

CHAPTER 304

TAXATION

HOUSE BILL 98-1169

BY REPRESENTATIVES Agler, Adkins, Bacon, Grampas, Reeser, Snyder, Tucker, Zimmerman, Musgrave, Swenson, Udall, and Young;
also SENATORS Ament, Blickensderfer, Phillips, Bishop, Hernandez, Pascoe, Perlmutter, and Tebedo.

AN ACT

CONCERNING THE PROMOTION OF ALTERNATIVE FUEL USE FOR TRANSPORTATION PURPOSES, AND, IN CONNECTION THEREWITH, ELIMINATING THE AUTOMATIC REPEAL DATE FOR THE ALTERNATIVE FUELS INCOME TAX CREDIT, MODIFYING THE PROVISIONS OF SAID TAX CREDIT, ADDING AN INCOME TAX CREDIT FOR ALTERNATIVE FUEL REFUELING FACILITIES, ESTABLISHING A REBATE PROGRAM FOR GOVERNMENTAL AND TAX-EXEMPT ENTITIES THAT USE ALTERNATIVE FUEL VEHICLES, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 25-7-106.8 (1) (a), Colorado Revised Statutes, is amended to read:

25-7-106.8. Colorado clean vehicle fleet program. (1) As used in this section, unless the context otherwise requires:

(a) "Alternative fuel" means compressed natural gas, propane, ETHANOL, OR ANY MIXTURE OF ETHANOL CONTAINING EIGHTY-FIVE PERCENT OR MORE ETHANOL BY VOLUME WITH GASOLINE OR OTHER FUELS, electricity, or any other fuels, which fuels may include, but are not limited to, clean diesel and reformulated gasoline so long as these other fuels make comparable reductions in carbon monoxide emissions and brown cloud pollutants as determined by the air quality control commission.

SECTION 2. 39-22-516, Colorado Revised Statutes, is amended to read:

39-22-516. Tax credit for business vehicles using alternative fuels and alternative fuel refueling facilities - repeal.

(1) Repealed.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) (a) With respect to taxable years commencing on or after July 1, 1994, there shall be allowed to any person a credit against the tax imposed by this article in the amount of five percent of the purchase price of each car or truck licensed in Colorado ~~which~~ THAT uses or is converted within one hundred twenty days of the date of delivery to use clean-burning alternative fuel purchased by such person during the taxable year; except that such credit shall not exceed fifty percent of the actual cost of such conversion or of an original equipment manufacturer's fuel system option ~~which~~ THAT results in the conversion of such vehicle to use clean-burning alternative fuel. The number of cars or trucks on which the tax credit may be claimed shall be limited to a total of fifty cars or trucks for each taxable year. For the purposes of this subsection (2), "clean-burning alternative fuel" means natural gas, liquefied petroleum gas, a fuel mixture containing not less than eighty-five percent ethanol or methanol, electricity, or any other alternative fuel approved by the air quality control commission pursuant to section 25-7-106.9 (1), C.R.S.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 1998.

(2.5) (a) AS USED IN THIS SUBSECTION (2.5), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "ALTERNATIVE FUEL" MEANS AN ALTERNATIVE FUEL AS DEFINED IN SECTION 25-7-106.8 (1) (a), C.R.S.

(II) "CLEAN FUEL FLEET PROGRAM" MEANS THE COLORADO CLEAN VEHICLE FLEET PROGRAM SET FORTH IN SECTION 25-7-106.8, C.R.S., AND THE CLEAN FUEL FLEET PROGRAM SET FORTH IN THE REGULATIONS OF THE AIR QUALITY CONTROL COMMISSION.

(III) "MOTOR VEHICLE" MEANS ANY SELF-PROPELLED VEHICLE REQUIRED TO BE LICENSED OR SUBJECT TO LICENSING FOR OPERATION UPON THE HIGHWAYS OF THIS STATE.

