

CLEAN AIR AND EFFICIENT VEHICLE TAX

INCENTIVES

2008 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill provides a tax credit for new vehicles meeting air quality and fuel economy standards, eliminates the clean fuel certificate, and imposes a fuel tax on compressed natural gas for vehicles.

Highlighted Provisions:

This bill:

- ▶ eliminates the clean special fuel tax certificate;
- ▶ defines terms;
- ▶ reduces the tax credit available for certain vehicles to the lesser of \$2,500 or 35% of the vehicle's purchase price;
- ▶ provides a tax credit of \$750 for a new vehicle meeting air quality and fuel economy standards;
- ▶ eliminates a provision excluding hybrid electric-gasoline vehicles from the tax credit;
- ▶ imposes a fuel tax on the purchase of compressed natural gas for vehicles; and

32           ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34           None

35 **Other Special Clauses:**

36           This bill takes effect on January 1, 2009.

37 **Utah Code Sections Affected:**

38 AMENDS:

39           **41-1a-418**, as last amended by Laws of Utah 2007, Chapters 173, 217, and 325

40           **41-6a-1508**, as renumbered and amended by Laws of Utah 2005, Chapter 2

41           **59-7-605**, as last amended by Laws of Utah 2007, Chapter 306

42           **59-10-1009**, as last amended by Laws of Utah 2007, Chapter 306

43           **59-13-103**, as last amended by Laws of Utah 1997, Chapter 271

44           **59-13-301**, as last amended by Laws of Utah 2003, Chapters 7 and 268

45           **59-13-304**, as last amended by Laws of Utah 2005, First Special Session, Chapter 1

46           **59-13-314**, as last amended by Laws of Utah 2003, Chapter 7

47           **72-2-124**, as last amended by Laws of Utah 2006, Chapters 11 and 135



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

50           Section 1. Section **41-1a-418** is amended to read:

51           **41-1a-418. Authorized special group license plates.**

52           (1) The division shall only issue special group license plates in accordance with this  
53 section through Section 41-1a-422 to a person who is specified under this section within the  
54 categories listed as follows:

55           (a) disability special group license plates issued in accordance with Section 41-1a-420;

56           (b) honor special group license plates, as in a war hero, which plates are issued for a:

57           (i) survivor of the Japanese attack on Pearl Harbor;

58           (ii) former prisoner of war;

59           (iii) recipient of a Purple Heart;

- 60 (iv) disabled veteran; or
- 61 (v) recipient of a gold star award issued by the United States Secretary of Defense if the
- 62 recipient is the spouse, parent, or sibling of a servicemember killed;
- 63 (c) unique vehicle type special group license plates, as for historical, collectors value, or
- 64 other unique vehicle type, which plates are issued for a:
  - 65 (i) special interest vehicle;
  - 66 (ii) vintage vehicle;
  - 67 (iii) farm truck; or
  - 68 (iv) vehicle powered by clean fuel [~~and for which a current clean special fuel certificate~~
  - 69 ~~is maintained as provided in Section 59-13-304~~] as defined in Section 59-13-102;
  - 70 (d) recognition special group license plates, as in a public official or an emergency
  - 71 service giver, which plates are issued for a:
    - 72 (i) current member of the Legislature;
    - 73 (ii) current member of the United States Congress;
    - 74 (iii) current member of the National Guard;
    - 75 (iv) licensed amateur radio operator;
    - 76 (v) currently employed, volunteer, or retired firefighter;
    - 77 (vi) emergency medical technician;
    - 78 (vii) current member of a search and rescue team; or
    - 79 (viii) current honorary consulate designated by the United States Department of State;
  - 80 and
  - 81 (e) support special group license plates, as for a contributor to an institution or cause,
  - 82 which plates are issued for a contributor to:
    - 83 (i) an institution's scholastic scholarship fund;
    - 84 (ii) the Division of Wildlife Resources;
    - 85 (iii) the Department of Veterans' Affairs;
    - 86 (iv) the Division of Parks and Recreation;
    - 87 (v) the Department of Agriculture and Food;

- 88 (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- 89 (vii) the Boy Scouts of America;
- 90 (viii) spay and neuter programs through No More Homeless Pets in Utah;
- 91 (ix) the Boys and Girls Clubs of America;
- 92 (x) Utah public education; or
- 93 (xi) programs that provide support to organizations that create affordable housing for
- 94 those in severe need through the Division of Real Estate.

