

Senator Derek L. Kitchen proposes the following substitute bill:

ELECTRIC ENERGY RELATED 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 related to electric energy.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts a refundable corporate and individual income tax credit for the purchase of an electric energy storage asset or certain electric commercial class 8 vehicles;
- ▶ provides that a taxpayer may not claim more than one state tax credit for each qualified purchase; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-618, as last amended by Laws of Utah 2017, Chapter 265

59-10-1033, as last amended by Laws of Utah 2017, Chapter 265



26 ENACTS:

27 **59-7-625**, Utah Code Annotated 1953

28 **59-10-1113**, Utah Code Annotated 1953

29

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

31 Section 1. Section **59-7-618** is amended to read:

32 **59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**

33 (1) As used in this section:

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

36 (b) "Director" means the director of the Division of Air Quality appointed under
37 Section **19-2-107**.

38 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
39 vehicle classifications established by the Federal Highway Administration.

40 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

41 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

42 (i) has never been titled or registered and has been driven less than 7,500 miles; and

43 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
44 drivetrain.

45 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

46 (g) "Qualified taxpayer" means a taxpayer that:

47 (i) purchases a qualified heavy duty vehicle; and

48 (ii) receives a tax credit certificate from the director.

49 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
50 owned by a single taxpayer.

51 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
52 taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax
53 credit.

54 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
55 due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required
56 to Pay Corporate Franchise or Income Tax Act:

- 57 (a) in an amount equal to:
- 58 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
- 59 calendar year 2015 or calendar year 2016;
- 60 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;
- 61 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;
- 62 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and
- 63 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

64 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the

65 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be

66 within the state.

67 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an

68 application for, and the director may not issue to the taxpayer, a tax credit certificate under this

69 section in any taxable year for a qualified purchase if the director has already issued tax credit

70 certificates to the taxpayer for 10 qualified purchases in the same taxable year.

71 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of

72 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application

73 for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight

74 additional qualified purchases, even if the director has already issued to that taxpayer tax credit

75 certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

76 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits

77 available under this section for qualified taxpayers with a small fleet.

78 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or

79 the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a

80 small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved

81 under Subsection (4)(a).

82 (5) (a) The aggregate annual total amount of tax credits represented by tax credit

83 certificates that the director issues under this section and Section [59-10-1033](#) may not exceed

84 \$500,000.

85 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative

86 Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a

87 potential tax credit under this section for a limited time to allow the taxpayer to make a

88 qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not
89 be met before the taxpayer is able to submit an application for a tax credit certificate.

90 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall submit to the
91 director, using forms the board requires by rule:

92 (A) [~~submit to the director~~] an application for a tax credit;

93 (B) [~~provide the director~~] proof of a qualified purchase; [~~and~~]

94 (C) [~~submit to the director~~] the certification under oath required under Subsection

95 (2)(b)[-]; and

96 (D) a certification under oath that the taxpayer has not claimed another tax credit under
97 this chapter for the same qualified purchase.

98 (ii) Upon receiving the [~~application, proof, and certification~~] information required
99 under Subsection (6)(a)(i), the director shall provide the taxpayer a written statement from the
100 director acknowledging receipt of the proof.

101 (b) If the director determines that a taxpayer qualifies for a tax credit under this section,
102 the director shall:

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

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

105 (A) stating that the taxpayer has qualified for a tax credit; and

106 (B) showing the amount of tax credit for which the taxpayer has qualified under this
107 section.

108 (c) A qualified taxpayer shall retain the tax credit certificate.

109 (d) The director shall at least annually submit to the commission a list of all qualified
110 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
111 credit represented by the tax credit certificates.

112 (7) The tax credit under this section is allowed only:

113 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
114 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year
115 by the qualified taxpayer;

116 (b) for the taxable year in which the qualified purchase occurs; and

117 (c) once per vehicle.

118 (8) A qualified taxpayer may not:

119 (a) assign a tax credit or a tax credit certificate under this section to another person[-];

120 or

121 (b) claim more than one tax credit under this chapter for a qualified purchase.

