, an item
284 [is purchased for which the tax credit is claimed] described in Subsection (2)(a) or (b) is
285 purchased or conversion equipment described in Subsection (2)(c) or (d) is installed; and

286 (c) once per vehicle.

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

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

292 **Section 3. Retrospective operation.**

293 This bill has retrospective operation for a taxable year beginning on or after January 1,
294 2013.

Legislative Review Note
as of 1-29-13 12:13 PM

Office of Legislative Research and General Counsel