

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 nonrefundable 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:

AMENDS:

59-10-1002.2, as last amended by Laws of Utah 2016, Chapter 263



26 ENACTS:

27 [59-7-625](#), Utah Code Annotated 1953

28 [59-10-1041](#), Utah Code Annotated 1953

29

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

31 Section 1. Section [59-7-625](#) is enacted to read:

32 **[59-7-625](#). Nonrefundable tax credit related to electric energy storage.**

33 (1) As used in this section:

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

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

36 electrical grid and is designed to:

37 (i) receive electrical energy;

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

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

40 and deliver the electricity for sale; or

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

42 economic benefits to the grid.

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

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

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

46 commercial use, industrial use, or residential use.

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

48 (i) makes a qualified purchase; and

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

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

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

52 Subsection (4)(b).

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

54 nonrefundable tax credit against tax otherwise due under this chapter or Chapter 8, Gross

55 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax

56 Act, 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) \$50,000.
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 \$1,000,000.
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) If the qualified taxpayer receives a tax credit certificate under this section that
86 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
87 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay

88 Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry
89 forward the amount of the tax credit that exceeds the tax liability for a period that does not
90 exceed the next five taxable years.

91 Section 2. Section **59-10-1002.2** is amended to read:

92 **59-10-1002.2. Apportionment of tax credits.**

93 (1) A nonresident individual or a part-year resident individual that claims a tax credit
94 in accordance with Section [59-10-1017](#), [59-10-1018](#), [59-10-1019](#), [59-10-1022](#), [59-10-1023](#),
95 [59-10-1024](#), [~~or~~] [59-10-1028](#), or [59-10-1041](#) may only claim an apportioned amount of the tax
96 credit equal to:

97 (a) for a nonresident individual, the product of:

98 (i) the state income tax percentage for the nonresident individual; and

99 (ii) the amount of the tax credit that the nonresident individual would have been

100 allowed to claim but for the apportionment requirements of this section; or

101 (b) for a part-year resident individual, the product of:

102 (i) the state income tax percentage for the part-year resident individual; and

103 (ii) the amount of the tax credit that the part-year resident individual would have been

104 allowed to claim but for the apportionment requirements of this section.

105 (2) A nonresident estate or trust that claims a tax credit in accordance with Section
106 [59-10-1017](#), [59-10-1020](#), [59-10-1022](#), [59-10-1024](#), or [59-10-1028](#) may only claim an
107 apportioned amount of the tax credit equal to the product of:

108 (a) the state income tax percentage for the nonresident estate or trust; and

109 (b) the amount of the tax credit that the nonresident estate or trust would have been

110 allowed to claim but for the apportionment requirements of this section.

111 Section 3. Section **59-10-1041** is enacted to read:

112 **59-10-1041. Nonrefundable tax credit related to electric energy storage.**

113 (1) As used in this section:

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

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

116 electrical grid and is designed to:

117 (i) receive electrical energy;

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

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

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

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

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

125 (e) "Qualified purchase" means the purchase of an electric energy storage asset for
126 commercial use, industrial use, or residential use.

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

128 (i) makes a qualified purchase; and

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

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

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

133 (2) Subject to the other provisions of this section, a qualified taxpayer may claim a
134 nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to the
135 lesser of:

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

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

138 (ii) \$5,000; or

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

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

141 (ii) \$50,000.

142 (3) The aggregate annual total amount of tax credits represented by tax credit
143 certificates that the office issues under this section and Section [59-7-625](#) may not exceed
144 \$1,000,000.

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

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

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

149 (ii) Upon receipt of the information described in Subsection (4)(a)(i), the office shall

150 provide the taxpayer a written statement acknowledging receipt.

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

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

153 and

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

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

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

157 (c) At least annually, the office shall submit to the commission a list of each qualified

158 taxpayer to whom the office issued a tax credit certificate and the amount of the tax credit.

159 (5) (a) The tax credit described in this section is allowed only for the taxable year in

160 which the qualified purchase occurs.

161 (b) A qualified taxpayer may not:

162 (i) assign a tax credit or tax credit certificate under this section to another person; or

163 (ii) claim more than one tax credit under this section for each qualified purchase.

164 (6) If the qualified taxpayer receives a tax credit certificate under this section that

165 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this

166 chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit

167 that exceeds the tax liability for a period that does not exceed the next five taxable years.

168 **Section 4. Retrospective operation.**

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

170 2020.