

## HB0096S02 compared with HB0096S01

~~{deleted text}~~ shows text that was in HB0096S01 but was deleted in HB0096S02.

inserted text shows text that was not in HB0096S01 but was inserted into HB0096S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Representative Jack R. Draxler}~~Senator Kevin T. Van Tassell 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

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#### 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 by which the tax credit claimed exceeds \$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

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the end of taxable year ~~{2018}~~2019;

- ▶ requires transfers from the General Fund into the Education Fund in the amount by which the tax credit claimed exceeds \$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}~~takes effect for a taxable year beginning on or after January 1, ~~{2013}~~2014.

### 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

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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,

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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:]~~

~~[(f) 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]~~

~~[(HH) 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)(I); or]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by:

(A) electricity only; or

(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and ethanol, or ~~liquified petroleum gas~~ propane; and

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

(i) "Reduced emissions" means:

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

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

(B) 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;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section

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19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

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

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

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

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

(j) "Special mobile equipment":

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

(ii) includes construction or maintenance equipment.

(2) For taxable years beginning on or after January 1, [2009] ~~2013~~ 2014, but beginning on or before December 31, [2013] ~~2018~~ 2019, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

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

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

(i) \$2,500; or

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

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

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

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

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

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

- (i) propane, natural gas, or electricity; or
- (ii) other fuel the board determines annually on or before July 1 to be:
  - (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i);

or

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

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

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

and

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

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

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

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

(c) once per vehicle.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the

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taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

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

(6) In accordance with any rules prescribed by the commission under Subsection (7), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

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

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

### **59-10-1009. 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 in 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 fuels listed in Subsection (2)(c)(i) or (ii), is less than the emissions were before the installation of~~

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~~conversion equipment; and]~~

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

~~[(f) 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 Emissions from New and In-use Highway Vehicles and Engines, using all fuels the motor vehicle is capable of using; or]~~

~~[(HH) 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)(I); or]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) meets air quality standards;

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

(iii) is fueled by:

(A) electricity only; or

(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and ethanol, or ~~liquefied petroleum gas;~~

~~propane; and~~

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

(i) "Reduced emissions" means:

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

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

(B) 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;

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

(D) any other test or standard recognized by board rule, made in accordance with Title

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63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

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

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

(j) "Special mobile equipment":

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

(ii) includes construction or maintenance equipment.

(2) For taxable years beginning on or after January 1, [2009] ~~2013~~ 2014, but beginning on or before December 31, [2013] ~~2018~~ 2019, a claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

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

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

(i) \$2,500; or

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

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

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

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

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

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

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

- (i) propane, natural gas, or electricity; or
- (ii) other fuel the board determines annually on or before July 1 to be:
  - (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i);

or

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

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

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

and

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

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

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

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

(c) once per vehicle.

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

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

(6) In accordance with any rules prescribed by the commission under Subsection (7),

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the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

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

Section 3. ~~{Retrospective}~~Effective ~~{operation}~~date.

This bill ~~{has retrospective operation}~~takes effect for a taxable year beginning on or after January 1, ~~{2013}~~2014.