

1 **ENERGY EFFICIENT VEHICLE TAX CREDIT AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill modifies the corporate and individual income tax credits related to energy
8 efficient vehicles.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ defines terms;
- 12 ▶ amends the Air Quality Board's rulemaking authority;
- 13 ▶ extends the corporate and individual income tax credits related to energy efficient
14 vehicles;
- 15 ▶ authorizes assignment of the corporate and individual income tax credits; and
- 16 ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides retrospective operation.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **19-2-104**, as last amended by Laws of Utah 2015, Chapter 154

24 **59-7-605 (Effective 01/01/17)**, as last amended by Laws of Utah 2016, Chapters 369,
25 375, and 375

26 **59-10-1009 (Effective 01/01/17)**, as last amended by Laws of Utah 2016, Chapters 369,
27 375, and 375

28

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

30 Section 1. Section **19-2-104** is amended to read:

31 **19-2-104. Powers of board.**

32 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah

33 Administrative Rulemaking Act:

34 (a) regarding the control, abatement, and prevention of air pollution from all sources
35 and the establishment of the maximum quantity of air pollutants that may be emitted by an air
36 pollutant source;

37 (b) establishing air quality standards;

38 (c) requiring persons engaged in operations that result in air pollution to:

39 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

40 (ii) file periodic reports containing information relating to the rate, period of emission,
41 and composition of the air pollutant; and

42 (iii) provide access to records relating to emissions which cause or contribute to air
43 pollution;

44 (d) (i) implementing:

45 (A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency
46 Response, 15 U.S.C. 2601 et seq.;

47 (B) 40 C.F.R. Part 763, Asbestos; and

48 (C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants,
49 Subpart M, National Emission Standard for Asbestos; and

50 (ii) reviewing and approving asbestos management plans submitted by local education
51 agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency
52 Response, 15 U.S.C. 2601 et seq.;

53 (e) establishing a requirement for a diesel emission opacity inspection and maintenance
54 program for diesel-powered motor vehicles;

55 (f) implementing an operating permit program as required by and in conformity with
56 Titles IV and V of the federal Clean Air Act Amendments of 1990;

57 (g) establishing requirements for county emissions inspection and maintenance
58 programs after obtaining agreement from the counties that would be affected by the
59 requirements;

60 (h) with the approval of the governor, implementing in air quality nonattainment areas
61 employer-based trip reduction programs applicable to businesses having more than 100
62 employees at a single location and applicable to federal, state, and local governments to the
63 extent necessary to attain and maintain ambient air quality standards consistent with the state

64 implementation plan and federal requirements under the standards set forth in Subsection (2);
65 (i) implementing lead-based paint training, certification, and performance requirements
66 in accordance with 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV --
67 Lead Exposure Reduction, Sections 402 and 406; and
68 (j) to implement the requirements of Section 19-2-107.5.
69 (2) When implementing Subsection (1)(h) the board shall take into consideration:
70 (a) the impact of the business on overall air quality; and
71 (b) the need of the business to use automobiles in order to carry out its business
72 purposes.
73 (3) (a) The board may:
74 (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or
75 matter in, the administration of this chapter;
76 (ii) recommend that the director:
77 (A) issue orders necessary to enforce the provisions of this chapter;
78 (B) enforce the orders by appropriate administrative and judicial proceedings;
79 (C) institute judicial proceedings to secure compliance with this chapter; or
80 (D) advise, consult, contract, and cooperate with other agencies of the state, local
81 governments, industries, other states, interstate or interlocal agencies, the federal government,
82 or interested persons or groups; and
83 (iii) establish certification requirements for asbestos project monitors, which shall
84 provide for experience-based certification of a person who:
85 (A) receives relevant asbestos training, as defined by rule; and
86 (B) has acquired a minimum of 1,000 hours of asbestos project monitoring related
87 work experience.
88 (b) The board shall:
89 (i) to ensure compliance with applicable statutes and regulations:
90 (A) review a settlement negotiated by the director in accordance with Subsection
91 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and
92 (B) approve or disapprove the settlement;
93 (ii) encourage voluntary cooperation by persons and affected groups to achieve the
94 purposes of this chapter;

