

**Senator David P. Hinkins** proposes the following substitute bill:

**HEAVY DUTY TAX CREDIT AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel Hemmert**

House Sponsor: Jon E. Stanard

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**LONG TITLE**

**General Description:**

This bill amends the corporate and individual heavy duty vehicle tax credits.

**Highlighted Provisions:**

This bill:

- ▶ clarifies that the corporate tax credit is nonrefundable;
- ▶ amends definitions;
- ▶ removes references to qualified conversions;
- ▶ modifies the definition of a "qualified heavy duty vehicle" to include heavy duty vehicles that have hydrogen-electric and electric drivetrains for purposes of receiving a corporate or individual income tax credit; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-7-618**, as last amended by Laws of Utah 2016, Chapter 375



26 **59-10-1033**, as last amended by Laws of Utah 2016, Chapter 375



27  
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **59-7-618** is amended to read:

30 **59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**

31 (1) As used in this section:

32 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air  
33 Conservation Act.

34 (b) "Director" means the director of the Division of Air Quality appointed under  
35 Section 19-2-107.

36 ~~[(b)]~~ (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according  
37 to vehicle classifications established by the Federal Highway Administration.

38 ~~[(c)]~~ (d) "Natural gas" includes compressed natural gas and liquified natural gas.

39 ~~[(d)]~~ (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

40 (i) has never been titled or registered and has been driven less than 7,500 miles; and

41 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric  
42 drivetrain.

43 ~~[(e)]~~ (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

44 ~~[(f)]~~ (g) "Qualified taxpayer" means a taxpayer ~~[who]~~ that:

45 (i) purchases a qualified heavy duty vehicle; and

46 (ii) receives a tax credit certificate from the ~~[board]~~ director.

47 ~~[(g)]~~ (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and  
48 owned by a single taxpayer.

49 ~~[(h)]~~ (i) "Tax credit certificate" means a certificate issued by the ~~[board]~~ director  
50 certifying that a taxpayer is entitled to a tax credit as provided in this section and stating the  
51 amount of the tax credit.

52 (2) ~~[For a taxable year beginning on or after January 1, 2015, a]~~ A qualified taxpayer  
53 may claim a nonrefundable tax credit against tax otherwise due under this chapter or Chapter 8,  
54 Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or  
55 Income Tax Act:

56 (a) in an amount equal to:

57 ~~[(i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year~~  
58 ~~2016, or calendar year 2017;]~~

59 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during  
60 calendar year 2015 or calendar year 2016;

61 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

62 ~~[(ii)]~~ (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

63 ~~[(iii)]~~ (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

64 ~~[(iv)]~~ (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

65 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the  
66 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be  
67 within the state.

68 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an  
69 application for, and the ~~[board]~~ director may not issue to the taxpayer, a tax credit certificate  
70 under this section in any taxable year for a ~~[qualifying]~~ qualified purchase if the ~~[board]~~  
71 director has already issued tax credit certificates to the taxpayer for 10 ~~[qualifying]~~ qualified  
72 purchases in the same taxable year.

73 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of  
74 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application  
75 for, and the ~~[board]~~ director may issue to the taxpayer, one or more tax credit certificates for up  
76 to eight additional ~~[qualifying]~~ qualified purchases, even if the ~~[board]~~ director has already  
77 issued to that taxpayer tax credit certificates for the maximum number of ~~[qualifying]~~ qualified  
78 purchases allowed under Subsection (3)(a).

79 (4) (a) Subject to Subsection (4)(b), the ~~[board]~~ director shall reserve 25% of all tax  
80 credits available under this section for qualified taxpayers with a small fleet.

81 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or  
82 the ~~[board]~~ director from issuing, a tax credit certificate if ~~[the]~~, before October 1, qualified  
83 taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full  
84 amount reserved under Subsection (4)(a) [for taxpayers with a small fleet has not been claimed  
85 by a date that is 90 days before the end of the year].

86 (5) (a) The aggregate annual total amount of tax credits represented by tax credit  
87 certificates that the ~~[board]~~ director issues under this section~~[, when combined with the~~

88 ~~aggregate annual total amount of tax credits represented by tax credit certificates that the board~~  
89 ~~issues under~~] and Section 59-10-1033[;] may not exceed \$500,000.

90 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative  
91 Rulemaking Act, make rules to establish a process [~~whereby~~] under which a taxpayer may  
92 reserve a potential tax credit under this section for a limited time to allow the taxpayer to make  
93 a [~~qualifying~~] qualified purchase with the assurance that the aggregate limit under Subsection  
94 (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit  
95 certificate.

96 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms  
97 the board requires by rule:

98 (A) submit to the [~~board~~] director an application for a tax credit;

99 (B) provide the [~~board~~] director proof of a [~~qualifying~~] qualified purchase; and

100 (C) submit to the [~~board~~] director the certification under oath required under  
101 Subsection (2)(b).

