

HB0074S01 compared with HB0074

~~deleted text~~ shows text that was in HB0074 but was deleted in HB0074S01.

inserted text shows text that was not in HB0074 but was inserted into HB0074S01.

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Senator J. Stuart Adams proposes the following substitute bill:

ENERGY EFFICIENT VEHICLE TAX CREDITS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: ~~_____~~ J. Stuart Adams

LONG TITLE

General Description:

This bill addresses tax credits related to energy efficient vehicles.

Highlighted Provisions:

This bill:

- ▶ ~~modifies~~ addresses the amount of tax credit that may be claimed for the purchase of certain energy efficient vehicles; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect for a taxable year beginning on or after January 1, 2015.

Utah Code Sections Affected:

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AMENDS:

59-7-605, as last amended by Laws of Utah 2013, Chapter 184

59-10-1009, as last amended by Laws of Utah 2013, Chapter 184

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 -- Tax credits related to energy efficient vehicles.

(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) 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 has reduced emissions.

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

(g) "Original purchase" means the purchase of a vehicle that has never been titled or

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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~~] and

[~~(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and ethanol, or propane; and~~]

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in

Subsection (1)(h)(iii).

(i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in

Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel~~;~~;

(B) gasoline~~;~~; or

(C) a mixture of gasoline and ethanol~~;~~ or propane.

[~~(†)~~] (j) "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

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(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)~~ (k) "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 the taxable year beginning on or after January 1, ~~[2014]~~ 2015, but beginning on or before December 31, ~~[2014]~~ 2015, 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) ~~(i) [\$605]~~ for the original purchase of a new qualifying electric ~~[or hybrid]~~ vehicle that is registered in this state~~[-];~~, the lesser of:

(A) ~~[\$2,500]~~ \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1, ~~[250]~~ 000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) ~~[\$2,500]~~ \$1,500; 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 this state minus the amount of any clean fuel grant received, up to a maximum tax credit of ~~[\$2,500]~~ \$1,500 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[-]; and
 - (e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the product of:
 - (i) the amount of tax credit the taxpayer would otherwise qualify to claim under Subsection (2)(a) or (b) had the taxpayer purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to be the value of the vehicle at the beginning of the lease; and
 - (ii) a percentage calculated by:
 - (A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and
 - (B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.
- (3) (a) The board shall:
 - (i) determine the amount of tax credit a taxpayer is allowed under this section; and
 - (ii) provide the taxpayer with a written certification of the amount of tax credit the taxpayer is allowed under this section.

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

~~[(a)]~~ (i) providing proof to the board in the form the board requires by rule;

~~[(b)]~~ (ii) receiving a written statement from the board acknowledging receipt of the proof; and

~~[(c)]~~ (iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).

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

(a) against 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) for the taxable year in which ~~[an item]~~ a vehicle described in Subsection (2)(a) or (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) A taxpayer may not assign a tax credit under this section to another person.

~~[(5)]~~ (6) If the amount of a tax credit claimed by a taxpayer under this section exceeds the 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)]~~ (7) In accordance with any rules prescribed by the commission under Subsection ~~[(7)]~~ (8), 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)]~~ (8) 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)]~~ (7).

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

59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.

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(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) 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 has reduced emissions.

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

(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]~~ and

~~[(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and ethanol, or propane; and]~~

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

(i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas ~~or propane~~;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel~~;~~;

(B) gasoline~~;~~; or

(C) a mixture of gasoline and ethanol~~;~~ or propane~~;~~.

~~(+)~~ (j) "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 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

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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.

~~(f)~~ (k) "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 the taxable year beginning on or after January 1, ~~[2014]~~ 2015, but beginning on or before December 31, ~~[2014]~~ 2015, a claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

(a) (i) ~~[\$605]~~ for the original purchase of a new qualifying electric ~~[or hybrid]~~ vehicle that is registered in this state~~;~~, the lesser of:

(A) ~~[\$2,500]~~ \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1, ~~[250,000]~~;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) ~~[\$2,500]~~ \$1,500; 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 this state minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of ~~[\$2,500]~~ \$1,500 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 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

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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[-]; and

(e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the product of:

(i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to claim under Subsection (2)(a) or (b) had the claimant, estate, or trust purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written certification of the amount of tax credit the claimant, estate, or trust is allowed under this section.

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

~~[(a)]~~ (i) providing proof to the board in the form the board requires by rule;

~~[(b)]~~ (ii) receiving a written statement from the board acknowledging receipt of the proof; and

~~[(c)]~~ (iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A claimant, estate, or trust shall retain the written certification described in

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Subsection (3)(a)(ii).

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

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

(b) for the taxable year in which ~~[an item]~~ a vehicle described in Subsection (2)(a) or (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) A claimant, estate, or trust may not assign a tax credit under this section to another person.

~~[(5)]~~ (6) 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)]~~ (7) In accordance with any rules prescribed by the commission under Subsection ~~[(7)]~~ (8), 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)]~~ (8) 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)]~~ (7).

Section 3. **Effective date.**

This bill takes effect for a taxable year beginning on or after January 1, 2015.

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Legislative Review Note

~~as of 1-22-14 2:03 PM~~

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~~Office of Legislative Research and General Counsel~~