

HB0029S04 compared with HB0029S03

~~{deleted text}~~ shows text that was in HB0029S03 but was deleted in HB0029S04.

Inserted text shows text that was not in HB0029S03 but was inserted into HB0029S04.

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Representative ~~{Steve Eliason}~~Stephen G. Handy proposes the following substitute bill:

ENERGY EFFICIENT VEHICLE TAX CREDIT

AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

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;
- ▶ amends the maximum amount of tax credit for energy efficient vehicles;

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- ▶ authorizes assignment of the corporate and individual income tax credits;
- ▶ requires the Revenue and Taxation Interim Committee to annually review the corporate and individual income tax credits related to energy efficient vehicles; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

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

59-7-605, as last amended by Laws of Utah 2016, Chapters 369 and 375

59-10-1009, as last amended by Laws of Utah 2016, Chapters 369 and 375

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

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

19-2-104. Powers of board.

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

Administrative Rulemaking Act:

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

(b) establishing air quality standards;

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

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

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

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

(d) (i) implementing:

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

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

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

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

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

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

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

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

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

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

(j) to implement the requirements of Section 19-2-107.5.

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

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

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

(3) (a) The board may:

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

(ii) recommend that the director:

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(A) issue orders necessary to enforce the provisions of this chapter;
(B) enforce the orders by appropriate administrative and judicial proceedings;
(C) institute judicial proceedings to secure compliance with this chapter; or
(D) advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, the federal government, or interested persons or groups; and

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

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

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

(b) The board shall:

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

(A) review a settlement negotiated by the director in accordance with Subsection 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and

(B) approve or disapprove the settlement;

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

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

(iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish work practice and certification requirements for persons who:

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

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

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

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

(C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic

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Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

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

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

(vi) establish certification procedures and [~~requirements for certification of the conversion of a motor vehicle to a clean-fuel vehicle, certifying the~~] the form for submitting proof of purchase or lease of a vehicle that is eligible for the tax credit [granted] described in Section 59-7-605 or 59-10-1009;

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

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

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

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

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

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

(ii) the testing is for:

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

(B) asbestos cement siding or roofing materials;

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

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

(E) vermiculite type insulation materials.

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

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

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

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

(a) a permit;

(b) a license;

(c) a registration;

(d) a certification; or

(e) another administrative authorization made by the director.

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

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

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

59-7-605. Definitions -- Tax credits related to energy efficient vehicles.

(1) As used in this section:

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

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

(c) "Committee" means the Revenue and Taxation Interim Committee.

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

(~~f~~~~d~~~~e~~) "Election statement" means a document that:

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(i) is executed by:

(A) a qualifying taxpayer; and

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

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

(iii) affirms that the requirements described in Subsection ~~(f)(7)~~ have been met.

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

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

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

~~(e)~~ ~~(f)~~h*i* "Qualifying electric motorcycle" means a vehicle that:

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

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

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

~~(iv) is not fueled by natural gas;~~

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

~~(vi)~~ (v) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)~~(e)(v)~~~~(f)~~h*i*(iv).

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

(i) meets air quality standards;

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

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

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

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

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol; and

(iv) is an OEM vehicle except that the vehicle is fueled [by a fuel] as described in Subsection (1)~~(f)~~~~(f)~~i(iii).

~~(g)~~ ~~(f)~~j*k* "Qualifying [~~plug-in hybrid~~] short-range electric vehicle" means a vehicle

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that:

(i) meets air quality standards;

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

~~[(iii)]~~ (ii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code, but has less than 10 kilowatt hours of battery capacity; ~~[and]~~

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

(A) diesel fuel;

(B) gasoline; or

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

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

~~(f)(k)~~ "Qualifying taxpayer" means a taxpayer that operates in a part of the state where air quality is determined to exceed the National Ambient Air Quality Standards, as defined in the Clean Air Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

(2) For a taxable year beginning ~~(f)~~ on or after January 1, ~~[2015, but beginning]~~ 2017, and ending on or before December 31, ~~[2016]~~ ~~(2021)~~ 2017, a qualifying 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, in an amount equal to:

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

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

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

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

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

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

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

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

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

(ii) a percentage calculated by:

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

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

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

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

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

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

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

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

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

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

~~[(4) Except as provided by Subsection (5), 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 taxpayer;]~~

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

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

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

~~(3) For a taxable year beginning on or after January 1, 2018, and ending on or before December 31, 2018, a qualifying 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, in an amount equal to:~~

~~(a) for the original purchase of a new qualifying long-range electric vehicle that is registered in this state, \$1,500;~~

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

~~(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, \$750; and~~

~~(d) for a lease of a vehicle described in Subsection (3)(a), (b), or (c), an amount equal to the product of:~~

~~(i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim under Subsection (3)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and~~

