

**Representative Steve Eliason** proposes the following substitute bill:

**ENERGY EFFICIENT VEHICLE TAX CREDIT**

**AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen G. Handy**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:



26 **19-2-104**, as last amended by Laws of Utah 2015, Chapter 154  
27 **59-7-605**, as last amended by Laws of Utah 2016, Chapters 369 and 375  
28 **59-10-1009**, as last amended by Laws of Utah 2016, Chapters 369 and 375

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

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

32 **19-2-104. Powers of board.**

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

34 Administrative Rulemaking Act:

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

38 (b) establishing air quality standards;

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

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

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

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

45 (d) (i) implementing:

46 (A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency

47 Response, 15 U.S.C. 2601 et seq.;

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

49 (C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants,

50 Subpart M, National Emission Standard for Asbestos; and

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

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

56 (f) implementing an operating permit program as required by and in conformity with

57 Titles IV and V of the federal Clean Air Act Amendments of 1990;

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

61 (h) with the approval of the governor, implementing in air quality nonattainment areas  
62 employer-based trip reduction programs applicable to businesses having more than 100  
63 employees at a single location and applicable to federal, state, and local governments to the  
64 extent necessary to attain and maintain ambient air quality standards consistent with the state  
65 implementation plan and federal requirements under the standards set forth in Subsection (2);

66 (i) implementing lead-based paint training, certification, and performance requirements  
67 in accordance with 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV --  
68 Lead Exposure Reduction, Sections 402 and 406; and

69 (j) to implement the requirements of Section [19-2-107.5](#).

70 (2) When implementing Subsection (1)(h) the board shall take into consideration:

71 (a) the impact of the business on overall air quality; and

72 (b) the need of the business to use automobiles in order to carry out its business  
73 purposes.

74 (3) (a) The board may:

75 (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or  
76 matter in, the administration of this chapter;

77 (ii) recommend that the director:

78 (A) issue orders necessary to enforce the provisions of this chapter;

79 (B) enforce the orders by appropriate administrative and judicial proceedings;

80 (C) institute judicial proceedings to secure compliance with this chapter; or

81 (D) advise, consult, contract, and cooperate with other agencies of the state, local  
82 governments, industries, other states, interstate or interlocal agencies, the federal government,  
83 or interested persons or groups; and

84 (iii) establish certification requirements for asbestos project monitors, which shall  
85 provide for experience-based certification of a person who:

86 (A) receives relevant asbestos training, as defined by rule; and

87 (B) has acquired a minimum of 1,000 hours of asbestos project monitoring related

88 work experience.

89 (b) The board shall:

90 (i) to ensure compliance with applicable statutes and regulations:

91 (A) review a settlement negotiated by the director in accordance with Subsection

92 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and

93 (B) approve or disapprove the settlement;

94 (ii) encourage voluntary cooperation by persons and affected groups to achieve the  
95 purposes of this chapter;

96 (iii) meet the requirements of federal air pollution laws;

97 (iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

98 Act, establish work practice and certification requirements for persons who:

99 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work  
100 involving friable asbestos-containing materials, or asbestos inspections if:

101 (I) the contract work is done on a site other than a residential property with four or  
102 fewer units; or

103 (II) the contract work is done on a residential property with four or fewer units where a  
104 tested sample contained greater than 1% of asbestos;

105 (B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general  
106 public has unrestrained access or in school buildings that are subject to the federal Asbestos  
107 Hazard Emergency Response Act of 1986;

108 (C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic  
109 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

110 (D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq.,  
111 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

112 (v) establish certification requirements for a person required under 15 U.S.C. 2601 et  
113 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to  
114 be accredited as an inspector, management planner, abatement project designer, asbestos  
115 abatement contractor and supervisor, or an asbestos abatement worker;

116 (vi) establish certification procedures and ~~[requirements for certification of the~~  
117 ~~conversion of a motor vehicle to a clean-fuel vehicle, certifying the]~~ the form for submitting  
118 proof of purchase or lease of a vehicle that is eligible for the tax credit [granted] described in

119 Section [59-7-605](#) or [59-10-1009](#);

120 (vii) establish certification requirements for a person required under 15 U.S.C. 2601 et  
121 seq., Toxic Control Act, Subchapter IV - Lead Exposure Reduction, to be accredited as an  
122 inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust  
123 sampling technician; and

124 (viii) assist the State Board of Education in adopting school bus idling reduction  
125 standards and implementing an idling reduction program in accordance with Section  
126 [41-6a-1308](#).