(IV) "NEAR ZERO-EMITTING VEHICLE" MEANS A MOTOR VEHICLE EXHIBITING EMISSIONS CHARACTERISTICS THAT ARE NEAR THOSE OF A ZERO-EMITTING VEHICLE. TO QUALIFY AS A NEAR ZERO-EMITTING VEHICLE, A MOTOR VEHICLE MUST MEET AT LEAST ONE OF THE FOLLOWING MINIMUM REQUIREMENTS:

(A) THE VEHICLE MUST BE CERTIFIED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AS MEETING AN EMISSION STANDARD BETWEEN THE ULTRA-LOW-EMITTING VEHICLE EMISSION STANDARD AND THE ZERO-EMITTING VEHICLE EMISSION STANDARD; OR

(B) THE VEHICLE MUST BE CERTIFIED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AS MEETING THE FEDERAL ULTRA-LOW-EMITTING VEHICLE EMISSION STANDARD AND MUST BE CERTIFIED BY ANY STATE AS PROVIDED IN THE "FEDERAL CLEAN AIR ACT" TO AN EMISSION STANDARD BETWEEN THE ULTRA-LOW-EMITTING VEHICLE EMISSION STANDARD AND THE ZERO-EMITTING VEHICLE EMISSION STANDARD.

(V) "POWER SOURCE" MEANS THE ENGINE OR MOTOR AND ASSOCIATED WIRING, FUEL LINES, ENGINE COOLANT SYSTEM, FUEL STORAGE CONTAINERS, AND

MISCELLANEOUS COMPONENTS.

(VI) "TRADITIONAL FUEL" MEANS A PETROLEUM-BASED MOTOR FUEL COMMONLY USED ON THE HIGHWAYS OF THIS STATE IN THE YEAR 1994.

(VII) "USES AN ALTERNATIVE FUEL" OR "TO USE AN ALTERNATIVE FUEL" MEANS TO OPERATE SOLELY ON AN ALTERNATIVE FUEL, TO OPERATE ON BOTH AN ALTERNATIVE FUEL AND A TRADITIONAL FUEL, OR TO OPERATE ALTERNATELY ON A TRADITIONAL FUEL AND AN ALTERNATIVE FUEL.

(b) WITH RESPECT TO TAX YEARS COMMENCING ON OR AFTER JULY 1, 1998, BUT PRIOR TO JULY 1, 2006, THERE SHALL BE ALLOWED TO ANY PERSON A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR EACH MOTOR VEHICLE OWNED BY SUCH PERSON THAT:

(I) IS TITLED AND REGISTERED IN THE STATE OF COLORADO;

(II) IS USED IN CONNECTION WITH A BUSINESS; AND

(III) USES OR IS CONVERTED TO USE AN ALTERNATIVE FUEL OR HAS ITS POWER SOURCE REPLACED WITH A POWER SOURCE THAT USES AN ALTERNATIVE FUEL.

(c) THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS SUBSECTION (2.5) SHALL BE AN AMOUNT EQUAL TO THE PERCENTAGE, AS SET FORTH IN PARAGRAPH (d) OF THIS SUBSECTION (2.5), OF THE FOLLOWING:

(I) THE DIFFERENCE BETWEEN THE ACTUAL COST INCURRED BY SUCH PERSON DURING THE TAX YEAR IN PURCHASING A MOTOR VEHICLE THAT USES AN ALTERNATIVE FUEL AND THE COST OF THE SAME MOTOR VEHICLE THAT USES A TRADITIONAL FUEL OR, IF THE SAME VEHICLE IS NOT AVAILABLE, THEN THE COST OF THE MOST SIMILAR VEHICLE, TAKING INTO ACCOUNT THE MODEL, MAKE, ENGINE SIZE, AND OPTIONS, THAT USES A TRADITIONAL FUEL;

(II) THE DIFFERENCE BETWEEN THE ACTUAL COST INCURRED BY SUCH PERSON DURING THE TAX YEAR IN REPLACING AN EXISTING POWER SOURCE IN A MOTOR VEHICLE THAT USES A TRADITIONAL FUEL WITH A POWER SOURCE THAT USES AN ALTERNATIVE FUEL AND THE COST OF REPLACING THE EXISTING POWER SOURCE IN THE MOTOR VEHICLE WITH THE SAME TYPE OF POWER SOURCE THAT USES A TRADITIONAL FUEL; OR

(III) THE ACTUAL COST INCURRED BY SUCH PERSON DURING THE TAX YEAR IN CONVERTING THE MOTOR VEHICLE TO A FUEL SYSTEM THAT USES AN ALTERNATIVE FUEL.

