Representative Paul A. Cutler proposes the following substitute bill:

TECHNOLOGY UPGRADE INCENTIVES AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul A. Cutler

Senate Sponsor: ____________

LONG TITLE

General Description:

This bill provides for tax incentives related to certain technology upgrades.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the amount of the nonrefundable corporate and individual income tax credit available for purchases of alternative fuel heavy duty vehicles;
- establishes a nonrefundable corporate and individual income tax credit for purchases of locomotive idle-reduction devices;
- provides for a total aggregate limit on the amount of tax credits issued each year for alternative fuel heavy duty vehicles and locomotive idle-reduction devices;
- provides a sunset date for the income tax credit associated with locomotive idle-reduction devices; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-618.1, as enacted by Laws of Utah 2021, Chapter 371

59-10-1033.1, as enacted by Laws of Utah 2021, Chapter 371

63I-1-259, as last amended by Laws of Utah 2023, Chapter 52

ENACTS:

59-7-618.2, Utah Code Annotated 1953

59-10-1033.2, Utah Code Annotated 1953

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

Section 1. Section **59-7-618.1** is amended to read:

59-7-618.1. Tax credit related to 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.

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

(d) "Natural gas" includes compressed natural gas and liquified natural gas.

(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.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a taxpayer that:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the director.

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

(i) "Tax credit certificate" means a certificate issued by the 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) [~~A~~] For a taxable year beginning on or after January 1, 2024, and before January 1, 2031, 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[~~:~~] $15,000; and

[~~(i) $15,000, if the qualified purchase occurs during calendar year 2021;~~]

[~~(ii) $13,500, if the qualified purchase occurs during calendar year 2022;~~]

[~~(iii) $12,000, if the qualified purchase occurs during calendar year 2023;~~]

[~~(iv) $10,500, if the qualified purchase occurs during calendar year 2024;~~]

[~~(v) $9,000, if the qualified purchase occurs during calendar year 2025;~~]

[~~(vi) $7,500, if the qualified purchase occurs during calendar year 2026;~~]

[~~(vii) $6,000, if the qualified purchase occurs during calendar year 2027;~~]

[~~(viii) $4,500, if the qualified purchase occurs during calendar year 2028;~~]

[~~(ix) $3,000, if the qualified purchase occurs during calendar year 2029; and~~]

[~~(x) $1,500, if the qualified purchase occurs during calendar year 2030; 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 director may not issue to the taxpayer, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the taxpayer for 10 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 director may issue to the taxpayer, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that taxpayer tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the 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 director from issuing, a tax credit certificate if, 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).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and [~~Section~~] Sections 59-7-618.2, 59-10-1033.1, and 59-10-1033.2 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 under which a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a 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 director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the 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 director shall provide the taxpayer a written statement from the director acknowledging receipt of the proof.

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

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

(ii) provide the taxpayer with a written tax credit certificate:

(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 director shall [~~at least~~] annually submit to the commission a list [~~of all qualified taxpayers~~] that includes:

(i) the name, taxpayer identification number, and identifying information of each qualified taxpayer to which the director has issued a tax credit certificate under this section; and

(ii) [~~the amount of each tax credit represented by the tax credit certificates~~] for each qualified taxpayer listed under Subsection (6)(d)(i), the amount of the tax credit specified in the tax credit certificate.

(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 qualified purchase occurs; and

(c) once per vehicle.

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

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the 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 that exceeds the tax liability for a period that does not exceed the next five taxable years.

Section 2. Section **59-7-618.2** is enacted to read:

59-7-618.2. Nonrefundable tax credit for purchase of locomotive idle-reduction device.

(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.

(c) "Locomotive idle-reduction device" means technology or equipment that:

(i) is verified by the United States Environmental Protection Agency to reduce locomotive idling; and

(ii) is not required under 40 C.F.R. Sec. 1033.115.

(d) "Qualified purchase" means the purchase of a locomotive idle-reduction device.

(e) "Qualified taxpayer" means a taxpayer that:

(i) makes one or more qualified purchases;and

(ii) receives a tax credit certificate from the director under this section.

