

TAX CREDIT FOR ENERGY EFFICIENT VEHICLES

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

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;
- ▶ modifies and extends the 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:

None

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



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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 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

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** is amended to read:

160 **59-7-605. Definitions -- Tax credits related to energy efficient vehicles.**

161 (1) As used in this section:

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

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

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

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

169 (i) is executed by:

170 (A) a taxpayer; and

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

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

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

175 (e) "Energy efficient vehicle market share threshold" means the point, calculated as of
176 July 1 of each year, when the combined number of qualifying electric vehicles and qualifying
177 plug-in hybrid vehicles that are registered in this state and have paid the registration fee
178 described in Subsection 41-1a-1206(1)(b) or 41-1a-1206(2)(a)(ii) has reached 4% of the total
179 vehicles that are registered in this state and have paid the registration fee described in
180 Subsection 41-1a-1206(1)(b) or 41-1a-1206(2)(a)(ii).

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

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

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

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

187 ~~[(i) has a seat or saddle for the use of the rider;]~~

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

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

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

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

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

193 ~~Subsection (1)(e)(v).]~~

194 ~~[(f)]~~ (i) "Qualifying electric vehicle" means [a] an electric motor vehicle, as defined in
195 Section 41-1a-102, that:

196 (i) meets air quality standards; and

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

198 ~~[(iii) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity;~~

199 ~~and]~~

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

201 ~~Subsection (1)(f)(iii)].~~

202 ~~[(g)]~~ (j) "Qualifying plug-in hybrid vehicle" means a plug-in electric motor vehicle, as
203 defined in Section 41-1a-102, that:

204 (i) meets air quality standards;

205 (ii) is not fueled by natural gas or propane;

206 (iii) has a battery capacity that meets or exceeds the battery capacity described in

207 Section 30D(b)(3), Internal Revenue Code; and

208 (iv) is fueled by a combination of electricity and:

209 (A) diesel fuel;

210 (B) gasoline; or

211 (C) a mixture of gasoline and ethanol.

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

213 ~~before December 31, 2016]~~ 2020, a taxpayer may claim a tax credit against tax otherwise due

214 under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to
 215 Pay Corporate Franchise or Income Tax Act, in an amount equal to:

216 (a) ~~[(i)]~~ for the original purchase of a new qualifying electric vehicle or new qualifying
 217 plug-in hybrid vehicle that is registered in this state, ~~[the lesser of:]~~ \$1,000; and

218 ~~[(A) \$1,500; or]~~

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

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

222 ~~[(b) for the original purchase of a new vehicle fueled by natural gas or propane that is~~
 223 ~~registered in this state, the lesser of:]~~

224 ~~[(i) \$1,500; or]~~

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

226 ~~[(c) for the original purchase of a new qualifying electric motorcycle that is registered~~
 227 ~~in this state, the lesser of:]~~

228 ~~[(i) \$750; or]~~

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

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

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

236 (ii) a percentage calculated by:

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

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

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

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

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

245 taxpayer is allowed under this section.]

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

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

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

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

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

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

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

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

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

261 ~~[(5)]~~ (3) (a) ~~[A]~~ Except as provided in Subsection (3)(b), a taxpayer may not assign a
262 tax credit under this section to another person.

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

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

268 (ii) the taxpayer shall assign the tax credit to the financing entity by executing an
269 election statement described in Subsection (3)(c) at the time of the purchase or lease of a new
270 qualifying electric vehicle or qualifying plug-in hybrid vehicle;

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

273 (iv) the financing entity shall compensate the taxpayer the applicable amount of the tax
274 credit described in Subsection (2) for the qualifying electric vehicle or qualifying plug-in
275 hybrid vehicle purchased or leased.

276 (c) The board shall develop a model election statement on or before July 1, 2019.
277 (4) (a) A taxpayer may claim the tax credit under this section only:
278 (i) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
279 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year;
280 and
281 (ii) for the taxable year in which a taxpayer purchases or leases a new qualifying
282 electric vehicle or qualifying plug-in hybrid vehicle.
283 (b) A financing entity may claim a tax credit assigned to the financing entity under
284 Subsection (3)(b):
285 (i) against a tax owed under this chapter, Chapter 8, Gross Receipts Tax on Certain
286 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 10,
287 Individual Income Tax Act; and
288 (ii) for the taxable year in which the taxpayer purchases or leases a new qualifying
289 electric vehicle or qualifying plug-in hybrid vehicle.
290 (c) This section only allows one tax credit per vehicle.
291 (5) Before claiming a tax credit under this section, a taxpayer or a financing entity
292 described in Subsection (3)(b) shall obtain the written certification described in Subsection (6).
293 (6) (a) The director shall:
294 (i) verify that only one written certification is issued per vehicle;
295 (ii) determine the amount of tax credit a taxpayer or a financing entity described in
296 Subsection (3)(b) is allowed under this section; and
297 (iii) provide the taxpayer or the financing entity described in Subsection (3)(b) with a
298 written certification of the amount of tax credit allowed under this section.
299 (b) (i) A taxpayer shall provide proof of the purchase or lease of a vehicle that qualifies
300 for a tax credit under this section by:
301 (A) providing proof to the director in the form established by the board;
302 (B) obtaining a written statement from the director acknowledging receipt of the proof;
303 and
304 (C) retaining the written statement described in Subsection (6)(b)(i)(B) for the same
305 time period a person is required to keep books and records under Section [59-1-1406](#).
306 (ii) A financing entity shall provide proof of assignment of a tax credit for a vehicle