(d) (I) FOR THE PURPOSES OF PARAGRAPH (c) OF THIS SUBSECTION (2.5), EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (d), THE PERCENTAGE OF THE DIFFERENCE IN ACTUAL COST INCURRED OR THE PERCENTAGE OF THE ACTUAL COST INCURRED THAT MAY BE CLAIMED AS A CREDIT PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2.5) SHALL BE AS FOLLOWS:

CERTIFICATION LEVEL:	TAX YEARS COMMENCING ON OR AFTER JULY 1, 1998, BUT PRIOR TO JULY 1, 2001	TAX YEARS COMMENCING ON OR AFTER JULY 1, 2001, BUT PRIOR TO JULY 1, 2004	TAX YEARS COMMENCING ON OR AFTER JULY 1, 2004, BUT PRIOR TO JULY 1, 2006
LOW-EMITTING VEHICLE	50%	25%	0%
ULTRA-LOW-EMI TTING VEHICLE OR INHERENTLY LOW-EMITTING VEHICLE	75%	50%	25%
ZERO-EMITTING VEHICLE	85%	75%	50%

(II) FOR A MOTOR VEHICLE PURCHASE OR POWER SOURCE REPLACEMENT THAT PERMANENTLY DISPLACES A MOTOR VEHICLE OR POWER SOURCE THAT IS TEN YEARS OLD OR OLDER, THE PERCENTAGE SPECIFIED IN SUBPARAGRAPH (I) THAT MAY BE CLAIMED PURSUANT TO THIS PARAGRAPH (d) SHALL BE MULTIPLIED BY TWO, BUT IN NO EVENT SHALL THE PERCENTAGE EXCEED ONE HUNDRED PERCENT. FOR THE PURPOSES OF THIS SUBPARAGRAPH (II), "PERMANENTLY DISPLACES A MOTOR VEHICLE OR POWER SOURCE" MEANS THE VEHICLE OR POWER SOURCE BEING REPLACED BY THE ALTERNATIVE FUEL VEHICLE OR POWER SOURCE WILL NO LONGER BE OPERATED UPON THE HIGHWAYS OF THIS STATE.

(e) THE CERTIFICATION LEVELS SET FORTH IN PARAGRAPH (d) OF THIS SUBSECTION (2.5) SHALL HAVE THE SAME MEANING AS SET FORTH IN THE AIR QUALITY CONTROL COMMISSION REGULATIONS GOVERNING THE CLEAN FUEL FLEET PROGRAM.

(f) A NEAR ZERO-EMITTING VEHICLE SHALL BE TREATED AS A ZERO-EMITTING VEHICLE FOR ALL PURPOSES UNDER THIS SUBSECTION (2.5).

(g) FOR A MOTOR VEHICLE THAT WAS NOT USED SOLELY AND EXCLUSIVELY FOR BUSINESS PURPOSES DURING THE TAX YEAR FOR WHICH A CREDIT IS CLAIMED, THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS SUBSECTION (2.5) SHALL BE PRORATED IN PROPORTION TO THE PERCENTAGE OF TIME DURING THE TAX YEAR THAT THE MOTOR VEHICLE WAS USED FOR BUSINESS PURPOSES.

(h) NO MORE THAN ONE TAX CREDIT SHALL BE GRANTED PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (2.5) FOR ANY INDIVIDUAL MOTOR VEHICLE.

(i) A MOTOR VEHICLE, CONVERSION, OR POWER SOURCE CERTIFIED TO THE LOW-EMITTING VEHICLE EMISSIONS STANDARD THAT IS PURCHASED BY A PERSON COVERED BY THE CLEAN FUEL FLEET PROGRAM IN ORDER TO SATISFY THE MINIMUM REQUIREMENTS OF SUCH PROGRAM SHALL NOT BE ELIGIBLE FOR A CREDIT PURSUANT TO THIS SUBSECTION (2.5).