(2) For a taxable year beginning on or after January 1, 2024, and before January 1, 2031, a qualified taxpayer may claim a nonrefundable tax credit for each qualified purchase the qualified taxpayer made in the taxable year in an amount equal to the lesser of:

(a) $15,000; and

(b) 50% of the actual costs paid by the qualified taxpayer for the qualified purchase, not including any financial assistance, rebates, or credits, other than a tax credit issued under this section, that the qualified taxpayer uses to pay for the qualified purchase.

(3) (a) A taxpayer shall receive a tax credit certificate from the director to claim a tax credit under this section.

(b) The taxpayer shall submit, with the taxpayer's application to the director for a tax credit certificate, proof of the taxpayer making one or more qualified purchases.

(c) The director shall provide notice to a taxpayer acknowledging receipt of the taxpayer's application for a tax credit certificate.

(d) If the director determines that the taxpayer qualifies for a tax credit under this section, the director shall:

(i) determine the amount of the taxpayer's tax credit; and

(ii) issue to the taxpayer a tax credit certificate stating the amount of the taxpayer's tax credit.

(e) A qualified taxpayer shall retain the tax credit certificate for the same period that a person is required to keep books and records under Section 59-1-1406.

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

(i) against taxes owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act;

(ii) for the taxable year in which the qualified purchase is made; and

(iii) once per qualified purchase.

(b) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(c) If a qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

(5) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Sections 59-7-618.1, 59-10-1033.1, and 59-10-1033.2 may not exceed $500,000.

(6) The director shall annually submit to the commission a list that includes:

(a) the name, taxpayer identification number, and identifying information of each qualified taxpayer to which the director has issued a tax credit certificate under this section; and

(b) for each qualified taxpayer listed under Subsection (6)(a), the amount of the tax credit specified in the tax credit certificate.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:

(a) establish a process under which a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualified purchase with the assurance that the aggregate limit under Subsection (5) will not be met before the taxpayer submits an application for a tax credit certificate; and

(b) govern the application process for receiving a tax credit certificate under this section.

Section 3. Section **59-10-1033.1** is amended to read:

59-10-1033.1. Tax credit related to 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.

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

(d) "Natural gas" includes compressed natural gas and liquified natural gas.

(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.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(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 director.

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

(i) "Tax credit certificate" means a certificate issued by the 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) [~~A~~] For a taxable year beginning on or after January 1, 2024, and before January 1, 2031, a qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:

(a) in an amount equal to[~~:~~] $15,000; and

[~~(i) $15,000, if the qualified purchase occurs during calendar year 2021;~~]

[~~(ii) $13,500, if the qualified purchase occurs during calendar year 2022;~~]

[~~(iii) $12,000, if the qualified purchase occurs during calendar year 2023;~~]

[~~(iv) $10,500, if the qualified purchase occurs during calendar year 2024;~~]

[~~(v) $9,000, if the qualified purchase occurs during calendar year 2025;~~]

[~~(vi) $7,500, if the qualified purchase occurs during calendar year 2026;~~]

[~~(vii) $6,000, if the qualified purchase occurs during calendar year 2027;~~]

[~~(viii) $4,500, if the qualified purchase occurs during calendar year 2028;~~]

[~~(ix) $3,000, if the qualified purchase occurs during calendar year 2029; and~~]

[~~(x) $1,500, if the qualified purchase occurs during calendar year 2030; 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 claimant, estate, or trust may not submit an application for, and the director may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the claimant, estate, or trust for 10 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 director may issue to the claimant, estate, or trust, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that claimant, estate, or trust tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the 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 claimant, estate, or trust from submitting an application for, or the director from issuing, a tax credit certificate if, 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).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and [~~Section~~] Sections 59-7-618.1, 59-7-618.2, and 59-10-1033.2 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 under which a claimant, estate, or trust may reserve a potential tax credit under this section for a limited time to allow the claimant, estate, or trust to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the 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 director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the 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 director shall provide the claimant, estate, or trust a written statement from the director acknowledging receipt of the proof.

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

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

(ii) provide the 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 qualified taxpayer shall retain the tax credit certificate.

(d) The director shall [~~at least~~] annually submit to the commission a list [~~of all qualified taxpayers~~] that includes:

(i) the name, taxpayer identification number, and identifying information of each qualified taxpayer to which the director has issued a tax credit certificate under this section; and

(ii) [~~the amount of each tax credit represented by the tax credit certificates~~] for each qualified taxpayer listed under Subsection (6)(d)(i), the amount of the tax credit specified in the tax credit certificate.