- 95 (iii) meet the requirements of federal air pollution laws;
- 96 (iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
97 Act, establish work practice and certification requirements for persons who:
- 98 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work
99 involving friable asbestos-containing materials, or asbestos inspections if:
- 100 (I) the contract work is done on a site other than a residential property with four or
101 fewer units; or
- 102 (II) the contract work is done on a residential property with four or fewer units where a
103 tested sample contained greater than 1% of asbestos;
- 104 (B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general
105 public has unrestrained access or in school buildings that are subject to the federal Asbestos
106 Hazard Emergency Response Act of 1986;
- 107 (C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic
108 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
- 109 (D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq.,
110 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
- 111 (v) establish certification requirements for a person required under 15 U.S.C. 2601 et
112 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
113 be accredited as an inspector, management planner, abatement project designer, asbestos
114 abatement contractor and supervisor, or an asbestos abatement worker;
- 115 (vi) establish certification procedures and [~~requirements for certification of the~~
116 ~~conversion of a motor vehicle to a clean-fuel vehicle, certifying the~~] the form for submitting
117 proof of purchase or lease of a vehicle that is eligible for the tax credit [granted] described in
118 Section 59-7-605 or 59-10-1009;
- 119 (vii) establish certification requirements for a person required under 15 U.S.C. 2601 et
120 seq., Toxic Control Act, Subchapter IV - Lead Exposure Reduction, to be accredited as an
121 inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust
122 sampling technician; and
- 123 (viii) assist the State Board of Education in adopting school bus idling reduction
124 standards and implementing an idling reduction program in accordance with Section
125 41-6a-1308.

126 (4) A rule adopted under this chapter shall be consistent with provisions of federal
127 laws, if any, relating to control of motor vehicles or motor vehicle emissions.

128 (5) Nothing in this chapter authorizes the board to require installation of or payment for
129 any monitoring equipment by the owner or operator of a source if the owner or operator has
130 installed or is operating monitoring equipment that is equivalent to equipment which the board
131 would require under this section.

132 (6) (a) The board may not require testing for asbestos or related materials on a
133 residential property with four or fewer units, unless:

134 (i) the property's construction was completed before January 1, 1981; or

135 (ii) the testing is for:

136 (A) a sprayed-on or painted on ceiling treatment that contained or may contain asbestos
137 fiber;

138 (B) asbestos cement siding or roofing materials;

139 (C) resilient flooring products including vinyl asbestos tile, sheet vinyl products,
140 resilient flooring backing material, whether attached or unattached, and mastic;

141 (D) thermal-system insulation or tape on a duct or furnace; or

142 (E) vermiculite type insulation materials.

143 (b) A residential property with four or fewer units is subject to an abatement rule made
144 under Subsection (1) or (3)(b)(iv) if:

145 (i) a sample from the property is tested for asbestos; and

146 (ii) the sample contains asbestos measuring greater than 1%.

147 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the
148 following that are subject to the authority granted to the director under Section 19-2-107 or
149 19-2-108:

150 (a) a permit;

151 (b) a license;

152 (c) a registration;

153 (d) a certification; or

154 (e) another administrative authorization made by the director.

155 (8) A board member may not speak or act for the board unless the board member is
156 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

157 (9) Notwithstanding Subsection (7), the board may exercise all authority granted to the
158 board by a federally enforceable state implementation plan.

159 Section 2. Section **59-7-605 (Effective 01/01/17)** is amended to read:

160 **59-7-605 (Effective 01/01/17). Definitions -- Tax credits related to energy efficient**
161 **vehicles.**

162 (1) As used in this section:

163 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than
164 the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

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

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

169 (d) "Election statement" means a document that:

170 (i) is executed by:

171 (A) the taxpayer; and

172 (B) the financing entity, the financing entity's agent, or the financing entity's designee;

173 (ii) identifies the vehicle identification number of the vehicle that qualifies for a tax
174 credit under this section; and

175 (iii) affirms that the requirements described in Subsection (3) have been met.

176 (e) "Financing entity" means the entity that finances the purchase or lease of a vehicle
177 that qualifies for a tax credit under this section.

178 [~~(e)~~] (f) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

179 [~~(d)~~] (g) "Original purchase" means the purchase of a vehicle that has never been titled
180 or registered and has been driven less than 7,500 miles.