95 (2) Beginning January 1, 2003, the division may not issue a new type of special group  
96 license plate unless the division receives:

97 (a) a start-up fee established under Section 63-38-3.2 for production and administrative  
98 costs for providing the new special group license plates; or

99 (b) a legislative appropriation for the start-up fee provided under Subsection (2)(a).

100 (3) (a) A sponsoring organization that qualifies for tax-exempt status under Internal  
101 Revenue Code Section 501(c)(3) may request the commission to authorize a new type of special  
102 group license plate for the sponsoring organization. The sponsoring organization shall:

103 (i) collect a minimum of 200 applications; and

104 (ii) pay a start-up fee established under Section 63-38-3.2 for production and  
105 administrative costs for providing the new type of special group license plates.

106 (b) If the provisions of Subsection (3)(a) are met, the commission shall approve the  
107 request and the division shall:

108 (i) design a license plate in accordance with Section 41-1a-419; and

109 (ii) issue the new type of special group license plates.

110 Section 2. Section **41-6a-1508** is amended to read:

111 **41-6a-1508. Low-speed vehicle.**

112 (1) Except as otherwise provided in this section, a low-speed vehicle is considered a  
113 motor vehicle for purposes of the Utah Code including requirements for:

114 (a) traffic rules under Title 41, Chapter 6a, Traffic Code;

115 (b) driver licensing under Title 53, Chapter 3, Uniform Driver License Act;

116 (c) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of  
117 Motor Vehicle Owners and Operators Act;

118 (d) vehicle registration, titling, odometer statements, vehicle identification numbers,  
119 license plates, and registration fees under Title 41, Chapter 1a, Motor Vehicle Act;

120 (e) vehicle taxation under Title 59, Chapter 13, Motor and Special Fuel Tax Act, and  
121 fee in lieu of property taxes or in lieu fees under Section 59-2-405;

122 (f) motor vehicle dealer licensing under Title 41, Chapter 3, Motor Vehicle Business  
123 Regulation Act;

124 (g) motor vehicle safety inspection requirements under Section 53-8-205; and

125 (h) safety belt requirements under Title 41, Chapter 6a, Part 18, Motor Vehicle Safety  
126 Belt Usage Act.

127 (2) (a) A low-speed vehicle shall comply with federal safety standards established in 49  
128 C.F.R. 571.500 and shall be equipped with:

129 (i) headlamps;

130 (ii) front and rear turn signals, tail lamps, and stop lamps;

131 (iii) turn signal lamps;

132 (iv) reflex reflectors one on the rear of the vehicle and one on the left and right side and  
133 as far to the rear of the vehicle as practical;

134 (v) a parking brake;

135 (vi) a windshield that meets the standards under Section 41-6a-1635, including a device  
136 for cleaning rain, snow, or other moisture from the windshield;

137 (vii) an exterior rearview mirror on the driver's side and either an interior rearview  
138 mirror or an exterior rearview mirror on the passenger side;

139 (viii) a speedometer and odometer; and

140 (ix) braking for each wheel.

141 (b) A low-speed vehicle that complies with this Subsection (2) and Subsection (3) and  
142 that is not altered from the manufacturer is considered to comply with equipment requirements  
143 under Part 16, Vehicle Equipment.

144 (3) A person may not operate a low-speed vehicle that has been structurally altered  
145 from the original manufacturer's design.

146 [~~(4)~~] A user of a low-speed vehicle shall obtain an annual clean special fuel tax certificate  
147 for each low-speed vehicle as required under Section ~~59-13-304~~.]

148 [~~(5)~~] (4) A low-speed vehicle is exempt from a motor vehicle emissions inspection and  
149 maintenance program requirements under Section 41-6a-1642.

