

TAX CREDIT FOR ALTERNATIVE FUEL VEHICLES

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Suzanne Harrison

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill enacts nonrefundable corporate and individual income tax credits related to certain alternative fuel vehicles.

Highlighted Provisions:

This bill:

- ▶ creates nonrefundable corporate and individual income tax credits for the purchase or lease of certain alternative fuel vehicles;
- ▶ defines terms;
- ▶ creates an application process for the purchaser or lessee to receive a tax credit certificate from the director of the Division of Air Quality; and
- ▶ sets a termination date for the tax credit but requires legislative review before the termination date.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:****19-2-107**, as last amended by Laws of Utah 2018, Chapter 281**63I-1-219**, as last amended by Laws of Utah 2019, Chapters 62, 63, 64, 65, 246, 469,

and 477

63I-1-259, as last amended by Laws of Utah 2019, Chapters 29 and 479

ENACTS:

19-2-401, Utah Code Annotated 1953

19-2-402, Utah Code Annotated 1953

59-7-625, Utah Code Annotated 1953

59-10-1041, Utah Code Annotated 1953

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

Section 1. Section **19-2-107** is amended to read:

19-2-107. Director -- Appointment -- Powers.

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) (a) The director shall:

(i) prepare and develop comprehensive plans for the prevention, abatement, and control of air pollution in Utah;

(ii) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;

(iii) review plans, specifications, or other data relative to air pollution control equipment or any part of the air pollution control equipment;

(iv) under the direction of the executive director, represent the state in all matters relating to interstate air pollution, including interstate compacts and similar agreements;

(v) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(vi) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(vii) encourage local units of government to handle air pollution within their respective jurisdictions on a cooperative basis and provide technical and consulting assistance to them;

(viii) determine by means of field studies and sampling the degree of air contamination and air pollution in all parts of the state;

(ix) monitor the effects of the emission of air pollutants from motor vehicles on the quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;

(x) collect and disseminate information relating to air contamination and air pollution and conduct educational and training programs relating to air contamination and air pollution;

(xi) assess and collect noncompliance penalties as required in Section 120 of the federal Clean Air Act, 42 U.S.C. Section 7420;

(xii) comply with the requirements of federal air pollution laws;

(xiii) subject to the provisions of this chapter, enforce rules through the issuance of orders, including:

(A) prohibiting or abating discharges of wastes affecting ambient air;

(B) requiring the construction of new control facilities or any parts of new control facilities or the modification, extension, or alteration of existing control facilities or any parts of new control facilities; or

(C) adopting other remedial measures to prevent, control, or abate air pollution; ~~and~~

(xiv) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the chairman of the board~~[-]; and~~

(xv) issue a tax credit certificate in accordance with Chapter 2, Part 4, Tax Credit for Alternative Fuel Vehicle.

(b) The director may:

(i) employ full-time, temporary, part-time, and contract employees necessary to carry out this chapter;

(ii) subject to the provisions of this chapter, authorize an employee or representative of the department to enter at reasonable times and upon reasonable notice in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible air pollution;

(iii) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air pollution and its causes, effects, prevention, abatement, and control, as advisable and necessary for the discharge of duties assigned under this chapter, including the establishment of inventories of pollution sources;

(iv) collect and disseminate information relating to air pollution and the prevention, control, and abatement of it;

(v) cooperate with studies and research relating to air pollution and its control, abatement, and prevention;

(vi) subject to Subsection (3), upon request, consult concerning the following with a person proposing to construct, install, or otherwise acquire an air pollutant source in Utah:

(A) the efficacy of proposed air pollution control equipment for the source; or

(B) the air pollution problem that may be related to the source;

(vii) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter;

(viii) subject to Subsection 19-2-104(3)(b)(i), settle or compromise a civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; or

(ix) subject to the provisions of this chapter, exercise all incidental powers necessary to carry out the purposes of this chapter, including certification to state or federal authorities for tax purposes that air pollution control equipment has been certified in conformity with Title 19, Chapter 12, Pollution Control Act.

(3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the requirements of this chapter, the rules adopted under this chapter, or any other provision of law.

Section 2. Section 19-2-401 is enacted to read:

Part 4. Tax Credit for Alternative Fuel Vehicle

19-2-401. Definitions.

(1) As used in this part:

(a) "Electric motor vehicle" means the same as the term is defined in Section 41-1a-102.

(b) "Hydrogen vehicle" means a motor vehicle that is powered by hydrogen fuel or a hydrogen fuel cell.

(c) "Lease" means using an electric motor vehicle, a hydrogen vehicle, or a plug-in hybrid electric motor vehicle:

(i) for a period of two years or longer; and

(ii) according to a contractual arrangement under which a person pays money for the

121 use.

122 (d) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

123 (e) "Plug-in hybrid electric motor vehicle" means the same as that term is defined in
124 Section [41-1a-102](#).

125 (f) "Qualifying alternative fuel vehicle" means a new or used electric motor vehicle,
126 hydrogen vehicle, or plug-in hybrid electric motor vehicle:

127 (i) that the applicant purchases or leases on or after January 1, 2021;

128 (ii) (A) that the applicant purchases for \$45,000 or less; or

129 (B) if the applicant leases the vehicle, that has a manufacturer's suggested retail price of
130 \$45,000 or less;

131 (iii) that is subject to sales and use tax under Title 59, Chapter 12, Sales and Use Tax
132 Act, and for which the applicant did not claim a sales and use tax exemption under Section
133 [59-12-104](#); and

134 (iv) for which the director has not previously issued a tax credit certificate to any
135 applicant under this part.

136 (g) "Qualifying application" means an application that meets the requirements of
137 Subsection [19-2-402](#)(1).