181 [~~(e)~~] (h) "Qualifying electric motorcycle" means a vehicle that:

182 (i) has a seat or saddle for the use of the rider;

183 (ii) is designed to travel with not more than three wheels in contact with the ground;

184 (iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;

185 [~~(iv)~~] ~~is not fueled by natural gas;~~

186 [~~(v)~~] (iv) is fueled by electricity only; and

187 [~~(vi)~~] (v) is an OEM vehicle except that the vehicle is fueled by a fuel described in

188 Subsection (1)~~(e)(v)~~(h)(iv).

189 ~~(f)~~ (i) "Qualifying long-range electric vehicle" means a vehicle that:

190 (i) meets air quality standards;

191 ~~(ii) is not fueled by natural gas;~~

192 ~~(iii) draws propulsion energy from]~~

193 (ii) has a battery [with] capacity of at least 10 kilowatt hours [of capacity; and];

194 (iii) is fueled by electricity only or a combination of electricity and:

195 (A) diesel fuel;

196 (B) gasoline; or

197 (C) a mixture of gasoline and ethanol; and

198 (iv) is an OEM vehicle except that the vehicle is fueled ~~[by a fuel]~~ as described in

199 Subsection (1)~~(f)~~(i)(iii).

200 ~~(g)~~ (j) "Qualifying ~~[plug-in hybrid]~~ short-range electric vehicle" means a vehicle that:

201 (i) meets air quality standards;

202 ~~(ii) is not fueled by natural gas or propane;]~~

203 ~~(iii)~~ (ii) has a battery capacity that meets or exceeds the battery capacity described in

204 Section 30D(b)(3), Internal Revenue Code, but has less than 10 kilowatt hours of battery

205 capacity; [and]

206 ~~(iv)~~ (iii) is fueled by electricity only or a combination of electricity and:

207 (A) diesel fuel;

208 (B) gasoline; or

209 (C) a mixture of gasoline and ethanol[-]; and

210 (iv) is an OEM vehicle except that the vehicle is fueled as described in Subsection

211 (1)(j)(iii).

212 (2) For a taxable year beginning ~~[on or after January 1, 2015, but beginning]~~ on or

213 before December 31, ~~[2016]~~ 2021, a taxpayer may claim a nonrefundable tax credit against tax

214 otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not

215 Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

216 (a) ~~(f)~~ for the original purchase of a new qualifying long-range electric vehicle that is

217 registered in this state, ~~[the lesser of: (A)]~~ \$1,500; ~~[or]~~

218 ~~[(B) 35% of the purchase price of the vehicle; or]~~

219 ~~[(ii)]~~ (b) for the original purchase of a new qualifying ~~[plug-in hybrid]~~ short-range
220 electric vehicle that is registered in this state, \$1,000;

221 ~~[(b)]~~ (c) for the original purchase of a new vehicle fueled by natural gas or propane that
222 is registered in this state, ~~[the lesser of: (i)]~~ \$1,500; ~~[or]~~
223 ~~[(ii)]~~ ~~35% of the purchase price of the vehicle;~~

224 ~~[(c)]~~ (d) for the original purchase of a new qualifying electric motorcycle that is
225 registered in this state, ~~[the lesser of: (i)]~~ \$750; ~~[or]~~ and
226 ~~[(ii)]~~ ~~35% of the purchase price of the vehicle; and]~~

227 ~~[(d)]~~ (e) for a lease of a vehicle described in Subsection (2)(a), (b), ~~[or]~~ (c), or (d), an
228 amount equal to the product of:

229 (i) the amount of tax credit the taxpayer would otherwise qualify to claim under
230 Subsection (2)(a), (b), ~~[or]~~ (c), or (d) had the taxpayer purchased the vehicle~~[-except that the~~
231 ~~purchase price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or (2)(c)(ii) is considered to be~~
232 ~~the value of the vehicle at the beginning of the lease]; and~~

233 (ii) a percentage calculated by:

234 (A) determining the difference between the value of the vehicle at the beginning of the
235 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as
236 stated in the lease agreement; and

237 (B) dividing the difference determined under Subsection (2)~~[(d)]~~(e)(ii)(A) by the value
238 of the vehicle at the beginning of the lease, as stated in the lease agreement.