(2.7) (a) AS USED IN THIS SUBSECTION (2.7), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "ALTERNATIVE FUEL" SHALL HAVE THE SAME MEANING AS SET FORTH IN TITLE III OF THE FEDERAL "ENERGY POLICY ACT OF 1992", PUBLIC LAW 102-486, AS AMENDED.

(II) "RENEWABLE ENERGY SOURCE" MEANS AN ALTERNATIVE FUEL THAT COMES FROM A SOURCE THAT IS NOT DEPLETED WITH USE OR THAT CAN BE REPLENISHED INDEFINITELY; INCLUDING SOLAR, WIND, HYDROPOWER, BIOMASS, GEOTHERMAL, OR OTHER SIMILAR SOURCE. ALTERNATIVE FUELS FROM A RENEWABLE ENERGY SOURCE SHALL INCLUDE ETHANOL FROM BIOMASS, NATURAL GAS FROM WASTE TREATMENT PLANTS OR LANDFILLS, ELECTRICITY FROM WIND, SOLAR, OR HYDRO POWER, AND OTHER ALTERNATIVE FUELS FROM SIMILAR SOURCES IN CONFORMANCE WITH THIS SUBPARAGRAPH (II) AS DESIGNATED BY THE AIR QUALITY CONTROL COMMISSION.

(b) WITH RESPECT TO TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 1998, BUT PRIOR TO JANUARY 1, 2006, THERE SHALL BE ALLOWED TO ANY PERSON A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO A PERCENTAGE, AS DETERMINED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (2.7), OF THE ACTUAL COST INCURRED BY THE PERSON DURING THE TAX YEAR IN CONSTRUCTING, RECONSTRUCTING, OR ACQUIRING AN ALTERNATIVE FUEL REFUELING FACILITY THAT IS DIRECTLY ATTRIBUTABLE TO THE STORAGE, COMPRESSION, CHARGING, OR DISPENSING OF ALTERNATIVE FUELS TO MOTOR VEHICLES.

(c) A PERSON MAY CLAIM THE FOLLOWING PERCENTAGE OF COSTS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2.7) AS A CREDIT PURSUANT TO THIS SUBSECTION (2.7):

(I) FIFTY PERCENT OF THE COSTS INCURRED ON OR AFTER JANUARY 1, 1998, BUT PRIOR TO JANUARY 1, 2001;

(II) THIRTY-FIVE PERCENT OF THE COSTS INCURRED ON OR AFTER JANUARY 1, 2001, BUT PRIOR TO JANUARY 1, 2004;

(III) TWENTY PERCENT OF THE COSTS INCURRED ON OR AFTER JANUARY 1, 2004, BUT PRIOR TO JULY 1, 2006.

(d) FOR AN ALTERNATIVE FUEL REFUELING FACILITY THAT WILL BE GENERALLY ACCESSIBLE FOR USE BY PERSONS IN ADDITION TO THE PERSON CLAIMING THE CREDIT, THE PERCENTAGE THAT MAY BE CLAIMED IN PARAGRAPH (c) SHALL BE MULTIPLIED BY ONE AND ONE-FOURTH.

(e) FOR AN ALTERNATIVE FUEL REFUELING FACILITY THAT DISPENSES AN ALTERNATIVE FUEL DERIVED FROM A RENEWABLE ENERGY SOURCE, THE PERCENTAGE

CREDIT THAT MAY BE CLAIMED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (2.7) SHALL BE MULTIPLIED BY ONE AND ONE-FOURTH. FOR A PERSON TO RECEIVE A HIGHER PERCENTAGE CALCULATED PURSUANT TO THIS PARAGRAPH (e), SUCH PERSON SHALL PROVIDE CERTIFICATION THAT AT LEAST SEVENTY PERCENT OF THE ALTERNATIVE FUEL DISPENSED EACH YEAR BY THE REFUELING FACILITY WILL BE DERIVED FROM A RENEWABLE ENERGY SOURCE FOR TEN YEARS.

(f) A PERSON MAY ELECT TO CLAIM AN INCREASED PERCENTAGE CREDIT PURSUANT TO EITHER PARAGRAPH (d) OR (e) OF THIS SUBSECTION (2.7); EXCEPT THAT IN NO EVENT MAY BOTH BE RELIED UPON TO INCREASE THE CREDIT.