122 (9) If the qualified taxpayer receives a tax credit certificate under this section that
123 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
124 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
125 Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry
126 forward the amount of the tax credit that exceeds the tax liability for a period that does not
127 exceed the next five taxable years.

128 (10) (a) In accordance with any rules prescribed by the commission under Subsection
129 (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the
130 Education Fund the aggregate amount of all tax credits claimed under this section.

131 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
132 commission may make rules for making a transfer from the General Fund into the Education
133 Fund as required by Subsection (10)(a).

134 Section 2. Section **59-7-625** is enacted to read:

135 **59-7-625. Refundable tax credit related to electric energy.**

136 (1) As used in this section:

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

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

139 electrical grid and is designed to:

140 (i) receive electrical energy;

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

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

143 and deliver the electricity for sale; or

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

146 (c) "Heavy duty vehicle" means a commercial 8 vehicle, according to vehicle

147 classifications established by the Federal Highway Administration.

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

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

150 (f) "Qualified heavy duty vehicle" means a heavy duty vehicle that has:
151 (i) never been titled or registered and has been driven less than 7,500 miles; and
152 (ii) (A) a 100% electric drivetrain and a range of 250 miles or more per charge; or
153 (B) a hydrogen-electric drivetrain and a range of 400 miles or more per charge.
154 (g) "Qualified purchase" means the purchase of:
155 (i) a qualified heavy duty vehicle; or
156 (ii) an electric energy storage asset for any of the following uses in the state:
157 (A) commercial use;
158 (B) industrial use; or
159 (C) residential use.
160 (h) "Qualified taxpayer" means a taxpayer that:
161 (i) makes a qualified purchase; and
162 (ii) receives a tax credit certificate from the office.
163 (i) "Residential use" means the same as that term is defined in Section [59-12-102](#).
164 (j) "Tax credit certificate" means a certificate issued by the office in accordance with
165 Subsection (4)(b).
166 (2) Subject to the other provisions of this section, a qualified taxpayer may claim a
167 refundable tax credit:
168 (a) in an amount equal to the lesser of:
169 (i) if the qualified purchase is an electric energy storage asset for residential use:
170 (A) an amount equal to 25% of the price of the qualified purchase; or
171 (B) \$5,000; or
172 (ii) if the qualified purchase is an electric energy storage asset for commercial use or
173 industrial use or a qualified heavy duty vehicle:
174 (A) an amount equal to 10% of the price of the qualified purchase; or
175 (B) \$100,000; and
176 (b) for a qualified purchase that is a qualified heavy duty vehicle, if the qualified
177 taxpayer certifies under oath that over 50% of the miles that the qualified heavy duty vehicle
178 will travel annually will be within the state.
179 (3) The aggregate annual total amount of tax credits represented by tax credit
180 certificates that the office issues under this section and Section [59-10-1041](#) may not exceed

181 \$5,000,000.

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

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

185 (B) provide the office proof of a qualified purchase; and

186 (C) if the qualified purchase is a qualified heavy duty vehicle, the certification
187 described in Subsection (2)(b) and a certification under oath that the taxpayer has not claimed
188 another tax credit under this chapter for the same qualified purchase.

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

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

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

193 and

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

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

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

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

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

201 (b) A qualified taxpayer may not:

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

203 (ii) claim more than one tax credit under this chapter for a qualified purchase; or

204 (iii) carry forward or carry back a tax credit under this section.

205 Section 3. Section **59-10-1033** is amended to read:

206 **59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.**

207 (1) As used in this section:

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

210 (b) "Director" means the director of the Division of Air Quality appointed under
211 Section [19-2-107](#).

212 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
213 vehicle classifications established by the Federal Highway Administration.

214 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

215 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

216 (i) has never been titled or registered and has been driven less than 7,500 miles; and

217 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
218 drivetrain.

219 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

220 (g) "Qualified taxpayer" means a claimant, estate, or trust that:

221 (i) purchases a qualified heavy duty vehicle; and

222 (ii) receives a tax credit certificate from the director.

223 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
224 owned by a single claimant, estate, or trust.

225 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
226 claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the
227 amount of the tax credit.

228 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
229 due under this chapter:

230 (a) in an amount equal to:

231 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
232 calendar year 2015 or calendar year 2016;

233 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

234 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

235 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

236 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

237 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
238 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
239 within the state.