(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 qualified purchase occurs; and

(c) once per vehicle.

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

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

Section 4. Section **59-10-1033.2** is enacted to read:

59-10-1033.2. Nonrefundable tax credit for purchase of locomotive idle-reduction device.

(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.

(c) "Locomotive idle-reduction device" means technology or equipment that:

(i) is verified by the United States Environmental Protection Agency to reduce locomotive idling; and

(ii) is not required under 40 C.F.R. Sec. 1033.115.

(d) "Purchaser" means a claimant, estate, or trust.

(e) "Qualified purchase" means the purchase of a locomotive idle-reduction device.

(f) "Qualified purchaser" means a purchaser that:

(i) makes one or more qualified purchases; and

(ii) receives a tax credit certificate from the director under this section.

(2) For a taxable year beginning on or after January 1, 2024, and before January 1, 2031, a qualified purchaser may claim a nonrefundable tax credit for each qualified purchase the qualified purchaser made in the taxable year in an amount equal to the lesser of:

(a) $15,000; and

(b) 50% of the actual costs paid by the qualified purchaser for the qualified purchase, not including any financial assistance, rebates, or credits, other than a tax credit issued under this section, that the qualified purchaser uses to pay for the qualified purchase.

(3) (a) A purchaser shall receive a tax credit certificate from the director to claim a tax credit under this section.

(b) The purchaser shall submit, with the purchaser's application to the director for a tax credit certificate, proof of the purchaser making one or more qualified purchases.

(c) The director shall provide notice to a purchaser acknowledging receipt of the purchaser's application for a tax credit certificate.

(d) If the director determines that the purchaser qualifies for a tax credit under this section, the director shall:

(i) determine the amount of the purchaser's tax credit; and

(ii) issue to the purchaser a tax credit certificate stating the amount of the purchaser's tax credit.

(e) A qualified purchaser shall retain the tax credit certificate for the same period that a person is required to keep books and records under Section 59-1-1406.

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

(i) against taxes owed under this chapter;

(ii) for the taxable year in which the qualified purchase is made; and

(iii) once per qualified purchase.

(b) A qualified purchaser may not assign a tax credit or a tax credit certificate under this section to another person.

(c) If a qualified purchaser receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified purchaser may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

(5) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Sections 59-7-618.1, 59-7-618.2, and 59-10-1033.1 may not exceed $500,000.

(6) The director shall annually submit to the commission a list that includes:

(a) the name, taxpayer identification number, and identifying information of each qualified purchaser to which the director has issued a tax credit certificate under this section; and

(b) for each qualified purchaser listed under Subsection (6)(a), the amount of the tax credit specified in the tax credit certificate.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:

(a) establish a process under which a purchaser may reserve a potential tax credit under this section for a limited time to allow the purchaser to make a qualified purchase with the assurance that the aggregate limit under Subsection (5) will not be met before the purchaser submits an application for a tax credit certificate; and

(b) govern the application process for receiving a tax credit certificate under this section.

Section 5. Section **63I-1-259** is amended to read:

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

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

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

(3) Subsection 59-1-403(4)(aa), which authorizes the State Tax Commission to inform the Department of Workforce Services whether an individual claimed a federal earned income tax credit, is repealed July 1, 2029.

(4) Subsection 59-1-405(1)(g) is repealed May 9, 2024.

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

(6) Section 59-7-618.1 is repealed July 1, [~~2029~~] 2031.

(7) Section 59-7-618.2 is repealed July 1, 2031.

[~~(7)~~] (8) Section 59-9-102.5 is repealed December 31, 2030.

[~~(8)~~] (9) Section 59-10-1033.1 is repealed July 1, [~~2029~~] 2031.

(10) Section 59-10-1033.2 is repealed July 1, 2031.

Section 6. **Effective date.**

(1) If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If this bill is not approved by two-thirds of all members elected to each house, this bill takes effect May 1, 2024.

Section 7. **Retrospective operation.**

The following sections have retrospective operation for a taxable year beginning on or after January 1, 2024:

(1) Section 59-7-618.1;

(2) Section 59-7-618.2;

(3) Section 59-10-1033.1; and

(4) Section 59-10-1033.2.