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

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

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

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

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

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

317 (d) The aggregate annual total amount of tax credits represented by written certificates
318 issued by the director under this section and Section [59-10-1009](#) may not exceed \$2,000,000.

319 (e) The director shall at least annually submit to the commission an electronic list that
320 includes:

321 (i) the name and identifying information of each taxpayer or financing entity to which
322 the director issues a certificate; and

323 (ii) for each taxpayer or financing entity, the amount of the tax credit listed on the
324 certificate.

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

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

336 (8) (a) The director shall not issue a written certification described in Subsection (6) to
337 a taxpayer or a financing entity for a tax credit under this section for a taxable year beginning

338 on or after January 1 following notification made by the commission described in Subsection
339 (8)(b) that the energy efficient vehicle market share threshold has been reached.

340 (b) (i) On July 15 of each year, or the next business day if July 15 is a nonbusiness day,
341 the commission shall issue a notice stating whether the energy efficient vehicle market share
342 threshold has been reached.

343 (ii) The notice described in Subsection (8)(b)(i) shall:

344 (A) be displayed in a conspicuous place on the commission's website; and

345 (B) be provided to the director.

346 ~~[(7)]~~ (9) In accordance with any rules prescribed by the commission under Subsection
347 ~~[(8)]~~ (10), the Division of Finance shall transfer at least annually from the General Fund into
348 the Education Fund the amount ~~[by which the amount]~~ of tax credit claimed under this section
349 for a fiscal year ~~[exceeds \$500,000]~~.

350 ~~[(8)]~~ (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
351 Act, the commission may make rules for making a transfer from the General Fund into the
352 Education Fund as required by Subsection ~~[(7)]~~ (9).

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

354 **59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.**

355 (1) As used in this section:

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

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

360 (c) "Director" means the director of the Division of Air Quality appointed under
361 Section [19-2-107](#).

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

363 (i) is executed by:

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

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

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

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

369 (e) "Energy efficient vehicle market share threshold" means the point, calculated as of
 370 July 1 of each year, when the combined number of qualifying electric vehicles and qualifying
 371 plug-in hybrid vehicles that are registered in this state and have paid the registration fee
 372 described in Subsection 41-1a-1206(1)(b) or 41-1a-1206(2)(a)(ii) has reached 4% of the total
 373 vehicles that are registered in this state and have paid the registration fee described in
 374 Subsection 41-1a-1206(1)(b) or 41-1a-1206(2)(a)(ii).

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

377 ~~[(c)]~~ (g) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

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

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

381 ~~[(i) has a seat or saddle for the use of the rider;]~~

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

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

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

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

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

387 ~~Subsection (1)(e)(v).]~~

388 ~~[(f)]~~ (i) "Qualifying electric vehicle" means ~~[a]~~ an electric motor vehicle, as defined in
 389 Section 41-1a-102, that:

390 (i) meets air quality standards; and

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

392 ~~[(iii) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity;~~

393 ~~and]~~

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

395 ~~Subsection (1)(f)(iii)].~~

396 ~~[(g)]~~ (j) "Qualifying plug-in hybrid vehicle" means a plug-in electric motor vehicle, as
 397 defined in Section 41-1a-102, that:

398 (i) meets air quality standards;

399 (ii) is not fueled by natural gas or propane;

400 (iii) has a battery capacity that meets or exceeds the battery capacity described in
401 Section 30D(b)(3), Internal Revenue Code; and
402 (iv) is fueled by a combination of electricity and:
403 (A) diesel fuel;
404 (B) gasoline; or
405 (C) a mixture of gasoline and ethanol.