150 [~~(6)~~] (5) (a) Except to cross a highway at an intersection, a low-speed vehicle may not  
151 be operated on a highway with a posted speed limit of more than 35 miles per hour.

152 (b) In addition to the restrictions under Subsection [~~(6)~~] (5)(a), a highway authority,  
153 may prohibit or restrict the operation of a low-speed vehicle on any highway under its  
154 jurisdiction, if the highway authority determines the prohibition or restriction is necessary for  
155 public safety.

156 [~~(7)~~] (6) A person may not operate a low-speed vehicle on a highway without  
157 displaying on the rear of the low-speed vehicle, a slow-moving vehicle identification emblem  
158 that complies with the Society of Automotive Engineers standard SAE J943.

159 [~~(8)~~] (7) A person who violates Subsection (2), (3), [~~(6)~~] (5), or [~~(7)~~] (6) is guilty of a  
160 class C misdemeanor.

161 Section 3. Section **59-7-605** is amended to read:

162 **59-7-605. Definitions -- Tax credit -- Cleaner burning fuels.**

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

166 [~~(a)~~] (b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air  
167 Conservation Act.

168 [~~(b)~~] (c) "Certified by the board" means that:

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

171 (A) before the installation of conversion equipment, the vehicle does not exceed the

172 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix  
173 E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

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

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

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

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

183 (III) any other test or standard recognized by board rule; or

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

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

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

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

192 (II) any other test or standard recognized by board rule.

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

196 [(d)] (e) "Conversion equipment" means equipment referred to in Subsection  
197 (2)[(a)(ii)](c) or [(2)(a)(iii)] (d).

198 [(e)] "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.]

199 (f) "Fuel economy standards" means that a vehicle's combined fuel economy, as

200 determined in 40 C.F.R. 600.209-95(d) is equal to or greater than:

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

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

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

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

205 (v) standards consistent with 40 C.F.R. 600.209-95(d) that are adopted by the Air

206 Quality Board by rule.

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

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

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

211 ~~[(h)]~~ (j) "Special mobile equipment":

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

214 (ii) includes construction or maintenance equipment.

215 (2) ~~[(a) Except as provided in Subsection (2)(b), for]~~ For taxable years beginning on or  
216 after January 1, ~~[2001]~~ 2009, but beginning on or before December 31, ~~[2010]~~ 2013, a taxpayer  
217 may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross  
218 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax  
219 Act, in an amount equal to:

220 ~~[(i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the~~  
221 ~~amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if~~  
222 ~~the vehicle:]~~

223 ~~[(A) is fueled by propane, natural gas, or electricity;]~~

224 ~~[(B) is fueled by other fuel the board determines annually on or before July 1 to be at~~  
225 ~~least as effective in reducing air pollution as fuels under Subsection (2)(a)(i)(A); or]~~

226 ~~[(C) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of~~  
227 ~~1990, 42 U.S.C. Sec. 7521 et seq.;~~



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

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

232 (i) \$2,500; or

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

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

237 ~~[(A)]~~ (i) be fueled by propane, natural gas, or electricity;

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

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

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

246 ~~[(A)]~~ (i) propane, natural gas, or electricity; or

247 ~~[(B)]~~ (ii) other fuel the board determines annually on or before July 1 to be:

248 ~~[(H)]~~ (A) at least as effective in reducing air pollution as the fuels under Subsection  
249 (2)~~[(a)(iii)(A)]~~(d)(i); or

250 ~~[(H)]~~ (B) substantially more effective in reducing air pollution than the fuel for which  
251 the engine was originally designed.

252 ~~[(b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January~~  
253 ~~1, 2006, a taxpayer may not claim a tax credit under this section with respect to an~~  
254 ~~electric-hybrid vehicle.]~~

255 (3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is

256 allowed under this section by:

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

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

259 and

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

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

262 only:

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

264 (b) in the taxable year in which the item is purchased for which the tax credit is claimed;

265 and

266 (c) once per vehicle.

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

268 taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit

269 exceeding the tax liability may be carried forward for a period that does not exceed the next five

270 taxable years.