138 (h) "Tax credit" means a tax credit described in:

139 (i) Section [59-7-625](#), if an applicant files an income tax return under Title 59, Chapter
140 7, Corporate Franchise and Income Taxes; or

141 (ii) Section [59-10-1041](#), if an applicant files an income tax return under Title 59,
142 Chapter 10, Individual Income Tax Act.

143 Section 3. Section **19-2-402** is enacted to read:

144 **19-2-402. Application for and issuance of tax credit certificate for tax credit for**
145 **alternative fuel vehicle.**

146 (1) An applicant that seeks to claim a tax credit shall:

147 (a) apply to the director for a tax credit certificate on a form provided by the director
148 and approved by the State Tax Commission; and

149 (b) include with the application, proof that the applicant purchased or leased a
150 qualifying alternative fuel vehicle during the year for which the applicant seeks to claim a tax
151 credit.

152 (2) (a) The director shall issue a tax credit certificate to an applicant that the director
153 determines:

154 (i) purchased or leased a qualifying alternative fuel vehicle during the year for which
155 the applicant seeks a tax credit; and

156 (ii) completed a qualifying application.

157 (b) The tax credit certificate shall state the amount of the applicant's tax credit, which
158 is, subject to Subsection (3), equal to 8.9% of:

159 (i) if the applicant purchases the qualifying alternative fuel vehicle, the purchase price;
160 or

161 (ii) if the applicant leases the qualifying alternative fuel vehicle, the total amount of the
162 lease payments.

163 (3) (a) The maximum aggregate amount of tax credit certificates that the director may
164 issue for a year is \$3,000,000.

165 (b) If the director receives qualifying applications for tax credit certificates that exceed
166 the aggregate amount of tax credit certificates that the director may issue for a year, the director
167 shall issue the tax credit certificates:

168 (i) in the order that the director receives the qualifying applications until the total
169 aggregate amount is met; and

170 (ii) for the final applicant to receive a tax credit certificate, in an amount equal to the
171 difference between the maximum aggregate dollar amount described in this Subsection (3) and
172 the aggregate dollar amount of the tax credit certificates that the director has already issued for
173 the year.

174 (4) The director shall submit to the State Tax Commission an electronic list that
175 includes:

176 (a) the name and identifying information of each applicant to which the director issues
177 a tax credit certificate; and

178 (b) for each applicant, the amount of the tax credit stated on the tax credit certificate.

179 Section 4. Section **59-7-625** is enacted to read:

180 **59-7-625. Nonrefundable tax credit for purchase or lease of alternative fuel**
181 **vehicle.**

182 (1) "Qualifying alternative fuel vehicle" means the same as that term is defined in

Section [19-2-401](#).

(2) A taxpayer that has a tax credit certificate issued in accordance with Section [19-2-402](#) may claim a nonrefundable tax credit for the purchase or lease of a qualifying alternative fuel vehicle in an amount equal to the amount stated on the tax credit certificate.

(3) (a) A taxpayer may carry forward, to the next five taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

(b) A taxpayer may not carry back the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

Section 5. Section **59-10-1041** is enacted to read:

59-10-1041. Nonrefundable tax credit for purchase or lease of alternative fuel vehicle.

(1) "Qualifying alternative fuel vehicle" means the same as that term is defined in Section [19-2-401](#).

(2) A claimant, estate, or trust that has a tax credit certificate issued in accordance with Section [19-2-402](#) may claim a nonrefundable tax credit for the purchase or lease of a qualifying alternative fuel vehicle in an amount equal to the amount stated on the tax credit certificate.

(3) (a) A claimant, estate, or trust may carry forward, to the next five taxable years, the amount of the tax credit that exceeds the claimant's, estate's, or trust's income tax liability for the taxable year.

(b) A claimant, estate, or trust may not carry back the amount of the tax credit that exceeds the claimant's, estate's, or trust's income tax liability for the taxable year.

Section 6. Section **63I-1-219** is amended to read:

63I-1-219. Repeal dates, Title 19.

(1) Subsection [19-2-107](#)(2)(a)(xv), which relates to issuing a tax credit certificate, is repealed January 1, 2024.

(2) Title 19, Chapter 2, Part 4, Tax Credit for Alternative Fuel Vehicle, is repealed January 1, 2024.

~~[(+)]~~ (3) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

~~[(2)]~~ (4) Section [19-2a-102](#) is repealed July 1, 2021.

~~[(3)]~~ (5) Section [19-2a-104](#) is repealed July 1, 2022.

~~[(4)]~~ (6) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2024.

~~[(5)]~~ (7) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

~~[(6)]~~ (8) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

~~[(7)]~~ (9) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

~~[(8)]~~ (10) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

~~[(9)]~~ (11) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

~~[(10)]~~ (12) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

~~[(11)]~~ (13) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

~~[(12)]~~ (14) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 7. Section **63I-1-259** is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Section **59-1-213.1** is repealed on May 9, 2024.

(2) Section **59-1-213.2** is repealed on May 9, 2024.

(3) Subsection **59-1-405(1)(g)** is repealed on May 9, 2024.

(4) Subsection **59-1-405(2)(b)** is repealed on May 9, 2024.

(5) Section **59-7-618** is repealed July 1, 2020.

(6) Section **59-7-625** is repealed January 1, 2024.

~~[(6)]~~ (7) Section **59-9-102.5** is repealed December 31, 2020.

~~[(7)]~~ (8) Section **59-10-1033** is repealed July 1, 2020.

(9) Section **59-10-1041** is repealed January 1, 2024.

~~[(8)]~~ (10) Subsection **59-12-2219(13)**, which addresses new revenue supplanting existing allocations, is repealed on June 30, 2020.

~~[(9)]~~ (11) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1, 2023.

Section 8. **Effective date.**

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This bill takes effect for a taxable year that begins on or after January 1, 2021.