239 ~~[(3)(a)]~~ The board shall:

240 ~~[(i)]~~ determine the amount of tax credit a taxpayer is allowed under this section; and]

241 ~~[(ii)]~~ provide the taxpayer with a written certification of the amount of tax credit the
242 taxpayer is allowed under this section.];

243 ~~[(b)]~~ A taxpayer shall provide proof of the purchase or lease of an item for which a tax
244 credit is allowed under this section by:]

245 ~~[(i)]~~ providing proof to the board in the form the board requires by rule;]

246 ~~[(ii)]~~ receiving a written statement from the board acknowledging receipt of the proof;
247 and]

248 ~~[(iii)]~~ retaining the written statement described in Subsection (3)(b)(ii).];

249 ~~[(c)]~~ A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).];

250 ~~[(4) Except as provided by Subsection (5), the tax credit under this section is allowed~~
251 ~~only:]~~

252 ~~[(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain~~
253 ~~Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year~~
254 ~~by the taxpayer;]~~

255 ~~[(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is~~
256 ~~purchased or a vehicle described in Subsection (2)(d) is leased; and]~~

257 ~~[(c) once per vehicle.]~~

258 ~~[(5) A taxpayer may not assign a tax credit under this section to another person.]~~

259 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not assign a tax credit
260 under this section to another person.

261 (b) A taxpayer may assign a tax credit under this section to a financing entity as
262 follows:

263 (i) in exchange for the consideration described in Subsection (3)(b)(iv), the taxpayer
264 shall assign the tax credit to the financing entity and forfeit the right to claim the tax credit on
265 the taxpayer's income tax return;

266 (ii) the taxpayer shall assign the tax credit to the financing entity by executing an
267 election statement described in Subsection (3)(c) at the time of the purchase or lease of a
268 vehicle described in Subsection (2)(a), (b), (c), or (d);

269 (iii) the taxpayer shall title and register the vehicle in the state as required by Title 41,
270 Chapter 1a, Part 5, Titling Requirement, and Title 41, Chapter 1a, Part 2, Registration; and

271 (iv) the financing entity shall compensate the taxpayer the amount of the tax credit
272 described in Subsection (2) for the type of vehicle purchased or leased, except that the
273 financing entity may collect an administrative fee equal to or less than \$150.

274 (c) The board shall develop a model election statement on or before July 1, 2017.

275 (4) (a) A taxpayer may claim the tax credit under this section only:

276 (i) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
277 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year;
278 and

279 (ii) for the taxable year in which a taxpayer purchases or leases a vehicle described in
280 Subsection (2)(a), (b), (c), or (d).

281 (b) A financing entity may claim a tax credit assigned to the financing entity under
282 Subsection (3)(b):

283 (i) against a tax owed under this chapter, Chapter 8, Gross Receipts Tax on Certain
284 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 10,
285 Individual Income Tax Act; and

286 (ii) for the taxable year in which the taxpayer purchases or leases a vehicle described in
287 Subsection (2)(a), (b), (c), or (d).

288 (c) This section only allows one tax credit per vehicle.

289 (5) Before claiming a tax credit under this section, a taxpayer or a financing entity
290 described in Subsection (3)(b) shall obtain the written certification described in Subsection (6).

291 (6) (a) The director shall:

292 (i) verify that only one written certification is issued per vehicle;

293 (ii) determine the amount of tax credit a taxpayer or a financing entity described in
294 Subsection (3)(b) is allowed under this section; and

295 (iii) provide the taxpayer or the financing entity described in Subsection (3)(b) with a
296 written certification of the amount of tax credit allowed under this section.

297 (b) (i) A taxpayer shall provide proof of the purchase or lease of a vehicle that qualifies
298 for a tax credit under this section by:

299 (A) providing proof to the director in the form established by the board;

300 (B) obtaining a written statement from the director acknowledging receipt of the proof;
301 and

302 (C) retaining the written statement described in Subsection (6)(b)(i)(B) for the same
303 time period a person is required to keep books and records under Section 59-1-1406.

304 (ii) A financing entity shall provide proof of assignment of a tax credit for a vehicle
305 that qualifies for a tax credit under this section by:

306 (A) providing a copy of the election statement to the director;

307 (B) providing proof, in the form established by the board, of the taxpayer's purchase or
308 lease of a vehicle that qualifies for a tax credit under this section;

309 (C) obtaining a written statement from the director acknowledging receipt of the
310 election statement; and

311 (D) retaining the written statement described in Subsection (6)(b)(ii)(C) for the same

312 time period a person is required to keep books and records under Section 59-1-1406.