~~(ii) a percentage calculated by:~~

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

~~(B) dividing the difference determined under Subsection (3)(d)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.~~

~~(4) For a taxable year beginning on or after January 1, 2019, and ending on or before December 31, 2019, a qualifying 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, in an amount equal to:~~

~~(a) for the original purchase of a new qualifying long-range electric vehicle that is registered in this state, \$1,000;~~

~~(b) for the original purchase of a new qualifying short-range electric vehicle that is registered in this state, \$750;~~

~~(c) for the original purchase of a new qualifying electric motorcycle that is registered in~~

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this state, \$550; and

(d) for a lease of a vehicle described in Subsection (4)(a), (b), or (c), an amount equal to the product of:

(i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim under Subsection (4)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and

(ii) a percentage calculated by:

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

(B) dividing the difference determined under Subsection (4)(d)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(5) For a taxable year beginning on or after January 1, 2020, and ending on or before December 31, 2020, a qualifying 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, in an amount equal to:

(a) for the original purchase of a new qualifying long-range electric vehicle that is registered in this state, \$750;

(b) for the original purchase of a new qualifying short-range electric vehicle that is registered in this state, \$500;

(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, \$375; and

(d) for a lease of a vehicle described in Subsection (5)(a), (b), or (c), an amount equal to the product of:

(i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim under Subsection (5)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and

(ii) a percentage calculated by:

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

(B) dividing the difference determined under Subsection (5)(d)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

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(6) For a taxable year beginning on or after January 1, 2021, and ending on or before December 31, 2021, a qualifying 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, in an amount equal to:

(a) for the original purchase of a new qualifying long-range electric vehicle that is registered in this state, \$350;

(b) for the original purchase of a new qualifying short-range electric vehicle that is registered in this state, \$150;

(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, \$100; and

(d) for a lease of a vehicle described in Subsection (6)(a), (b), or (c), an amount equal to the product of:

(i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim under Subsection (6)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and

(ii) a percentage calculated by:

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

(B) dividing the difference determined under Subsection (6)(d)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(7) (a) Except as provided in Subsection (~~f37~~)(b), a qualifying taxpayer may not assign a tax credit under this section to another person.

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

(i) in exchange for the consideration described in Subsection (~~f37~~)(b)(iv), the qualifying taxpayer shall assign the tax credit to the financing entity and forfeit the right to claim the tax credit on the qualifying taxpayer's income tax return;

(ii) the qualifying taxpayer shall assign the tax credit to the financing entity by executing an election statement described in Subsection (~~f37~~)(c) at the time of the purchase or lease of a new qualifying long-range electric vehicle; ~~described in Subsection (2)(a), (b), or (c)~~; a new qualifying short-range electric vehicle, or a new qualifying electric motorcycle;

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

(iv) the financing entity shall compensate the qualifying taxpayer the applicable amount of the tax credit described in Subsection (2), (3), (4), (5), or (6) for the type of vehicle purchased or leased, except that the financing entity may collect an administrative fee equal to or less than \$150.

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

~~(4)8~~ (a) A qualifying taxpayer may claim the tax credit under this section only:

(i) 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; and

(ii) for the taxable year in which a qualifying taxpayer purchases or leases a new qualifying long-range electric vehicle ~~described in Subsection (2)(a), (b), or (c)~~, a new qualifying short-range electric vehicle, or a new qualifying electric motorcycle.

(b) A financing entity may claim a tax credit assigned to the financing entity under Subsection ~~(3)7~~(b):

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

(ii) for the taxable year in which the qualifying taxpayer purchases or leases a new qualifying long-range electric vehicle ~~described in Subsection (2)(a), (b), or (c)~~, a new qualifying short-range electric vehicle, or a new qualifying electric motorcycle.

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

~~(5)9~~ Before claiming a tax credit under this section, a qualifying taxpayer or a financing entity described in Subsection ~~(3)7~~(b) shall obtain the written certification described in Subsection ~~(6)10~~.

~~(6)10~~ (a) The director shall:

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

(ii) determine the amount of tax credit a qualifying taxpayer or a financing entity described in Subsection ~~(3)7~~(b) is allowed under this section; and

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(iii) provide the qualifying taxpayer or the financing entity described in Subsection ~~(37)~~(b) with a written certification of the amount of tax credit allowed under this section.

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

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

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

and

(C) retaining the written statement described in Subsection ~~(610)~~(b)(i)(B) for the same time period a person is required to keep books and records under Section 59-1-1406.

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

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

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

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

(D) retaining the written statement described in Subsection ~~(610)~~(b)(ii)(C) for the same time period a person is required to keep books and records under Section 59-1-1406.

(c) A qualifying taxpayer or a financing entity described in Subsection ~~(37)~~(b) shall retain the written certification described in Subsection ~~(610)~~(a)(iii).