102 (ii) Upon receiving the application, proof, and certification required under Subsection  
103 (6)(a)(i), the [~~board~~] director shall provide the taxpayer a written statement from the [~~board~~]  
104 director acknowledging receipt of the proof.

105 (b) If the [~~board~~] director determines that a taxpayer qualifies for a tax credit under this  
106 section, the [~~board~~] director shall:

107 (i) determine the amount of tax credit the taxpayer is allowed under this section; and

108 (ii) provide the [~~qualifying~~] taxpayer with a written tax credit certificate:

109 (A) stating that the taxpayer has qualified for a tax credit; and

110 (B) showing the amount of tax credit for which the taxpayer has qualified under this  
111 section.

112 (c) A qualified taxpayer shall retain the tax credit certificate.

113 (d) The [~~board~~] director shall at least annually submit to the commission a list of all  
114 qualified taxpayers to [~~whom the board~~] which the director has issued a tax credit certificate  
115 and the amount of each tax credit represented by the tax credit certificates.

116 (7) The tax credit under this section is allowed only:

117 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain  
118 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year

119 by the qualified taxpayer;

120 (b) for the taxable year in which the ~~[qualifying]~~ qualified purchase occurs; and

121 (c) once per vehicle.

122 (8) A ~~[qualifying]~~ qualified taxpayer may not assign a tax credit or a tax credit  
123 certificate under this section to another person.

124 (9) If the ~~[amount of]~~ qualified taxpayer receives a tax credit ~~[claimed by a qualifying~~  
125 ~~taxpayer]~~ certificate under this section that allows a tax credit in an amount that exceeds the  
126 ~~[qualifying]~~ qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts  
127 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for  
128 a taxable year, the qualified taxpayer may carry forward the amount of the tax credit  
129 [exceeding] that exceeds the tax liability ~~[may be carried forward]~~ for a period that does not  
130 exceed the next five taxable years.

131 (10) (a) In accordance with any rules prescribed by the commission under Subsection  
132 (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the  
133 Education Fund the aggregate amount of all tax credits claimed under this section.

134 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
135 commission may make rules for making a transfer from the General Fund into the Education  
136 Fund as required by Subsection (10)(a).

137 Section 2. Section **59-10-1033** is amended to read:

138 **59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.**

139 (1) As used in this section:

140 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air  
141 Conservation Act.

142 (b) "Director" means the director of the Division of Air Quality appointed under  
143 Section [19-2-107](#).

144 ~~[(b)]~~ (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according  
145 to vehicle classifications established by the Federal Highway Administration.

146 ~~[(c)]~~ (d) "Natural gas" includes compressed natural gas and liquified natural gas.

147 ~~[(d)]~~ (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

148 (i) has never been titled or registered and has been driven less than 7,500 miles; and

149 (ii) is fueled by natural gas~~;~~ and], has a 100% electric drivetrain, or has a

150 hydrogen-electric drivetrain.

151 [~~(iii)~~] ~~meets air quality standards.~~]

152 [~~(e)~~] (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

153 [~~(f)~~] (g) "Qualified taxpayer" means a claimant, estate, or trust that:

154 (i) purchases a qualified heavy duty vehicle; and

155 (ii) receives a tax credit certificate from the [~~board~~] director.

156 [~~(g)~~] (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and  
157 owned by a single claimant, estate, or trust.

158 [~~(h)~~] (i) "Tax credit certificate" means a certificate issued by the [~~board~~] director  
159 certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section  
160 and stating the amount of the tax credit.

161 (2) [~~For a taxable year beginning on or after January 1, 2015, a~~] A qualified taxpayer  
162 may claim a nonrefundable tax credit against tax otherwise due under this chapter:

163 (a) in an amount equal to:

164 [~~(i)~~] ~~\$25,000, if the qualified purchase occurs during calendar year 2015, calendar year~~  
165 ~~2016, or calendar year 2017;~~]

166 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during  
167 calendar year 2015 or calendar year 2016;

168 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

169 [~~(ii)~~] (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

170 [~~(iii)~~] (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

171 [~~(iv)~~] (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

172 (b) if the [~~claimant, estate, or trust~~] qualified taxpayer certifies under oath that over  
173 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase [~~or~~  
174 ~~qualified conversion~~] will travel annually will be within the state.

175 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not  
176 submit an application for, and the [~~board~~] director may not issue to the claimant, estate, or  
177 trust, a tax credit certificate under this section in any taxable year for a [~~qualifying~~] qualified  
178 purchase if the [~~board~~] director has already issued tax credit certificates to the claimant, estate,  
179 or trust for 10 [~~tax credits for qualifying~~] qualified purchases in the same taxable year.