313 (c) A taxpayer or a financing entity described in Subsection (3)(b) shall retain the
314 written certification described in Subsection (6)(a)(iii).

315 ~~[(6)] (7) (a)~~ If the amount of a tax credit claimed by a taxpayer under this section
316 exceeds the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on
317 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a
318 taxable year, a taxpayer may carry forward the amount of the tax credit exceeding the tax
319 liability ~~[may be carried forward]~~ for a period that does not exceed the next five taxable years.

320 (b) If the amount of a tax credit claimed by a financing entity under this section
321 exceeds the financing entity's tax liability under this chapter, Chapter 8, Gross Receipts Tax on
322 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter
323 10, Individual Income Tax Act, for a taxable year, the financing entity may carry forward the
324 amount of the tax credit exceeding the liability for a period that does not exceed the next five
325 taxable years.

326 ~~[(7)] (8)~~ In accordance with any rules prescribed by the commission under Subsection
327 ~~[(8)] (9)~~, the Division of Finance shall transfer at least annually from the General Fund into the
328 Education Fund the amount by which the amount of tax credit claimed under this section for a
329 fiscal year exceeds \$500,000.

330 ~~[(8)] (9)~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
331 Act, the commission may make rules for making a transfer from the General Fund into the
332 Education Fund as required by Subsection ~~[(7)] (8)~~.

333 Section 3. Section **59-10-1009 (Effective 01/01/17)** is amended to read:

334 **59-10-1009 (Effective 01/01/17). Definitions -- Tax credits related to energy**
335 **efficient vehicles.**

336 (1) As used in this section:

337 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than
338 the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

339 (b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air
340 Conservation Act.

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

343 (d) "Election statement" means a document that:
 344 (i) is executed by:
 345 (A) the claimant, estate, or trust; and
 346 (B) the financing entity, the financing entity's agent, or the financing entity's designee;
 347 (ii) identifies the vehicle identification number of the vehicle that qualifies for a tax
 348 credit under this section; and
 349 (iii) affirms that the requirements described in Subsection (3) have been met.
 350 (e) "Financing entity" means the entity that finances the purchase or lease of a vehicle
 351 that qualifies for a tax credit under this section.
 352 ~~[(c)]~~ (f) "OEM vehicle" means the same as that term is defined in Section 19-1-402.
 353 ~~[(d)]~~ (g) "Original purchase" means the purchase of a vehicle that has never been titled
 354 or registered and has been driven less than 7,500 miles.
 355 ~~[(e)]~~ (h) "Qualifying electric motorcycle" means a vehicle that:
 356 (i) has a seat or saddle for the use of the rider;
 357 (ii) is designed to travel with not more than three wheels in contact with the ground;
 358 (iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;
 359 ~~[(iv) is not fueled by natural gas;]~~
 360 ~~[(v)]~~ (iv) is fueled by electricity only; and
 361 ~~[(vi)]~~ (v) is an OEM vehicle except that the vehicle is fueled by a fuel described in
 362 Subsection (1)~~[(e)(v)](h)(iv).~~
 363 ~~[(f)]~~ (i) "Qualifying long-range electric vehicle" means a vehicle that:
 364 (i) meets air quality standards;
 365 ~~[(ii) is not fueled by natural gas;]~~
 366 ~~[(iii) draws propulsion energy from]~~
 367 (ii) has a battery [with] capacity of at least 10 kilowatt hours [of capacity; and];
 368 (iii) is fueled by electricity only or a combination of electricity and:
 369 (A) diesel fuel;
 370 (B) gasoline; or
 371 (C) a mixture of gasoline and ethanol; and
 372 (iv) is an OEM vehicle except that the vehicle is fueled [by a fuel] as described in
 373 Subsection (1)~~[(f)](i)(iii).~~

374 ~~[(g)]~~ (j) "Qualifying ~~[plug-in hybrid]~~ short-range electric vehicle" means a vehicle that:

375 (i) meets air quality standards;

376 ~~[(ii) is not fueled by natural gas or propane;]~~

377 ~~[(iii)]~~ (ii) has a battery capacity that meets or exceeds the battery capacity described in

378 Section 30D(b)(3), Internal Revenue Code, but has less than 10 kilowatt hours of battery

379 capacity; [and]

380 ~~[(iv)]~~ (iii) is fueled by electricity only or a combination of electricity and:

381 (A) diesel fuel;

382 (B) gasoline; or

383 (C) a mixture of gasoline and ethanol[-]; and

384 (iv) is an OEM vehicle except that the vehicle is fueled as described in Subsection

385 (1)(j)(iii).