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

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

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

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

136 (ii) the testing is for:

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

139 (B) asbestos cement siding or roofing materials;

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

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

143 (E) vermiculite type insulation materials.

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

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

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

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

150 19-2-108:

- 151 (a) a permit;
- 152 (b) a license;
- 153 (c) a registration;
- 154 (d) a certification; or
- 155 (e) another administrative authorization made by the director.

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

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

160 Section 2. Section 59-7-605 is amended to read:

161 **59-7-605. Definitions -- Tax credits related to energy efficient 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) a qualifying 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 (k) "Qualifying taxpayer" means a taxpayer that operates in a part of the state where air  
213 quality is determined to exceed the National Ambient Air Quality Standards, as defined in the  
214 Clean Air Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM  
215 2.5).

216 (2) For a taxable year beginning [~~on or after January 1, 2015, but beginning~~] on or  
217 before December 31, [~~2016~~] 2021, a qualifying taxpayer may claim a nonrefundable tax credit  
218 against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain  
219 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal  
220 to:

221 (a) [~~(i)~~] for the original purchase of a new qualifying long-range electric vehicle that is  
222 registered in this state, [~~the lesser of: (A)~~] \$1,500; [~~or~~]

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

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

226 [~~(b) for the original purchase of a new vehicle fueled by natural gas or propane that is~~  
227 ~~registered in this state, the lesser of: (i) \$1,500; or~~

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

229 (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
230 this state, [~~the lesser of: (i)~~] \$750; [~~or~~] and

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

232 (d) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal  
233 to the product of:

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

238 (ii) a percentage calculated by:

239 (A) determining the difference between the value of the vehicle at the beginning of the  
240 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
241 stated in the lease agreement; and

242 (B) dividing the difference determined under Subsection (2)(d)(ii)(A) by the value of



243 the vehicle at the beginning of the lease, as stated in the lease agreement.

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

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

246 ~~[(ii) provide the taxpayer with a written certification of the amount of tax credit the~~

247 ~~taxpayer is allowed under this section.]~~

248 ~~[(b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax~~

249 ~~credit is allowed under this section by:]~~

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

251 ~~[(ii) receiving a written statement from the board acknowledging receipt of the proof;~~

252 ~~and]~~

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

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

255 ~~[(4) Except as provided by Subsection (5), the tax credit under this section is allowed~~

256 ~~only:]~~

257 ~~[(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain~~

258 ~~Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year~~

259 ~~by the taxpayer;]~~

260 ~~[(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is~~

261 ~~purchased or a vehicle described in Subsection (2)(d) is leased; and]~~

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

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

264 (3) (a) Except as provided in Subsection (3)(b), a qualifying taxpayer may not assign a

265 tax credit under this section to another person.

266 (b) A qualifying taxpayer may assign a tax credit under this section to a financing

267 entity as follows:

268 (i) in exchange for the consideration described in Subsection (3)(b)(iv), the qualifying

269 taxpayer shall assign the tax credit to the financing entity and forfeit the right to claim the tax

270 credit on the qualifying taxpayer's income tax return;

271 (ii) the qualifying taxpayer shall assign the tax credit to the financing entity by

272 executing an election statement described in Subsection (3)(c) at the time of the purchase or

273 lease of a vehicle described in Subsection (2)(a), (b), or (c);

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

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

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

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

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

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

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

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

292 (ii) for the taxable year in which the qualifying taxpayer purchases or leases a vehicle  
293 described in Subsection (2)(a), (b), or (c).

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

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

298 (6) (a) The director shall:

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

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

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

304 (b) (i) A qualifying taxpayer shall provide proof of the purchase or lease of a vehicle

305 that qualifies for a tax credit under this section by:

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

307 (B) obtaining a written statement from the director acknowledging receipt of the proof;

308 and

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

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

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

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

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

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

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

322 ~~[(6)]~~ (7) (a) If the amount of a tax credit claimed by a taxpayer under this section  
323 exceeds the qualifying taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts  
324 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a  
325 taxable year, a qualifying taxpayer may carry forward the amount of the tax credit exceeding  
326 the tax liability [~~may be carried forward~~] for a period that does not exceed the next five taxable  
327 years.