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

272 Section 4. Section **59-10-1009** is amended to read:

273 **59-10-1009. Definitions -- Cleaner burning fuels tax credit.**

274 (1) As used in this section:

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

277 [~~(a)~~] (b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air  
278 Conservation Act.

279 [~~(b)~~] (c) "Certified by the board" means that:

280 (i) a motor vehicle on which conversion equipment has been installed meets the

281 following criteria:

282 (A) before the installation of conversion equipment, the vehicle does not exceed the

283 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix

284 E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

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

288 (C) a reduction in emissions under Subsection (1)[(b)](d)(i)(B) is demonstrated by:

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

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

294 (III) any other test or standard recognized by board rule; or

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

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

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

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

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

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

308 [(d)] (e) "Conversion equipment" means equipment referred to in Subsection  
309 (2)[(a)(ii)](c) or [(2)(a)(iii)] (d).

310 [(e)] "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.]

311 (f) "Fuel economy standards" means that a vehicle's combined fuel economy, as

312 determined in 40 C.F.R. 600.209-95(d) is equal to or greater than:

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

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

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

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

317 (v) standards consistent with 40 C.F.R. 600.209-95(d) that are adopted by the Air

318 Quality Board by rule.

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

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

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

323 ~~[(h)]~~ (k) "Special mobile equipment":

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

326 (ii) includes construction or maintenance equipment.

327 (2) ~~[(a) Except as provided in Subsection (2)(b), for]~~ For taxable years beginning on or  
328 after January 1, ~~[2001]~~ 2009, but beginning on or before December 31, ~~[2010]~~ 2013, a claimant,  
329 estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this  
330 chapter in an amount equal to:

331 ~~[(i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the~~  
332 ~~amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if~~  
333 ~~the vehicle:]~~

334 ~~[(A) is fueled by propane, natural gas, or electricity;]~~

335 ~~[(B) is fueled by other fuel the board determines annually on or before July 1 to be at~~  
336 ~~least as effective in reducing air pollution as fuels under Subsection (2)(a)(i)(A); or]~~

337 ~~[(C) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of~~  
338 ~~1990, 42 U.S.C. Sec. 7521 et seq.;~~

339 (a) \$750 for the original purchase of a new vehicle that is not fueled by compressed

340 natural gas if the vehicle is registered in Utah and meets air quality and fuel economy standards;

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

343 (i) \$2,500; or

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

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

348 ~~[(A)]~~ (i) is to be fueled by propane, natural gas, or electricity;

349 ~~[(B)]~~ (ii) is to be fueled by other fuel the board determines annually on or before July 1  
350 to be at least as effective in reducing air pollution as fuels under Subsection (2)~~[(a)(ii)(A)]~~(c)(i);  
351 or

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

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

358 ~~[(A)]~~ (i) propane, natural gas, or electricity; or

359 ~~[(B)]~~ (ii) other fuel the board determines annually on or before July 1 to be:

360 ~~[(H)]~~ (A) at least as effective in reducing air pollution as the fuels under Subsection  
361 (2)~~[(a)(iii)(A)]~~(d)(i); or

362 ~~[(H)]~~ (B) substantially more effective in reducing air pollution than the fuel for which  
363 the engine was originally designed.

364 ~~[(b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January~~  
365 ~~1, 2006, a claimant, estate, or trust may not claim a tax credit under this section with respect to~~  
366 ~~an electric-hybrid vehicle.]~~

367 (3) A claimant, estate, or trust shall provide proof of the purchase of an item for which

368 a tax credit is allowed under this section by:

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

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

371 and

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

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

374 only:

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

376 (b) in the taxable year in which the item is purchased for which the tax credit is claimed;

377 and

378 (c) once per vehicle.

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

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

384 Section 5. Section **59-13-103** is amended to read:

385 **59-13-103. List of clean fuels provided to tax commission -- Report to the**  
386 **Legislature.**

387 (1) The Air Quality Board shall annually provide to the tax commission a list of fuels  
388 that are clean fuels under Section 59-13-102.