386 (2) For a taxable year beginning ~~[on or after January 1, 2015, but beginning]~~ on or

387 before December 31, ~~[2016]~~ 2021, a claimant, estate, or trust may claim a nonrefundable tax

388 credit against tax otherwise due under this chapter in an amount equal to:

389 (a) ~~[(i)]~~ for the original purchase of a new qualifying long-range electric vehicle that is

390 registered in this state, ~~[the lesser of: (A)]~~ \$1,500; ~~[or]~~

391 ~~[(B) 35% of the purchase price of the vehicle; or]~~

392 ~~[(ii)]~~ (b) for the original purchase of a new qualifying ~~[plug-in hybrid]~~ short-range

393 electric vehicle that is registered in this state, \$1,000;

394 ~~[(b)]~~ (c) for the original purchase of a new vehicle fueled by natural gas or propane that

395 is registered in this state, ~~[the lesser of: (i)]~~ \$1,500; ~~[or]~~

396 ~~[(ii) 35% of the purchase price of the vehicle;]~~

397 ~~[(c)]~~ (d) for the original purchase of a new qualifying electric motorcycle that is

398 registered in this state, ~~[the lesser of: (i)]~~ \$750; ~~[or]~~ and

399 ~~[(ii) 35% of the purchase price of the vehicle; and]~~

400 ~~[(d)]~~ (e) for a lease of a vehicle described in Subsection (2)(a), (b), ~~[or]~~ (c), or (d), an

401 amount equal to the product of:

402 (i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to

403 claim under Subsection (2)(a), (b), ~~[or]~~ (c), or (d) had the claimant, estate, or trust purchased

404 the vehicle~~[-, except that the purchase price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or~~

405 ~~(2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease]; and~~
406 ~~(ii) a percentage calculated by:~~
407 ~~(A) determining the difference between the value of the vehicle at the beginning of the~~
408 ~~lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as~~
409 ~~stated in the lease agreement; and~~
410 ~~(B) dividing the difference determined under Subsection (2)(~~(d)~~)(e)(ii)(A) by the value~~
411 ~~of the vehicle at the beginning of the lease, as stated in the lease agreement.~~
412 ~~[(3)(a) The board shall:]~~
413 ~~[(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this~~
414 ~~section; and]~~
415 ~~[(ii) provide the claimant, estate, or trust with a written certification of the amount of~~
416 ~~tax credit the claimant, estate, or trust is allowed under this section.]~~
417 ~~[(b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item~~
418 ~~for which a tax credit is allowed under this section by:]~~
419 ~~[(i) providing proof to the board in the form the board requires by rule;]~~
420 ~~[(ii) receiving a written statement from the board acknowledging receipt of the proof;~~
421 ~~and]~~
422 ~~[(iii) retaining the written statement described in Subsection (3)(b)(ii).]~~
423 ~~[(c) A claimant, estate, or trust shall retain the written certification described in~~
424 ~~Subsection (3)(a)(ii).]~~
425 ~~[(4) Except as provided by Subsection (5), the tax credit under this section is allowed~~
426 ~~only:]~~
427 ~~[(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or~~
428 ~~trust;]~~
429 ~~[(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is~~
430 ~~purchased or a vehicle described in Subsection (2)(d) is leased; and]~~
431 ~~[(c) once per vehicle.]~~
432 ~~[(5) A claimant, estate, or trust may not assign a tax credit under this section to another~~
433 ~~person.]~~
434 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not
435 assign a tax credit under this section to another person.