328 (b) If the amount of a tax credit claimed by a financing entity under this section  
329 exceeds the financing entity's tax liability under this chapter, Chapter 8, Gross Receipts Tax on  
330 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter  
331 10, Individual Income Tax Act, for a taxable year, the financing entity may carry forward the  
332 amount of the tax credit exceeding the liability for a period that does not exceed the next five  
333 taxable years.

334 ~~[(7)]~~ (8) In accordance with any rules prescribed by the commission under Subsection  
335 ~~[(8)]~~ (9), the Division of Finance shall transfer at least annually from the General Fund into the

336 Education Fund the amount by which the amount of tax credit claimed under this section for a  
337 fiscal year exceeds \$500,000.

338 ~~[(8)]~~ (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
339 Act, the commission may make rules for making a transfer from the General Fund into the  
340 Education Fund as required by Subsection ~~[(7)]~~ (8).

341 Section 3. Section **59-10-1009** is amended to read:

342 **59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.**

343 (1) As used in this section:

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

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

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

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

351 (i) is executed by:

352 (A) a qualifying claimant, estate, or trust; and

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

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

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

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

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

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

362 (h) "Qualifying claimant, estate, or trust" means a claimant, estate, or trust that:

363 (i) for a claimant, lives or lived, at the time of the purchase or lease of a vehicle  
364 described in Subsection (2), in a part of the state where air quality is determined to exceed the  
365 National Ambient Air Quality Standards, as defined in the Clean Air Amendments of 1970,  
366 Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5);

367 (ii) for an estate, had a decedent that lived, at the time of the purchase or lease of a  
 368 vehicle described in Subsection (2), in a part of the state where air quality is determined to  
 369 exceed the National Ambient Air Quality Standards, as defined in the Clean Air Amendments  
 370 of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5); or

371 (iii) for a trust, had a trustee that lives or lived, at the time of the purchase or lease of a  
 372 vehicle described in Subsection (2), in a part of the state where air quality is determined to  
 373 exceed the National Ambient Air Quality Standards, as defined in the Clean Air Amendments  
 374 of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

375 [~~(e)~~] (i) "Qualifying electric motorcycle" means a vehicle that:

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

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

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

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

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

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

382 Subsection (1)[~~(e)~~](~~(v)~~)(i)(iv).

383 [~~(f)~~] (j) "Qualifying long-range electric vehicle" means a vehicle that:

384 (i) meets air quality standards;

385 [~~(ii) is not fueled by natural gas;~~]

386 [~~(iii) draws propulsion energy from]~~

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

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

389 (A) diesel fuel;

390 (B) gasoline; or

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

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

393 Subsection (1)[~~(f)~~](j)(iii).

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

395 (i) meets air quality standards;

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

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

398 Section 30D(b)(3), Internal Revenue Code, but has less than 10 kilowatt hours of battery  
399 capacity; [and]

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

401 (A) diesel fuel;

402 (B) gasoline; or

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

404 (iv) is an OEM vehicle except that the vehicle is fueled as described in Subsection  
405 (1)(k)(iii).

406 (2) For a taxable year beginning ~~[on or after January 1, 2015, but beginning]~~ on or  
407 before December 31, ~~[2016]~~ 2021, a qualifying claimant, estate, or trust may claim a  
408 nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

409 (a) ~~[(i)]~~ for the original purchase of a new qualifying long-range electric vehicle that is  
410 registered in this state, ~~[the lesser of: (A)]~~ \$1,500; ~~[or]~~

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

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

414 ~~[(b) for the original purchase of a new vehicle fueled by natural gas or propane that is~~  
415 ~~registered in this state, the lesser of: (i) \$1,500; or]~~

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

417 (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
418 this state, ~~[the lesser of: (i)]~~ \$750; ~~[or]~~ and

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

420 (d) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal  
421 to the product of:

422 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise  
423 qualify to claim under Subsection (2)(a), (b), or (c) had the qualifying claimant, estate, or trust  
424 purchased the vehicle~~[-, except that the purchase price described in Subsection (2)(a)(i)(B);~~  
425 ~~(2)(b)(ii), or (2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease];~~  
426 and

427 (ii) a percentage calculated by:

428 (A) determining the difference between the value of the vehicle at the beginning of the

429 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
430 stated in the lease agreement; and

431 (B) dividing the difference determined under Subsection (2)(d)(ii)(A) by the value of  
432 the vehicle at the beginning of the lease, as stated in the lease agreement.