389 (2) The Air Quality Board created under Section 19-2-103 shall in conjunction with the  
390 State Tax Commission prepare and submit to the Legislature before January 1, 1995, a report  
391 evaluating the impacts, benefits, and economic consequences of the clean fuel [certificate]  
392 provisions of Sections 59-13-201 and 59-13-301.

393 Section 6. Section **59-13-301** is amended to read:

394 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**  
395 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

396 (1) (a) Except as provided in Subsections (2), (3), [~~and~~] (11), and (12) and Section  
397 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:

- 398 (i) removal of undyed diesel fuel from any refinery;
- 399 (ii) removal of undyed diesel fuel from any terminal;
- 400 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or  
401 warehousing;
- 402 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under  
403 this part unless the tax has been collected under this section;
- 404 (v) any untaxed special fuel blended with undyed diesel fuel; or
- 405 (vi) use of untaxed special fuel[;] other than [~~a clean special fuel~~] propane or electricity.

406 (b) The tax imposed under this section shall only be imposed once upon any special  
407 fuel.

408 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

- 409 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon  
410 the public highways of the state, but this exemption applies only in those cases where the  
411 purchasers or the users of special fuel establish to the satisfaction of the commission that the  
412 special fuel was used for purposes other than to operate a motor vehicle upon the public  
413 highways of the state; or

414 (ii) is sold to this state or any of its political subdivisions.

415 (b) No special fuel tax is imposed on undyed diesel fuel [~~which~~] or clean fuel that:

- 416 (i) is sold to the United States government or any of its instrumentalities or to this state  
417 or any of its political subdivisions;
- 418 (ii) is exported from this state if proof of actual exportation on forms prescribed by the  
419 commission is made within 180 days after exportation;
- 420 (iii) is used in a vehicle off-highway;
- 421 (iv) is used to operate a power take-off unit of a vehicle;
- 422 (v) is used for off-highway agricultural uses;
- 423 (vi) is used in a separately fueled engine on a vehicle that does not propel the vehicle

424 upon the highways of the state; or

425 (vii) is used in machinery and equipment not registered and not required to be registered  
426 for highway use.

427 (3) No tax is imposed or collected on special fuel if it is:

428 (a) (i) purchased for business use in machinery and equipment not registered and not  
429 required to be registered for highway use; and

430 ~~(b)~~ (ii) used pursuant to the conditions of a state implementation plan approved under  
431 Title 19, Chapter 2, Air Conservation Act~~[-];~~ or

432 (b) propane or electricity.

433 (4) Upon request of a buyer meeting the requirements under Subsection (3), the  
434 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

435 (5) The special fuel tax shall be paid by the supplier.

436 (6) (a) The special fuel tax shall be paid by every user who is required by Sections  
437 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

438 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases  
439 which are delivered into vehicles and for which special fuel tax liability is reported.

440 (7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the  
441 commission from taxes and license fees under this part shall be deposited daily with the state  
442 treasurer and credited to the Transportation Fund.

443 (b) An appropriation from the Transportation Fund shall be made to the commission to  
444 cover expenses incurred in the administration and enforcement of this part and the collection of  
445 the special fuel tax.

446 (c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303  
447 may be used by the commission as a dedicated credit to cover the costs of electronic  
448 credentialing as provided in Section 41-1a-303.

449 (8) The commission may either collect no tax on special fuel exported from the state or,  
450 upon application, refund the tax paid.

451 (9) (a) The United States government or any of its instrumentalities, this state, or a



452 political subdivision of this state that has purchased special fuel from a supplier or from a retail  
453 dealer of special fuel and has paid the tax on the special fuel as provided in this section is  
454 entitled to a refund of the tax and may file with the commission for a quarterly refund in a  
455 manner prescribed by the commission.

456 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
457 commission shall make rules governing the application and refund provided for in Subsection  
458 (9)(a).

459 (10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses  
460 under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid  
461 as provided in Subsection (9) and this Subsection (10).

462 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
463 commission shall make rules governing the application and refund for off-highway and  
464 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

465 (c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural  
466 uses shall be made in accordance with the tax return procedures under Section 59-13-202.

