

Senator Derek L. Kitchen proposes the following substitute bill:

ELECTRIC ENERGY STORAGE TAX CREDIT

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derek L. Kitchen

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts a corporate and individual income tax credit for the purchase of an electric energy storage asset.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts a refundable corporate and individual income tax credit for the purchase of an electric energy storage asset;
- ▶ provides for apportionment of the individual income tax credit for the purchase of an electric energy storage asset; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

ENACTS:

59-7-625, Utah Code Annotated 1953



26 [59-10-1102.1](#), Utah Code Annotated 1953

27 [59-10-1113](#), Utah Code Annotated 1953

28

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

30 Section 1. Section **59-7-625** is enacted to read:

31 **59-7-625. Nonrefundable tax credit related to electric energy storage.**

32 (1) As used in this section:

33 (a) "Commercial use" means the same as that term is defined in Section [59-12-102](#).

34 (b) "Electric energy storage asset" means property that is interconnected to the

35 electrical grid and is designed to:

36 (i) receive electrical energy;

37 (ii) store electrical energy as another energy form; and

38 (iii) (A) convert electrical energy described in Subsection (1)(b)(ii) back to electricity

39 and deliver the electricity for sale; or

40 (B) use electrical energy described in Subsection (1)(b)(ii) to provide reliability or

41 economic benefits to the grid.

42 (c) "Industrial use" means the same as that term is defined in Section [59-12-102](#).

43 (d) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

44 (e) "Qualified purchase" means the purchase of an electric energy storage asset for any

45 of the following uses in the state:

46 (i) commercial use;

47 (ii) industrial use; or

48 (iii) residential use.

49 (f) "Qualified taxpayer" means a taxpayer that:

50 (i) makes a qualified purchase; and

51 (ii) receives a tax credit certificate from the office.

52 (g) "Residential use" means the same as that term is defined in Section [59-12-102](#).

53 (h) "Tax credit certificate" means a certificate issued by the office in accordance with

54 Subsection (4)(b).

55 (2) Subject to the other provisions of this section, a qualified taxpayer may claim a

56 refundable tax credit in an amount equal to the lesser of:

57 (a) if the qualified purchase is for residential use:
58 (i) an amount equal to 25% of the price of the qualified purchase; or
59 (ii) \$5,000; or
60 (b) if the qualified purchase is for commercial use or industrial use:
61 (i) an amount equal to 10% of the price of the qualified purchase; or
62 (ii) \$100,000.
63 (3) The aggregate annual total amount of tax credits represented by tax credit
64 certificates that the office issues under this section and Section [59-10-1041](#) may not exceed
65 \$5,000,000.
66 (4) (a) (i) To claim a tax credit under this section a taxpayer shall, using a form
67 prescribed by the office:
68 (A) submit to the office an application for the tax credit; and
69 (B) provide the office proof of a qualified purchase.
70 (ii) Upon receipt of the information described in Subsection (4)(a)(i), the office shall
71 provide the taxpayer a written statement acknowledging receipt.
72 (b) If the office determines that the taxpayer qualifies for the tax credit, the office shall:
73 (i) determine the amount of the tax credit the taxpayer is allowed under this section;
74 and
75 (ii) provide the taxpayer with a written tax credit certificate that:
76 (A) states that the taxpayer qualifies for the tax credit; and
77 (B) shows the amount of the tax credit for which the taxpayer qualifies.
78 (c) At least annually, the office shall submit to the commission a list of each qualified
79 taxpayer to whom the office issued a tax credit certificate and the amount of the tax credit.
80 (5) (a) The tax credit described in this section is allowed only for the taxable year in
81 which the qualified purchase occurs.
82 (b) A qualified taxpayer may not:
83 (i) assign a tax credit or tax credit certificate under this section to another person; or
84 (ii) claim more than one tax credit under this section for each qualified purchase.
85 (6) A qualified taxpayer may not carry forward or carry back a tax credit under this
86 section.