(g) THE AGGREGATE AMOUNT OF CREDIT CLAIMED BY A PERSON FOR ANY ONE ALTERNATIVE FUEL REFUELING FACILITY PURSUANT TO THIS SUBSECTION (2.7) SHALL NOT EXCEED FOUR HUNDRED THOUSAND DOLLARS DURING ANY PERIOD OF FIVE CONSECUTIVE TAX YEARS.

(h) IN NO EVENT SHALL ANY PERSON CLAIM A CREDIT FOR ALL OR ANY PORTION OF THE COST OF CONSTRUCTING, RECONSTRUCTING, OR ACQUIRING AN ALTERNATIVE FUEL REFUELING FACILITY, OR ANY EQUIPMENT USED IN CONNECTION WITH SUCH FACILITY, FOR WHICH THE PERSON OR ANY OTHER PERSON HAS PREVIOUSLY CLAIMED A CREDIT PURSUANT TO THIS SUBSECTION (2.7).

(3) The ~~credit~~ CREDITS allowed by this section for any income tax year shall not exceed the taxpayer's actual tax liability for such taxable year. If the amount of a credit allowed by this section exceeds the taxpayer's actual tax liability for any income tax year in which the ~~car or truck investment~~ credit is claimed, referred to in this subsection (3) as the "unused credit year", such excess shall be an investment tax credit carryover to each of the ~~three~~ FIVE income tax years following the unused credit year and shall be applied first to the earliest income tax years possible.

(4) This section is repealed, effective July 1, ~~1998~~ 2011.

(5) IF ANY PROVISION OF THIS SECTION OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS SECTION THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS SECTION ARE DECLARED TO BE SEVERABLE.

SECTION 3. Title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 33

Alternative Fuels Rebate

39-33-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ALTERNATIVE FUEL" MEANS AN ALTERNATIVE FUEL AS DEFINED IN SECTION 25-7-106.8 (1) (a), C.R.S.

(2) "CLEAN FUEL FLEET PROGRAM" MEANS THE COLORADO CLEAN VEHICLE FLEET PROGRAM SET FORTH IN SECTION 25-7-106.8, C.R.S., AND THE CLEAN FUEL FLEET PROGRAM SET FORTH IN THE REGULATIONS OF THE AIR QUALITY CONTROL COMMISSION.

(3) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE.

(4) "MOTOR VEHICLE" MEANS ANY SELF-PROPELLED VEHICLE REQUIRED TO BE LICENSED OR SUBJECT TO LICENSING FOR OPERATION UPON THE HIGHWAYS OF THIS STATE.

(5) "NEAR ZERO-EMITTING VEHICLE" MEANS A MOTOR VEHICLE EXHIBITING EMISSIONS CHARACTERISTICS THAT ARE NEAR THOSE OF A ZERO-EMITTING VEHICLE. TO QUALIFY AS A NEAR ZERO-EMITTING VEHICLE, A MOTOR VEHICLE MUST MEET AT LEAST ONE OF THE FOLLOWING MINIMUM REQUIREMENTS:

(a) THE VEHICLE MUST BE CERTIFIED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AS MEETING AN EMISSION STANDARD BETWEEN THE ULTRA-LOW-EMITTING VEHICLE EMISSION STANDARD AND THE ZERO-EMITTING VEHICLE EMISSION STANDARD; OR

(b) THE VEHICLE MUST BE CERTIFIED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AS MEETING THE FEDERAL ULTRA-LOW-EMITTING VEHICLE EMISSION STANDARD AND MUST BE CERTIFIED BY ANY STATE AS PROVIDED IN THE "FEDERAL CLEAN AIR ACT" TO AN EMISSION STANDARD BETWEEN THE ULTRA-LOW-EMITTING VEHICLE EMISSION STANDARD AND THE ZERO-EMITTING VEHICLE EMISSION STANDARD.

(6) "POWER SOURCE" MEANS THE ENGINE OR MOTOR AND ASSOCIATED WIRING, FUEL LINES, ENGINE COOLANT SYSTEM, FUEL STORAGE CONTAINERS, AND MISCELLANEOUS COMPONENTS.

