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

ENACTS:

59-7-625, Utah Code Annotated 1953

59-10-1041, Utah Code Annotated 1953

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

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

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

(1) As used in this section:

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

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

(i) receive electrical energy;

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

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

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

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

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

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

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

(i) makes a qualified purchase; and

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

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

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

(2) Subject to the other provisions of this section, a qualified 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 the lesser of:

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

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

(ii) $5,000; or

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

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

(ii) $50,000.

(3) The aggregate annual total amount of tax credits represented by tax credit certificates that the office issues under this section and Section 59-10-1041 may not exceed $1,000,000.

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

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

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

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

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

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

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

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

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

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

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

(b) A qualified taxpayer may not:

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

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

(6) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified 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, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

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

59-10-1002.2. Apportionment of tax credits.

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

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

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

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

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

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

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

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

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

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

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

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

(1) As used in this section:

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

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

(i) receive electrical energy;

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

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

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

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

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

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

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

(i) makes a qualified purchase; and

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

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

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

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

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

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

(ii) $5,000; or

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

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

(ii) $50,000.

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

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

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

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

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

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

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

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

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

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

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

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

(b) A qualified taxpayer may not:

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

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

(6) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

Section 4. **Retrospective operation.**

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