467 (11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is  
468 reduced to the extent provided in Subsection (11)(b) if:

- 469 (i) the Navajo Nation imposes a tax on the special fuel;
- 470 (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the  
471 person required to pay the tax is an enrolled member of the Navajo Nation; and
- 472 (iii) the commission and the Navajo Nation execute and maintain an agreement as  
473 provided in this Subsection (11) for the administration of the reduction of tax.

474 (b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this  
475 section:

476 (A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that  
477 difference is greater than \$0; and

478 (B) a person may not require the state to provide a refund, a credit, or similar tax relief  
479 if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

480 (ii) The difference described in Subsection (11)(b)(i) is equal to the difference between:

481 (A) the amount of tax imposed on the special fuel by this section; less

482 (B) the tax imposed and collected by the Navajo Nation on the special fuel.

483 (c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on  
484 the special fuel does not include any interest or penalties a taxpayer may be required to pay to  
485 the Navajo Nation.

486 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
487 commission shall make rules governing the procedures for administering the reduction of tax  
488 provided under this Subsection (11).

489 (e) The agreement required under Subsection (11)(a):

490 (i) may not:

491 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

492 (B) provide a reduction of taxes greater than or different from the reduction described  
493 in this Subsection (11); or

494 (C) affect the power of the state to establish rates of taxation;

495 (ii) shall:

496 (A) be in writing;

497 (B) be signed by:

498 (I) the chair of the commission or the chair's designee; and

499 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;

500 (C) be conditioned on obtaining any approval required by federal law;

501 (D) state the effective date of the agreement; and

502 (E) state any accommodation the Navajo Nation makes related to the construction and  
503 maintenance of state highways and other infrastructure within the Utah portion of the Navajo  
504 Nation; and

505 (iii) may:

506 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the  
507 Navajo Nation information that is:

508 (I) contained in a document filed with the commission; and  
509 (II) related to the tax imposed under this section;  
510 (B) provide for maintaining records by the commission or the Navajo Nation; or  
511 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers  
512 located or doing business within the Utah portion of the Navajo Nation.  
513 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax  
514 imposed on special fuel, any change in the amount of the reduction of taxes under this  
515 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the  
516 calendar quarter after a 60-day period beginning on the date the commission receives notice:  
517 (A) from the Navajo Nation; and  
518 (B) meeting the requirements of Subsection (11)(f)(ii).  
519 (ii) The notice described in Subsection (11)(f)(i) shall state:  
520 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on  
521 special fuel;  
522 (B) the effective date of the rate change of the tax described in Subsection  
523 (11)(f)(ii)(A); and  
524 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).  
525 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not  
526 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a  
527 30-day period beginning on the day the agreement terminates.  
528 (h) If there is a conflict between this Subsection (11) and the agreement required by  
529 Subsection (11)(a), this Subsection (11) governs.  
530 (12) Beginning on January 1, 2009, a tax imposed under this section on compressed  
531 natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be  
532 increased or decreased proportionately with any increase or decrease in the rate in Subsection  
533 59-13-201(1)(a).  
534 Section 7. Section **59-13-304** is amended to read:  
535 **59-13-304. Inspection of clean fuel vehicles.**

536           ~~[(1) (a) Except as provided in Subsection (4), a user of special fuel who owns a vehicle~~  
537 ~~powered by a clean special fuel as defined under Section 59-13-102 shall pay a clean special fuel~~  
538 ~~tax as provided under this section for use of clean special fuel.]~~

539           ~~[(b) A user of special fuel who qualifies for the clean special fuel tax shall annually~~  
540 ~~purchase from the commission a clean special fuel tax certificate for each vehicle owned or~~  
541 ~~leased that is powered by a clean special fuel.]~~

542           ~~[(c) Clean special fuel tax certificates are provided to encourage the use of clean fuels~~  
543 ~~to reduce air pollution.]~~

544           ~~[(2) (a) The fee for a clean special fuel tax certificate is:]~~

545           ~~[(i) 70/.19 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded up~~  
546 ~~to the nearest dollar, for qualified motor vehicles as defined under Section 59-13-102; and]~~