406 (2) For a taxable year beginning on or after January 1, ~~[2015, but beginning on or~~
407 ~~before December 31, 2016]~~ 2020, a claimant, estate, or trust may claim a nonrefundable tax
408 credit against tax otherwise due under this chapter in an amount equal to:

409 (a) ~~[(i)]~~ for the original purchase of a new qualifying electric vehicle or new qualifying
410 plug-in hybrid vehicle that is registered in this state, ~~[the lesser of:]~~ \$1,000; and
411 ~~[(A) \$1,500; or]~~
412 ~~[(B) 35% of the purchase price of the vehicle; or]~~
413 ~~[(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is~~
414 ~~registered in this state, \$1,000;]~~
415 ~~[(b) for the original purchase of a new vehicle fueled by natural gas or propane that is~~
416 ~~registered in this state, the lesser of:]~~
417 ~~[(i) \$1,500; or]~~
418 ~~[(ii) 35% of the purchase price of the vehicle;]~~
419 ~~[(c) for the original purchase of a new qualifying electric motorcycle that is registered~~
420 ~~in this state, the lesser of:]~~
421 ~~[(i) \$750; or]~~
422 ~~[(ii) 35% of the purchase price of the vehicle; and]~~
423 ~~[(d)]~~ (b) for a lease of a vehicle described in Subsection (2)(a), ~~[(b), or (c)];~~ an amount
424 equal to the product of:
425 (i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to
426 claim under Subsection (2)(a), ~~[(b), or (c)]~~ had the claimant, estate, or trust purchased the
427 vehicle~~[- except that the purchase price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or~~
428 ~~(2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease]; and~~
429 (ii) a percentage calculated by:
430 (A) determining the difference between the value of the vehicle at the beginning of the

431 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as
432 stated in the lease agreement; and

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

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

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

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

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

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

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

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

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

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

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

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

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

455 ~~[(5)]~~ (3) (a) [A] Except as provided in Subsection (3)(b), a claimant, estate, or trust
456 may not assign a tax credit under this section to another person.

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

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

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

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

468 (iv) the financing entity shall compensate the claimant, estate, or trust the applicable
469 amount of the tax credit described in Subsection (2) for the qualifying electric vehicle or
470 qualifying plug-in hybrid vehicle purchased or leased.

471 (c) The board shall develop a model election statement on or before July 1, 2019.

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

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

476 (ii) for the taxable year in which a claimant, estate, or trust purchases or leases a new
477 qualifying electric vehicle or qualifying plug-in hybrid vehicle.

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

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

483 (ii) for the taxable year in which the claimant, estate, or trust purchases or leases a new
484 qualifying electric vehicle or qualifying plug-in hybrid vehicle.

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

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

489 (6) (a) The director shall:

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

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

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

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

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

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

500 and

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

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

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

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

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

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

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

514 (d) The aggregate annual total amount of tax credits represented by written certificates
515 issued by the director under this section and Section 59-7-605 may not exceed \$2,000,000.

516 (e) The director shall at least annually submit to the commission an electronic list that
517 includes:

518 (i) the name and identifying information of each claimant, estate, or trust, or financing
519 entity, to which the director issues a certificate; and

520 (ii) for each claimant, estate, or trust, or financing entity, the amount of the tax credit
521 listed on the certificate.

522 ~~[(6)]~~ (7) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under
523 this section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a

524 taxable year, a claimant, estate, or trust may carry forward the amount of the tax credit
525 exceeding the tax liability [~~may be carried forward~~] for a period that does not exceed the next
526 five taxable years.

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

533 (8) (a) The director shall not issue a written certification described in Subsection (6) to
534 a claimant, estate, or trust, or a financing entity, for a tax credit under this section for a taxable
535 year beginning on or after January 1 following notification made by the commission described
536 in Subsection (8)(b) that the energy efficient vehicle market share threshold has been reached.

537 (b) (i) On July 15 of each year, or the next business day if July 15 is a nonbusiness day,
538 the commission shall issue a notice stating whether the energy efficient vehicle market share
539 threshold has been reached.

540 (ii) The notice described in Subsection (8)(b)(i) shall:

541 (A) be displayed in a conspicuous place on the commission's website; and

542 (B) be provided to the director.

543 ~~[(7)]~~ (9) In accordance with any rules prescribed by the commission under Subsection
544 ~~[(8)]~~ (10), the Division of Finance shall transfer at least annually from the General Fund into
545 the Education Fund the amount [~~by which the amount~~] of tax credit claimed under this section
546 for a fiscal year [~~exceeds \$500,000~~].

547 ~~[(8)]~~ (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
548 Act, the commission may make rules for making a transfer from the General Fund into the
549 Education Fund as required by Subsection ~~[(7)]~~ (9).