436 (b) A claimant, estate, or trust may assign a tax credit under this section to a financing
437 entity as follows:

438 (i) in exchange for the consideration described in Subsection (3)(b)(iv), the taxpayer
439 shall assign the tax credit to the financing entity and forfeit the right to claim the tax credit on
440 the claimant's, estate's, or trust's income tax return;

441 (ii) the claimant, estate, or trust shall assign the tax credit to the financing entity by
442 executing an election statement described in Subsection (3)(c) at the time of the purchase or
443 lease of a vehicle described in Subsection (2)(a), (b), (c), or (d);

444 (iii) the claimant, estate, or trust shall title and register the vehicle in the state as
445 required by Title 41, Chapter 1a, Part 5, Titling Requirement, and Title 41, Chapter 1a, Part 2,
446 Registration; and

447 (iv) the financing entity shall compensate the claimant, estate, or trust the amount of
448 the tax credit described in Subsection (2) for the type of vehicle purchased or leased, except
449 that the financing entity may collect an administrative fee equal to or less than \$150.

450 (c) The board shall develop a model election statement on or before July 1, 2017.

451 (4) (a) A claimant, estate, or trust may claim the tax credit under this section only:

452 (i) against a tax owed under this chapter; and

453 (ii) for the taxable year in which a claimant, estate, or trust purchases or leases a
454 vehicle described in Subsection (2)(a), (b), (c), or (d).

455 (b) A financing entity may claim a tax credit assigned to the financing entity under
456 Subsection (3)(b):

457 (i) against a tax owed under this chapter, Chapter 7, Corporate Franchise and Income
458 Taxes, or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
459 Corporate Franchise or Income Tax Act; and

460 (ii) for the taxable year in which the claimant, estate, or trust purchases or leases a
461 vehicle described in Subsection (2)(a), (b), (c), or (d).

462 (c) This section only allows one tax credit per vehicle.

463 (5) Before claiming a tax credit under this section, a claimant, estate, or trust or the
464 financing entity described in Subsection (3)(b) shall obtain the written certification described in
465 Subsection (6).

466 (6) (a) The director shall:

467 (i) verify that only one written certification is issued per vehicle;
468 (ii) determine the amount of tax credit a taxpayer or a financing entity described in
469 Subsection (3)(b) is allowed under this section; and
470 (iii) provide the taxpayer or financing entity described in Subsection (3)(b) with a
471 written certification of the amount of tax credit allowed under this section.
472 (b) (i) A taxpayer shall provide proof of the purchase or lease of a vehicle that qualifies
473 for a tax credit under this section by:
474 (A) providing proof to the director in the form established by the board;
475 (B) obtaining a written statement from the director acknowledging receipt of the proof;
476 and
477 (C) retaining the written statement described in Subsection (6)(b)(i)(B) for the same
478 time period a person is required to keep books and records under Section 59-1-1406.
479 (ii) A financing entity shall provide proof of assignment of a tax credit for a vehicle
480 that qualifies for a tax credit under this section by:
481 (A) providing a copy of the election statement to the director;
482 (B) providing proof, in the form established by the board, of the claimant's, estate's, or
483 trust's purchase or lease of a vehicle that qualifies for a tax credit under this section;
484 (C) obtaining a written statement from the director acknowledging receipt of the
485 election statement; and
486 (D) retaining the written statement described in Subsection (6)(b)(ii)(C) for the same
487 time period a person is required to keep books and records under Section 59-1-1406.
488 (c) A taxpayer or a financing entity described in Subsection (3)(b) shall retain the
489 written certification described in Subsection (6)(a)(iii).
490 [(6)] (7) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under
491 this section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a
492 taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit
493 exceeding the tax liability [may be carried forward] for a period that does not exceed the next
494 five taxable years.
495 (b) If the amount of a tax credit claimed by a financing entity under this section
496 exceeds the financing entity's tax liability under this chapter, Chapter 7, Corporate Franchise
497 and Income Taxes, or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to

498 Pay Corporate Franchise or Income Tax Act, for a taxable year, the financing entity may carry
499 forward the amount of the tax credit exceeding the tax liability for a period that does not
500 exceed the next five taxable years.

501 [~~(7)~~] (8) In accordance with any rules prescribed by the commission under Subsection
502 [~~(8)~~] (9), the Division of Finance shall transfer at least annually from the General Fund into the
503 Education Fund the amount by which the amount of tax credit claimed under this section for a
504 fiscal year exceeds \$500,000.

505 [~~(8)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
506 Act, the commission may make rules for making a transfer from the General Fund into the
507 Education Fund as required by Subsection [~~(7)~~] (8).

508 Section 4. **Retrospective operation.**

509 This bill has retrospective operation for a taxable year beginning on or after January 1,
510 2017.

Legislative Review Note
Office of Legislative Research and General Counsel