87 Section 2. Section **59-10-1102.1** is enacted to read:

88 **59-10-1102.1. Apportionment of tax credit.**

89 A nonresident individual or a part-year resident individual who claims the tax credit
90 described in Section 59-10-1113 may only claim an apportioned amount of the tax credit equal
91 to the product of:

92 (1) the state income tax percentage for the nonresident individual or the state income
93 tax percentage for the part-year resident individual; and

94 (2) the amount of the tax credit that the nonresident individual or the part-year resident
95 individual would have been allowed to claim but for the apportionment requirement of this
96 section.

97 Section 3. Section 59-10-1113 is enacted to read:

98 **59-10-1113. Refundable tax credit related to electric energy storage.**

99 (1) As used in this section:

100 (a) "Commercial use" means the same as that term is defined in Section 59-12-102.

101 (b) "Electric energy storage asset" means property that is interconnected to the
102 electrical grid and is designed to:

103 (i) receive electrical energy;

104 (ii) store electrical energy as another energy form; and

105 (iii) (A) convert electrical energy described in Subsection (1)(b)(ii) back to electricity
106 and deliver the electricity for sale; or

107 (B) use electrical energy described in Subsection (1)(b)(ii) to provide reliability or
108 economic benefits to the grid.

109 (c) "Industrial use" means the same as that term is defined in Section 59-12-102.

110 (d) "Office" means the Office of Energy Development created in Section 63M-4-401.

111 (e) "Qualified purchase" means the purchase of an electric energy storage asset for any
112 of the following uses in the state:

113 (i) commercial use;

114 (ii) industrial use; or

115 (iii) residential use.

116 (f) "Qualified taxpayer" means a claimant who:

117 (i) makes a qualified purchase; and

118 (ii) receives a tax credit certificate from the office.

119 (g) "Residential use" means the same as that term is defined in Section 59-12-102.

120 (h) "Tax credit certificate" means a certificate issued by the office in accordance with
121 Subsection (4)(b).

122 (2) Subject to Section 59-10-1102.1 and the other provisions of this section, a qualified
123 taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter in
124 an amount equal to the lesser of:

125 (a) if the qualified purchase is for residential use:

126 (i) an amount equal to 25% of the price of the qualified purchase; or

127 (ii) \$5,000; or

128 (b) if the qualified purchase is for commercial use or industrial use:

129 (i) an amount equal to 10% of the price of the qualified purchase; or

130 (ii) \$100,000.

131 (3) The aggregate annual total amount of tax credits represented by tax credit
132 certificates that the office issues under this section and Section 59-7-625 may not exceed
133 \$5,000,000.

134 (4) (a) (i) To claim a tax credit under this section a taxpayer shall, using a form
135 prescribed by the office:

136 (A) submit to the office an application for the tax credit; and

137 (B) provide the office proof of a qualified purchase.

138 (ii) Upon receipt of the information described in Subsection (4)(a)(i), the office shall
139 provide the taxpayer a written statement acknowledging receipt.

140 (b) If the office determines that the taxpayer qualifies for the tax credit, the office shall:

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

142 and

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

144 (A) states that the taxpayer qualifies for the tax credit; and

145 (B) shows the amount of the tax credit for which the taxpayer qualifies.

146 (c) At least annually, the office shall submit to the commission a list of each qualified
147 taxpayer to whom the office issued a tax credit certificate and the amount of the tax credit.

148 (5) (a) The tax credit described in this section is allowed only for the taxable year in
149 which the qualified purchase occurs.

150 (b) A qualified taxpayer may not:
151 (i) assign a tax credit or tax credit certificate under this section to another person; or
152 (ii) claim more than one tax credit under this section for each qualified purchase.

153 (6) A qualified taxpayer may not carry forward or carry back a tax credit under this
154 section.

155 Section 4. **Retrospective operation.**

156 This bill has retrospective operation for a taxable year beginning on or after January 1,
157 2020.