(7) "QUALIFIED ENTITY" MEANS:

(a) THE STATE, ANY COUNTY, MUNICIPALITY, CITY AND COUNTY, DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE STATE OF COLORADO, AND ANY INSTITUTION, DEPARTMENT, AGENCY, OR AUTHORITY THEREOF;

(b) A PERSON, ORGANIZATION, OR OTHER NONGOVERNMENTAL ENTITY THAT IS EXEMPT FROM FEDERAL INCOME TAXATION UNDER THE PROVISIONS OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

(8) "TRADITIONAL FUEL" MEANS A PETROLEUM-BASED MOTOR FUEL COMMONLY USED ON THE HIGHWAYS OF THIS STATE IN THE YEAR 1994.

(9) "USES AN ALTERNATIVE FUEL" OR "TO USE AN ALTERNATIVE FUEL" MEANS TO OPERATE SOLELY ON AN ALTERNATIVE FUEL, TO OPERATE ON BOTH AN ALTERNATIVE FUEL AND A TRADITIONAL FUEL, OR TO OPERATE ALTERNATELY ON A TRADITIONAL FUEL AND AN ALTERNATIVE FUEL.

39-33-102. Rebate for motor vehicles using alternative fuels. (1) ON AND AFTER JULY 1, 1998, BUT PRIOR TO JULY 1, 2007, THE EXECUTIVE DIRECTOR SHALL BE AUTHORIZED TO GRANT A REBATE TO A QUALIFIED ENTITY FOR EACH MOTOR VEHICLE OWNED BY SUCH ENTITY THAT:

(a) IS TITLED AND REGISTERED IN THE STATE OF COLORADO;

(b) IS USED IN CONNECTION WITH THE BUSINESS OR OFFICIAL ACTIVITIES OF THE ENTITY; AND

(c) USES OR IS CONVERTED TO USE AN ALTERNATIVE FUEL OR HAS ITS POWER SOURCE REPLACED WITH A POWER SOURCE THAT USES AN ALTERNATIVE FUEL.

39-33-103. Amount of rebate. (1) THE AGGREGATE OF ALL REBATES GRANTED TO A QUALIFIED ENTITY SHALL NOT EXCEED THREE HUNDRED FIFTY THOUSAND DOLLARS IN ANY STATE FISCAL YEAR. THE REBATE GRANTED TO A QUALIFIED ENTITY FOR EACH MOTOR VEHICLE PURSUANT TO THIS ARTICLE SHALL NOT BE AN AMOUNT THAT EXCEEDS THE PERCENTAGE, AS SET FORTH IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, OF THE FOLLOWING:

(a) THE DIFFERENCE BETWEEN THE ACTUAL COST INCURRED BY SUCH ENTITY DURING A GIVEN STATE FISCAL YEAR IN PURCHASING A MOTOR VEHICLE THAT USES AN ALTERNATIVE FUEL AND THE COST OF THE SAME MOTOR VEHICLE THAT USES A TRADITIONAL FUEL OR, IF THE SAME VEHICLE IS NOT AVAILABLE, THEN THE COST OF THE MOST SIMILAR VEHICLE, TAKING INTO ACCOUNT MODEL, MAKE, ENGINE SIZE, AND OPTIONS, THAT USES A TRADITIONAL FUEL;

(b) THE DIFFERENCE BETWEEN THE ACTUAL COST INCURRED BY SUCH ENTITY DURING A GIVEN STATE FISCAL YEAR IN REPLACING AN EXISTING POWER SOURCE IN A MOTOR VEHICLE THAT USES A TRADITIONAL FUEL WITH A POWER SOURCE THAT USES AN ALTERNATIVE FUEL AND THE COST OF REPLACING THE EXISTING POWER SOURCE IN THE MOTOR VEHICLE WITH THE SAME TYPE OF POWER SOURCE THAT USES A TRADITIONAL FUEL; OR

(c) THE ACTUAL COST INCURRED BY SUCH ENTITY DURING A GIVEN STATE FISCAL YEAR IN CONVERTING A MOTOR VEHICLE TO A FUEL SYSTEM THAT USES AN ALTERNATIVE FUEL.

