

SB0024S01 compared with SB0024

~~{deleted text}~~ shows text that was in SB0024 but was deleted in SB0024S01.

Inserted text shows text that was not in SB0024 but was inserted into SB0024S01.

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~~{NATURAL GAS}~~ 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

LONG TITLE

~~{Committee Note:~~

~~—The Revenue and Taxation Interim Committee recommended this bill.~~

~~}General Description:~~

This bill amends the corporate and individual ~~{natural gas}~~ heavy duty vehicle tax credits.

Highlighted Provisions:

This bill:

- ▶ clarifies that ~~{a}~~ 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

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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

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

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

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

59-7-618. Tax credit related to ~~{natural gas}~~alternative fuel heavy duty vehicles.

(1) As used in this section:

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

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

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

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

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

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

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

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

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

(i) purchases a qualified heavy duty vehicle; and

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

~~[(g)]~~ (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and

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owned by a single taxpayer.

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

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

(a) in an amount equal to:

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

~~— [(ii)]~~

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

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

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

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

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

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

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

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

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purchases allowed under Subsection (3)(a).

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

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

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the [board] director issues under this section~~[, when combined with the aggregate annual total amount of tax credits represented by tax credit certificates that the board issues under]~~ and Section 59-10-1033~~[,]~~ may not exceed \$500,000.

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

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

- (A) submit to the [board] director an application for a tax credit;
- (B) provide the [board] director proof of a ~~[qualifying]~~ qualified purchase; and
- (C) submit to the [board] director the certification under oath required under

Subsection (2)(b).

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

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

- (i) determine the amount of tax credit the taxpayer is allowed under this section; and
- (ii) provide the ~~[qualifying]~~ taxpayer with a written tax credit certificate:

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- (A) stating that the taxpayer has qualified for a tax credit; and
- (B) showing the amount of tax credit for which the taxpayer has qualified under this section.
- (c) A qualified taxpayer shall retain the tax credit certificate.
- (d) The [~~board~~] director shall at least annually submit to the commission a list of all qualified taxpayers to [~~whom the board~~] which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.
- (7) The tax credit under this section is allowed only:
- (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the qualified taxpayer;
- (b) for the taxable year in which the [~~qualifying~~] qualified purchase occurs; and
- (c) once per vehicle.
- (8) A [~~qualifying~~] qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.
- (9) If the [~~amount of~~] qualified taxpayer receives a tax credit [~~claimed by a qualifying taxpayer~~] certificate under this section that allows a tax credit in an amount that exceeds the [~~qualifying~~] qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit [~~exceeding~~] that exceeds the tax liability [~~may be carried forward~~] for a period that does not exceed the next five taxable years.
- (10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).

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

59-10-1033. Tax credit related to ~~{natural gas}~~alternative fuel heavy duty vehicles.

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(1) As used in this section:

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

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

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

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

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

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

(ii) is fueled by natural gas~~[-and]~~, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

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

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

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

(i) purchases a qualified heavy duty vehicle; and

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

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

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

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

(a) in an amount equal to:

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

~~[(ii)]~~

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

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

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

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

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

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

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

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

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

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

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

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process ~~[whereby a taxpayer]~~ under which a

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claimant, estate, or trust may reserve a potential tax credit under this section for a limited time to allow the [~~taxpayer~~] claimant, estate, or trust to make a [~~qualifying~~] qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the [~~taxpayer~~] claimant, estate, or trust is able to submit an application for a tax credit certificate.

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

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

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

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

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the [~~board~~] director shall provide the claimant, estate, or trust a written statement from the [~~board~~] director acknowledging receipt of the proof.

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

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

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

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

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

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

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

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

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

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

(c) once per vehicle.

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

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

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

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

Section 3. **Retrospective operation.**

This bill has retrospective operation for a taxable year beginning on or after January 1, 2017.

†

Legislative Review Note

Office of Legislative Research and General Counsel†