

**TAX CREDIT FOR ALTERNATIVE FUEL HEAVY DUTY
VEHICLES**

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill reenacts a tax credit related to certain alternative fuel heavy duty vehicles.

Highlighted Provisions:

This bill:

- ▶ reenacts and extends the availability of an income tax credit related to certain alternative fuel heavy duty vehicles; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

⌚→ [~~None~~] This bill provides retrospective operation. ←⌚

Utah Code Sections Affected:

AMENDS:

63I-1-259, as last amended by Laws of Utah 2020, Chapter 332

ENACTS:

59-7-618.1, Utah Code Annotated 1953

59-10-1033.1, Utah Code Annotated 1953

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



Section 1. Section **59-7-618.1** is enacted 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 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) \$15,000, if the qualified purchase $\hat{H} \rightarrow$ ~~[of a natural gas heavy duty vehicle]~~ $\leftarrow \hat{H}$ occurs during

calendar year $\hat{H} \rightarrow$ ~~2020~~ 2021 $\leftarrow \hat{H}$;

(ii) \$13,500, if the qualified purchase occurs during calendar year $\hat{H} \rightarrow$ ~~2021~~ 2022 $\leftarrow \hat{H}$;

(iii) \$12,000, if the qualified purchase occurs during calendar year $\hat{H} \rightarrow$ ~~2022~~ 2023 $\leftarrow \hat{H}$;

(iv) \$10,500, if the qualified purchase occurs during calendar year ~~2023~~ 2024 ;

(v) \$9,000, if the qualified purchase occurs during calendar year ~~2024~~ 2025 ;

(vi) \$7,500, if the qualified purchase occurs during calendar year ~~2025~~ 2026 ;

(vii) \$6,000, if the qualified purchase occurs during calendar year ~~2026~~ 2027 ;

(viii) \$4,500, if the qualified purchase occurs during calendar year ~~2027~~ 2028 ;

(ix) \$3,000, if the qualified purchase occurs during calendar year ~~2028~~ 2029 ;

and

(x) \$1,500, if the qualified purchase occurs during calendar year ~~2029~~ 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 ~~59-10-1033~~ 59-10-1033.1 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

90 qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not
91 be met before the taxpayer is able to submit an application for a tax credit certificate.

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

94 (A) submit to the director an application for a tax credit;

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

96 (C) submit to the director the certification under oath required under Subsection (2)(b).

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

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

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

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

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

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

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

108 (d) The director shall at least annually submit to the commission a list of all qualified
109 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
110 credit represented by the tax credit certificates.

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

112 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
113 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year
114 by the qualified taxpayer;

115 (b) for the taxable year in which the qualified purchase occurs; and

116 (c) once per vehicle.

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

119 (9) If the qualified taxpayer receives a tax credit certificate under this section that
120 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 **59-10-1033.1** is enacted 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 qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:

(a) in an amount equal to:

(i) \$15,000, if the qualified purchase ~~of a natural gas heavy duty vehicle~~ occurs during

calendar year ~~2020~~ 2021 ;

(ii) \$13,500, if the qualified purchase occurs during calendar year ~~2021~~ 2022 ;

(iii) \$12,000, if the qualified purchase occurs during calendar year ~~2022~~ 2023 ;

(iv) \$10,500, if the qualified purchase occurs during calendar year ~~2023~~ 2024 ;

(v) \$9,000, if the qualified purchase occurs during calendar year ~~2024~~ 2025 ;

(vi) \$7,500, if the qualified purchase occurs during calendar year ~~2025~~ 2026 ;

(vii) \$6,000, if the qualified purchase occurs during calendar year ~~2026~~ 2027 ;

(viii) \$4,500, if the qualified purchase occurs during calendar year ~~2027~~ 2028 ;

(ix) \$3,000, if the qualified purchase occurs during calendar year ~~2028~~ 2029 ;

and

(x) \$1,500, if the qualified purchase occurs during calendar year ~~2029~~ 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 ~~H→ [59-7-618]~~ 59-7-618.1 ~~←H~~
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 to 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 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 3. 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.]~~

(5) Section 59-7-618 is repealed July 1, 2029.

(6) Section 59-9-102.5 is repealed December 31, 2030.

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

(7) Section 59-10-1033.1 is repealed July 1, 2029.

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

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

↗→ **Section 4. Retrospective operation.**

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

2021. ↖↗