(2) (a) (I) FOR THE PURPOSES OF SUBSECTION (1) OF THIS SECTION, EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE PERCENTAGE OF THE DIFFERENCE IN ACTUAL COST INCURRED OR THE PERCENTAGE OF THE ACTUAL COST INCURRED BY A QUALIFIED ENTITY FOR WHICH A REBATE MAY BE GRANTED PURSUANT TO THIS ARTICLE SHALL BE AS FOLLOWS:

CERTIFICATION LEVEL:	FOR COSTS INCURRED ON OR AFTER JULY 1, 1998, BUT PRIOR TO JULY 1, 2001	FOR COSTS INCURRED ON OR AFTER JULY 1, 2001, BUT PRIOR TO JULY 1, 2004	FOR COSTS INCURRED ON OR AFTER JULY 1, 2004, BUT PRIOR TO JULY 1, 2006
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LOW-EMITTING VEHICLE	50%	25%	0%
ULTRA-LOW-EMI TTING VEHICLE OR INHERENTLY LOW-EMITTING VEHICLE	75%	50%	25%
ZERO-EMITTING VEHICLE	85%	75%	50%

(II) FOR A MOTOR VEHICLE PURCHASE OR POWER SOURCE REPLACEMENT THAT PERMANENTLY DISPLACES A MOTOR VEHICLE OR POWER SOURCE THAT IS TEN YEARS OLD OR OLDER, THE PERCENTAGE SPECIFIED IN SUBPARAGRAPH (I) THAT MAY BE GRANTED PURSUANT TO THIS PARAGRAPH (a) SHALL BE MULTIPLIED BY TWO BUT IN NO EVENT SHALL THE PERCENTAGE EXCEED ONE HUNDRED PERCENT. FOR THE PURPOSES OF THIS SUBPARAGRAPH (II), "PERMANENTLY DISPLACES A MOTOR VEHICLE OR POWER SOURCE" MEANS THE VEHICLE OR POWER SOURCE BEING REPLACED BY THE ALTERNATIVE FUEL VEHICLE OR POWER SOURCE WILL NO LONGER BE OPERATED UPON THE HIGHWAYS OF THIS STATE.

(b) THE CERTIFICATION LEVELS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL HAVE THE SAME MEANING AS SET FORTH IN THE REGULATIONS OF THE AIR QUALITY CONTROL COMMISSION GOVERNING THE CLEAN FUEL FLEET PROGRAM.

(c) A NEAR ZERO-EMITTING VEHICLE SHALL BE TREATED AS A ZERO-EMITTING VEHICLE FOR ALL PURPOSES UNDER THIS SECTION.

(d) FOR A MOTOR VEHICLE THAT IS NOT USED SOLELY AND EXCLUSIVELY FOR THE BUSINESS OR OFFICIAL ACTIVITIES OF THE QUALIFIED ENTITY, THE AMOUNT OF THE REBATE ALLOWED PURSUANT TO THIS SECTION SHALL BE PRORATED IN PROPORTION TO THE PERCENTAGE OF TIME DURING THE CALENDAR YEAR THAT THE MOTOR VEHICLE IS USED FOR THE BUSINESS OR OFFICIAL ACTIVITIES OF THE ENTITY.

(e) NO MORE THAN ONE REBATE SHALL BE GRANTED PURSUANT TO THIS SECTION FOR ANY INDIVIDUAL MOTOR VEHICLE.

(f) A MOTOR VEHICLE, CONVERSION, OR POWER SOURCE CERTIFIED TO THE LOW-EMITTING VEHICLE EMISSIONS STANDARD THAT IS PURCHASED BY A QUALIFIED ENTITY COVERED BY THE CLEAN FUEL FLEET PROGRAM IN ORDER TO SATISFY THE MINIMUM REQUIREMENTS OF THE CLEAN FUEL FLEET PROGRAM SHALL NOT BE ELIGIBLE FOR A REBATE PURSUANT TO THIS ARTICLE.