180 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of

181 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit  
 182 an application for, and the ~~[board]~~ director may issue to the claimant, estate, or trust, one or  
 183 more tax credit certificates for up to eight additional ~~[qualifying]~~ qualified purchases, even if  
 184 the ~~[board]~~ director has already issued to that claimant, estate, or trust tax credit certificates for  
 185 the maximum number of ~~[qualifying]~~ qualified purchases allowed under Subsection (3)(a).

186 (4) (a) Subject to Subsection (4)(b), the ~~[board]~~ director shall reserve 25% of all tax  
 187 credits available under this section for ~~[claimants, estates, or trusts]~~ qualified taxpayers with a  
 188 small fleet.

189 (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an  
 190 application for, or the ~~[board]~~ director from issuing, a tax credit certificate if ~~[the]~~, before  
 191 October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax  
 192 credits for the full amount reserved under Subsection (4)(a) [for claimants, estates, or trusts  
 193 with a small fleet has not been claimed by a date that is 90 days before the end of the year].

194 (5) (a) The aggregate annual total amount of tax credits represented by tax credit  
 195 certificates that the ~~[board]~~ director issues under this section~~[, when combined with the~~  
 196 ~~aggregate annual total amount of tax credits represented by tax credit certificates that the board~~  
 197 ~~issues under]~~ and Section 59-7-618~~[;]~~ may not exceed \$500,000.

198 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative  
 199 Rulemaking Act, make rules to establish a process ~~[whereby a taxpayer]~~ under which a  
 200 claimant, estate, or trust may reserve a potential tax credit under this section for a limited time  
 201 to allow the ~~[taxpayer]~~ claimant, estate, or trust to make a ~~[qualifying]~~ qualified purchase with  
 202 the assurance that the aggregate limit under Subsection (5)(a) will not be met before the  
 203 ~~[taxpayer]~~ claimant, estate, or trust is able to submit an application for a tax credit certificate.

204 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section  
 205 shall, using forms the board requires by rule:

206 (A) submit to the ~~[board]~~ director an application for a tax credit;

207 (B) provide the ~~[board]~~ director proof of a ~~[qualifying]~~ qualified purchase ~~[or~~  
 208 ~~qualifying conversion];~~ and

209 (C) submit to the ~~[board]~~ director the certification under oath required under  
 210 Subsection (2)(b).

211 (ii) Upon receiving the application, proof, and certification required under Subsection

212 (6)(a)(i), the ~~[board]~~ director shall provide the claimant, estate, or trust a written statement  
213 from the ~~[board]~~ director acknowledging receipt of the proof.

214 (b) If the ~~[board]~~ director determines that a claimant, estate, or trust qualifies for a tax  
215 credit under this section, the ~~[board]~~ director shall:

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

218 (ii) provide the ~~[qualifying taxpayer]~~ claimant, estate, or trust with a written tax credit  
219 certificate:

220 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and

221 (B) showing the amount of tax credit for which the claimant, estate, or trust has  
222 qualified under this section.

223 (c) A ~~[claimant, estate, or trust]~~ qualified taxpayer shall retain the tax credit certificate.

224 (d) The ~~[board]~~ director shall at least annually submit to the commission a list of all  
225 ~~[claimants, estates, and trusts]~~ qualified taxpayers to which the ~~[board]~~ director has issued a tax  
226 credit certificate and the amount of each tax credit represented by the tax credit certificates.

227 (7) The tax credit under this section is allowed only:

228 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

229 (b) for the taxable year in which the ~~[qualifying]~~ qualified purchase occurs; and

230 (c) once per vehicle.

231 (8) A ~~[qualifying]~~ qualified taxpayer may not assign a tax credit or a tax credit  
232 certificate under this section to another person.

233 (9) If the ~~[amount of]~~ qualified taxpayer receives a tax credit ~~[claimed by a qualifying~~  
234 ~~taxpayer]~~ certificate under this section that allows a tax credit in an amount that exceeds the  
235 ~~[qualifying]~~ qualified taxpayer's tax liability under this chapter for a taxable year, the qualified  
236 taxpayer may carry forward the amount of the tax credit [exceeding] that exceeds the tax  
237 liability ~~[may be carried forward]~~ for a period that does not exceed the next five taxable years.

238 (10) (a) In accordance with any rules prescribed by the commission under Subsection  
239 (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the  
240 Education Fund the aggregate amount of all tax credits claimed under this section.

241 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
242 commission may make rules for making a transfer from the General Fund into the Education



243 Fund as required by Subsection (10)(a).

244 Section 3. **Retrospective operation.**

245 This bill has retrospective operation for a taxable year beginning on or after January 1,

246 2017.