547           ~~[(ii) 36/.19 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded~~  
548 ~~up to the nearest dollar, for other vehicles.]~~

549           ~~[(b)] (1) The commission may require each clean fuel vehicle to be inspected for safe~~  
550 ~~operation [before issuing the certificate].~~

551           ~~[(c)] (2) Each clean fuel vehicle shall be equipped with an approved and properly~~  
552 ~~installed carburetion system if it is powered by a fuel that is gaseous at standard atmospheric~~  
553 ~~conditions.~~

554           ~~[(3) (a) Beginning January 1, 2001 through December 31, 2010, there is imposed a~~  
555 ~~surcharge of \$35 on each clean special fuel tax certificate issued under this section.]~~

556           ~~[(b) (i) Until Subsection (3)(b)(ii) applies, surcharges imposed under Subsection (3)(a)~~  
557 ~~shall be deposited into the Centennial Highway Fund Restricted Account created under Section~~  
558 ~~72-2-118.]~~

559           ~~[(ii) When the highway general obligation bonds have been paid off and the highway~~  
560 ~~projects completed that are intended to be paid from revenues deposited in the Centennial~~  
561 ~~Highway Fund Restricted Account as determined by the Executive Appropriations Committee~~  
562 ~~under Subsection 72-2-118(6)(d), the surcharge imposed under Subsection (3)(a) shall be~~  
563 ~~deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

564 ~~[(4) A governmental entity identified in Subsection 59-13-301(9) that owns or leases a~~  
565 ~~vehicle powered by a special fuel that qualifies as a clean special fuel is exempt from the clean~~  
566 ~~special fuel tax imposed under this section.]~~

567 Section 8. Section **59-13-314** is amended to read:

568 **59-13-314. Special fuel user permit required before registration of vehicle.**

569 Before registering any motor vehicle which is operated by special fuels, the registered  
570 owner or lessee of the vehicle shall obtain~~[-(1)]~~ a valid special fuel user permit for the current  
571 year if required under Section 59-13-303~~[-or]~~.

572 ~~[(2) a valid clean special fuel tax certificate for the current year if required under~~  
573 ~~Section 59-13-304.]~~

574 Section 9. Section **72-2-124** is amended to read:

575 **72-2-124. Transportation Investment Fund of 2005.**

576 (1) There is created a special revenue fund entitled the Transportation Investment Fund  
577 of 2005.

578 (2) The fund consists of monies generated from the following sources:

579 (a) any voluntary contributions received for the maintenance, construction,  
580 reconstruction, or renovation of state and federal highways; and

581 (b) appropriations made to the fund by the Legislature.

582 (3) When the highway general obligation bonds have been paid off and the highway  
583 projects completed that are intended to be paid from revenues deposited in the Centennial  
584 Highway Fund Restricted Account as determined by the Executive Appropriations Committee  
585 under Subsection 72-2-118(6)(d), the fund shall also consist of monies generated from the  
586 following sources:

587 (a) registration fees designated under Subsection 41-1a-1201(6)(a); and

588 ~~[(b) the clean special fuel tax certificate surcharge under Subsection 59-13-304(3); and]~~

589 ~~[(c)]~~ (b) the sales and use tax amounts provided for in Section 59-12-103.

590 (4) (a) The fund shall earn interest.

591 (b) All interest earned on fund monies shall be deposited into the fund.

592           (5) (a) Except as provided in Subsections (5)(b) and (c), the executive director may use  
593 fund monies only to pay the costs of maintenance, construction, reconstruction, or renovation to  
594 state and federal highways prioritized by the Transportation Commission through the  
595 prioritization process for new transportation capacity projects adopted under Section 72-1-304.

596           (b) The executive director may use fund monies deposited into the fund in fiscal year  
597 2006 only to pay the costs of maintenance, construction, reconstruction, or renovation to state  
598 and federal highways prioritized by the Transportation Commission.

599           (c) The executive director may use fund monies to exchange for an equal or greater  
600 amount of federal transportation funds to be used as provided in Subsection (5)(a).

601           Section 10. **Effective date.**

602           This bill takes effect on January 1, 2009.