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

434 [~~(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this  
435 section; and]~~

436 [~~(ii) provide the claimant, estate, or trust with a written certification of the amount of  
437 tax credit the claimant, estate, or trust is allowed under this section.]~~

438 [~~(b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item  
439 for which a tax credit is allowed under this section by:]~~

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

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

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

444 [~~(c) A claimant, estate, or trust shall retain the written certification described in  
445 Subsection (3)(a)(ii).]~~

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

448 [~~(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or  
449 trust;]~~

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

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

453 [~~(5) A claimant, estate, or trust may not assign a tax credit under this section to another  
454 person.]~~

455 (3) (a) Except as provided in Subsection (3)(b), a qualifying claimant, estate, or trust  
456 may not assign a tax credit under this section to another person.

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

459 (i) in exchange for the consideration described in Subsection (3)(b)(iv), the qualifying

460 claimant, estate, or trust shall assign the tax credit to the financing entity and forfeit the right to  
461 claim the tax credit on the qualifying claimant's, estate's, or trust's income tax return;

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

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

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

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

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

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

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

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

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

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

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

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

488 (6) (a) The director shall:

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

490 (ii) determine the amount of tax credit a qualifying claimant, estate, or trust or a



491 financing entity described in Subsection (3)(b) is allowed under this section; and

492 (iii) provide the qualifying claimant, estate, or trust or financing entity described in  
493 Subsection (3)(b) with a written certification of the amount of tax credit allowed under this  
494 section.

495 (b) (i) A qualifying claimant, estate, or trust shall provide proof of the purchase or lease  
496 of a vehicle that qualifies for a tax credit under this section by:

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

498 (B) obtaining a written statement from the director acknowledging receipt of the proof;

499 and

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

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

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

505 (B) providing proof, in the form established by the board, of the qualifying claimant's,  
506 estate's, or trust's purchase or lease of a vehicle that qualifies for a tax credit under this section;

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

509 (D) retaining the written statement described in Subsection (6)(b)(ii)(C) for the same  
510 time period a person is required to keep books and records under Section [59-1-1406](#).

511 (c) A qualifying claimant, estate, or trust or a financing entity described in Subsection  
512 (3)(b) shall retain the written certification described in Subsection (6)(a)(iii).

513 [~~(6)~~] (7) (a) If the amount of a tax credit claimed by a qualifying claimant, estate, or  
514 trust under this section exceeds the qualifying claimant's, estate's, or trust's tax liability under  
515 this chapter for a taxable year, the qualifying claimant, estate, or trust may carry forward the  
516 amount of the tax credit exceeding the tax liability [~~may be carried forward~~] for a period that  
517 does not exceed the next five taxable years.

518 (b) If the amount of a tax credit claimed by a financing entity under this section  
519 exceeds the financing entity's tax liability under this chapter, Chapter 7, Corporate Franchise  
520 and Income Taxes, or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to  
521 Pay Corporate Franchise or Income Tax Act, for a taxable year, the financing entity may carry

522 forward the amount of the tax credit exceeding the tax liability for a period that does not  
523 exceed the next five taxable years.

524 [~~(7)~~] (8) In accordance with any rules prescribed by the commission under Subsection  
525 [~~(8)~~] (9), the Division of Finance shall transfer at least annually from the General Fund into the  
526 Education Fund the amount by which the amount of tax credit claimed under this section for a  
527 fiscal year exceeds \$500,000.

528 [~~(8)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
529 Act, the commission may make rules for making a transfer from the General Fund into the  
530 Education Fund as required by Subsection [~~(7)~~] (8).

531 Section 4. **Retrospective operation.**

532 This bill has retrospective operation for a taxable year beginning on or after January 1,  
533 2017.