~~[(6)]~~ ~~(711)~~ (a) If the amount of a tax credit claimed by a taxpayer under this section exceeds the qualifying 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, a qualifying taxpayer may carry forward the amount of the tax credit exceeding the tax liability [~~may be carried forward~~] for a period that does not exceed the next five taxable years.

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

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taxable years.

~~[(7)]~~ ~~(~~12~~)~~ In accordance with any rules prescribed by the commission under Subsection ~~[(8)]~~ ~~(~~13~~)~~, the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a fiscal year exceeds ~~[\$500,000]~~ \$125,000.

~~[(8)]~~ ~~(~~13~~)~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection ~~[(7)]~~ ~~(~~12~~)~~.

(14) (a) On or before November 30, the committee shall study the tax credit described in this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (14)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(iv) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(c) If the committee conducts a review in accordance with Section 59-7-159, the committee need not conduct the review required by this Subsection (14).

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

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

(1) As used in this section:

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

(b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air

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Conservation Act.

(c) "Committee" means the Revenue and Taxation Interim Committee.

(~~f~~~~e~~~~d~~) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.

(~~f~~~~d~~~~e~~) "Election statement" means a document that:

(i) is executed by:

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

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

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

(iii) affirms that the requirements described in Subsection (~~f~~~~3~~~~7~~) have been met.

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

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

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

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

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

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

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

(~~e~~) (~~f~~~~i~~~~i~~) "Qualifying electric motorcycle" means a vehicle that:

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

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

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

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

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

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

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

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

(i) meets air quality standards;

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

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

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

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

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol; and

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

Subsection (1)~~[(f)]~~~~[(f)(k)]~~(iii).

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

(i) meets air quality standards;

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

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

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

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

(A) diesel fuel;

(B) gasoline; or

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

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

(1)~~[(f)(l)]~~(iii).

(2) For a taxable year beginning ~~[(f)]~~ on or after January 1, ~~[2015, but beginning]~~ 2017,

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and ending on or before December 31, [2016] ~~{2021}~~ 2017, a qualifying claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

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

~~{(B) 35% of the purchase price of the vehicle; or}~~

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

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

~~{(ii) 35% of the purchase price of the vehicle;}~~

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

~~{(ii) 35% of the purchase price of the vehicle; and}~~

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

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

(ii) a percentage calculated by:

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

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

~~{(3) (a) The board shall:}~~

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

~~{(ii) provide the claimant, estate, or trust with a written certification of the amount of}~~

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~~tax credit the claimant, estate, or trust is allowed under this section.]~~

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

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

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

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

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

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

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

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

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

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

[(3) For a taxable year beginning on or after January 1, 2018, and ending on or before December 31, 2018, a qualifying claimant, estate, or trust 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, in an amount equal to:

 (a) for the original purchase of a new qualifying long-range electric vehicle that is registered in this state, \$1,500;

 (b) for the original purchase of a new qualifying short-range electric vehicle that is registered in this state, \$1,000;

 (c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, \$750; and

 (d) for a lease of a vehicle described in Subsection (3)(a), (b), or (c), an amount equal to the product of:

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(i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise qualify to claim under Subsection (3)(a), (b), or (c) had the qualifying claimant, estate, or trust purchased the vehicle; and

(ii) a percentage calculated by:

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

(B) dividing the difference determined under Subsection (3)(d)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(4) For a taxable year beginning on or after January 1, 2019, and ending on or before December 31, 2019, a qualifying claimant, estate, or trust 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, in an amount equal to:

(a) for the original purchase of a new qualifying long-range electric vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new qualifying short-range electric vehicle that is registered in this state, \$750;

(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, \$550; and

(d) for a lease of a vehicle described in Subsection (4)(a), (b), or (c), an amount equal to the product of:

(i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise qualify to claim under Subsection (4)(a), (b), or (c) had the qualifying claimant, estate, or trust purchased the vehicle; and

(ii) a percentage calculated by:

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

(B) dividing the difference determined under Subsection (4)(d)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

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(5) For a taxable year beginning on or after January 1, 2020, and ending on or before December 31, 2020, a qualifying claimant, estate, or trust 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, in an amount equal to:

(a) for the original purchase of a new qualifying long-range electric vehicle that is registered in this state, \$750;

(b) for the original purchase of a new qualifying short-range electric vehicle that is registered in this state, \$500;

(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, \$375; and

(d) for a lease of a vehicle described in Subsection (5)(a), (b), or (c), an amount equal to the product of:

(i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise qualify to claim under Subsection (5)(a), (b), or (c) had the qualifying claimant, estate, or trust purchased the vehicle; and

(ii) a percentage calculated by:

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

(B) dividing the difference determined under Subsection (5)(d)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(6) For a taxable year beginning on or after January 1, 2021, and ending on or before December 31, 2021, a qualifying claimant, estate, or trust 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, in an amount equal to:

(a) for the original purchase of a new qualifying long-range electric vehicle that is registered in this state, \$350;

(b) for the original purchase of a new qualifying short-range electric vehicle that is registered in this state, \$150;

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(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, \$100; and

(d) for a lease of a vehicle described in Subsection (6)(a), (b), or (c), an amount equal to the product of:

(i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise qualify to claim under Subsection (6)(a), (b), or (c) had the qualifying claimant, estate, or trust purchased the vehicle; and

(ii) a percentage calculated by:

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

(B) dividing the difference determined under Subsection (6)(d)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(7) (a) Except as provided in Subsection (~~(3)7~~)(b), a qualifying claimant, estate, or trust may not assign a tax credit under this section to another person.

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

(i) in exchange for the consideration described in Subsection (~~(3)7~~)(b)(iv), the qualifying claimant, estate, or trust shall assign the tax credit to the financing entity and forfeit the right to claim the tax credit on the qualifying claimant's, estate's, or trust's income tax return;

(ii) the qualifying claimant, estate, or trust shall assign the tax credit to the financing entity by executing an election statement described in Subsection (~~(3)7~~)(c) at the time of the purchase or lease of a new qualifying long-range electric vehicle ~~{ described in Subsection (2)(a), (b), or (c)}~~, a new qualifying short-range electric vehicle, or a new qualifying electric motorcycle;

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

(iv) the financing entity shall compensate the qualifying claimant, estate, or trust the applicable amount of the tax credit described in Subsection (2), (3), (4), (5), or (6) for the type

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of vehicle purchased or leased, except that the financing entity may collect an administrative fee equal to or less than \$150.

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

(~~4~~8) (a) A qualifying claimant, estate, or trust may claim the tax credit under this section only:

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

(ii) for the taxable year in which a qualifying claimant, estate, or trust purchases or leases a new qualifying long-range electric vehicle ~~{ described in Subsection (2)(a), (b), or (c)}~~, a new qualifying short-range electric vehicle, or a new qualifying electric motorcycle.

(b) A financing entity may claim a tax credit assigned to the financing entity under Subsection (~~3~~7)(b):

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

(ii) for the taxable year in which the qualifying claimant, estate, or trust purchases or leases a new qualifying long-range electric vehicle ~~{ described in Subsection (2)(a), (b), or (c)}~~, a new qualifying short-range electric vehicle, or a new qualifying electric motorcycle.

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

(~~5~~9) Before claiming a tax credit under this section, a qualifying claimant, estate, or trust or the financing entity described in Subsection (~~3~~7)(b) shall obtain the written certification described in Subsection (~~6~~10).

(~~6~~10) (a) The director shall:

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

(ii) determine the amount of tax credit a qualifying claimant, estate, or trust or a financing entity described in Subsection (~~3~~7)(b) is allowed under this section; and

(iii) provide the qualifying claimant, estate, or trust or financing entity described in Subsection (~~3~~7)(b) with a written certification of the amount of tax credit allowed under this section.

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

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

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

(C) retaining the written statement described in Subsection ~~(6)~~10(b)(i)(B) for the same time period a person is required to keep books and records under Section 59-1-1406.

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

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

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

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

(D) retaining the written statement described in Subsection ~~(6)~~10(b)(ii)(C) for the same time period a person is required to keep books and records under Section 59-1-1406.

(c) A qualifying claimant, estate, or trust or a financing entity described in Subsection ~~(3)~~7(b) shall retain the written certification described in Subsection ~~(6)~~10(a)(iii).

~~[(6)]~~ ~~(7)~~11 (a) If the amount of a tax credit claimed by a qualifying claimant, estate, or trust under this section exceeds the qualifying claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the qualifying claimant, estate, or trust may carry forward the amount of the tax credit exceeding the tax liability ~~[may be carried forward]~~ for a period that does not exceed the next five taxable years.

(b) If the amount of a tax credit claimed by a financing entity under this section exceeds the financing entity's tax liability under this chapter, Chapter 7, Corporate Franchise and Income Taxes, or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the financing entity may carry forward the amount of the tax credit exceeding the tax liability for a period that does not exceed the next five taxable years.

~~[(7)]~~ ~~(8)~~12 In accordance with any rules prescribed by the commission under Subsection ~~[(8)]~~ ~~(9)~~13, the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a fiscal year exceeds ~~[\$500,000]~~ \$125,000.

~~[(8)]~~ ~~(9)~~13 In accordance with Title 63G, Chapter 3, Utah Administrative

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Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection [(7)] ~~(8)~~12.

(14) (a) On or before November 30, the committee shall study the tax credit described in this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (14)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(iv) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(c) If the committee conducts a review in accordance with Section 59-10-137, the committee need not conduct the review required by this Subsection (14).

Section 4. **Retrospective operation.**

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