(3) ANY APPLICATION FOR A REBATE SHALL BE FILED WITHIN TWELVE MONTHS

AFTER THE END OF THE MONTH IN WHICH THE COST IS INCURRED BY THE QUALIFIED ENTITY. THE EXECUTIVE DIRECTOR SHALL GRANT REBATES IN THE ORDER IN WHICH APPLICATIONS ARE RECEIVED AS MONEYS ARE MADE AVAILABLE. THE EXECUTIVE DIRECTOR SHALL GRANT REBATES TO QUALIFIED ENTITIES ONLY IF THE COST IS INCURRED ON OR AFTER JULY 1, 1998, BUT PRIOR TO JULY 1, 2006. NO REBATE SHALL BE GRANTED MORE THAN TWENTY-FOUR MONTHS AFTER THE DATE UPON WHICH THE COST IS INCURRED. REBATES SHALL BE GRANTED ONLY FROM AVAILABLE MONEYS IN THE ALTERNATIVE FUELS REBATE FUND CREATED IN SECTION 39-33-105, AND IN NO EVENT SHALL THE STATE HAVE ANY OBLIGATION TO PROVIDE REBATES FROM ANY SOURCE OTHER THAN THE FUND. FOR THE PURPOSES OF THIS SECTION, "COST IS INCURRED" MEANS, AT THE OPTION OF A QUALIFIED ENTITY, EITHER THE DATE WHEN THE ENTITY OBLIGATES ITSELF TO MAKE A PURCHASE OR THE DATE ON WHICH THE ENTITY PAYS FOR SUCH PURCHASE.

39-33-104. Rules. THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES FOR GRANTING REBATES CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE. SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

39-33-105. Alternative fuels rebate fund. (1) THE FOLLOWING, TOGETHER WITH ANY OTHER MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY, SHALL BE CREDITED TO THE ALTERNATIVE FUELS REBATE FUND WHICH IS HEREBY CREATED IN THE STATE TREASURY:

(a) ANY BEQUESTS, GIFTS, AND GRANTS, INCLUDING GRANTS FROM OTHER GOVERNMENTAL AGENCIES OR ENTITIES ACCEPTED BY THE EXECUTIVE DIRECTOR TO BE USED FOR THE PURPOSES OF THIS ARTICLE;

(b) ANY ADDITIONAL INCREMENT OF STATE SALES OR USE TAX REVENUES, AS ESTIMATED BY THE EXECUTIVE DIRECTOR, THAT IS GENERATED EACH STATE FISCAL YEAR BY THE ADDITIONAL SALES OF ALTERNATIVE FUEL VEHICLES AND FUELING FACILITIES EQUIPMENT AFTER THE EFFECTIVE DATE OF THIS ARTICLE IN EXCESS OF THE AMOUNT OF REVENUES GENERATED THROUGH THE STATE SALES AND USE TAXES ON THE SALES OF ALTERNATIVE FUEL VEHICLES AND FUELING FACILITIES EQUIPMENT DURING THE 1997-98 STATE FISCAL YEAR;

(2) THE MONEYS IN THE ALTERNATIVE FUELS REBATE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE EXECUTIVE DIRECTOR FOR THE PURPOSES SET FORTH IN THIS ARTICLE. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY MONEYS NOT APPROPRIATED SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR. ANY UNENCUMBERED MONEYS REMAINING IN THE FUND UPON THE REPEAL OF THIS SECTION SHALL BE TRANSFERRED TO THE AIR ACCOUNT.

39-33-106. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2007.

SECTION 4. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the alternative fuels rebate fund created pursuant to section 39-33-105, Colorado Revised Statutes, to the department of revenue, for the fiscal year beginning July 1, 1998, the amount of six hundred

fifty-four thousand five hundred ninety-five dollars (\$654,595). Of such amount, thirty-four thousand dollars (\$34,000), or so much thereof as may be necessary, is allocated for the initial costs incurred by the department in implementing this act. Any remaining funds shall be used for the purpose of making rebates to qualified entities pursuant to article 33 of title 39, Colorado Revised Statutes.

(2) Out of any unencumbered or unexpended moneys in the special account within the highway users tax fund known as the AIR account, there is hereby transferred the sum of five hundred thousand dollars (\$500,000) to the alternative fuels rebate fund created pursuant to section 39-33-105, Colorado Revised Statutes, for the fiscal year beginning July 1, 1998.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 1998