240 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not
241 submit an application for, and the director may not issue to the claimant, estate, or trust, a tax
242 credit certificate under this section in any taxable year for a qualified purchase if the director

243 has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified
244 purchases in the same taxable year.

245 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
246 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit
247 an application for, and the director may issue to the claimant, estate, or trust, one or more tax
248 credit certificates for up to eight additional qualified purchases, even if the director has already
249 issued to that claimant, estate, or trust tax credit certificates for the maximum number of
250 qualified purchases allowed under Subsection (3)(a).

251 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
252 available under this section for qualified taxpayers with a small fleet.

253 (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an
254 application for, or the director from issuing, a tax credit certificate if, before October 1,
255 qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for
256 the full amount reserved under Subsection (4)(a).

257 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
258 certificates that the director issues under this section and Section 59-7-618 may not exceed
259 \$500,000.

260 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
261 Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may
262 reserve a potential tax credit under this section for a limited time to allow the claimant, estate,
263 or trust to make a qualified purchase with the assurance that the aggregate limit under
264 Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an
265 application for a tax credit certificate.

266 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section
267 shall submit to the director, using forms the board requires by rule:

268 (A) [~~submit to the director~~] an application for a tax credit;

269 (B) [~~provide the director~~] proof of a qualified purchase; [~~and~~]

270 (C) [~~submit to the director~~] the certification under oath required under Subsection

271 (2)(b)[-]; and

272 (D) a certification under oath that the claimant, estate, or trust has not claimed another
273 tax credit under this chapter for the same qualified purchase.

274 (ii) Upon receiving the [~~application, proof, and certification~~] information required
275 under Subsection (6)(a)(i), the director shall provide the claimant, estate, or trust a written
276 statement from the director acknowledging receipt of the proof.

277 (b) If the director determines that a claimant, estate, or trust qualifies for a tax credit
278 under this section, the director shall:

279 (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this
280 section; and

281 (ii) provide the claimant, estate, or trust with a written tax credit certificate:

282 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and

283 (B) showing the amount of tax credit for which the claimant, estate, or trust has
284 qualified under this section.

285 (c) A qualified taxpayer shall retain the tax credit certificate.

286 (d) The director shall at least annually submit to the commission a list of all qualified
287 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
288 credit represented by the tax credit certificates.

289 (7) The tax credit under this section is allowed only:

290 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

291 (b) for the taxable year in which the qualified purchase occurs; and

292 (c) once per vehicle.

293 (8) A qualified taxpayer may not:

294 (a) assign a tax credit or a tax credit certificate under this section to another person[-];

295 or

296 (b) claim more than one tax credit under this chapter for a qualified purchase.

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

301 (10) (a) In accordance with any rules prescribed by the commission under Subsection
302 (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the
303 Education Fund the aggregate amount of all tax credits claimed under this section.

304 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

305 commission may make rules for making a transfer from the General Fund into the Education
306 Fund as required by Subsection (10)(a).

307 Section 4. Section **59-10-1113** is enacted to read:

308 **59-10-1113. Refundable tax credit related to electric energy.**

309 (1) As used in this section:

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

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

313 (i) receive electrical energy;

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

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

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

319 (c) "Heavy duty vehicle" means a commercial 8 vehicle, according to vehicle
320 classifications established by the Federal Highway Administration.

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

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

323 (f) "Qualified heavy duty vehicle" means a heavy duty vehicle that has:

324 (i) never been titled or registered and has been driven less than 7,500 miles; and

325 (ii) (A) a 100% electric drivetrain and a range of 250 miles or more per charge; or

326 (B) a hydrogen-electric drivetrain and a range of 400 miles or more per charge.

327 (g) "Qualified purchase" means the purchase of:

328 (i) a qualified heavy duty vehicle; or

329 (ii) an electric energy storage asset for any of the following uses in the state:

330 (A) commercial use;

331 (B) industrial use; or

332 (C) residential use.

333 (h) "Qualified taxpayer" means a claimant who:

334 (i) makes a qualified purchase; and

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

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

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

339 (2) Subject to the other provisions of this section, a qualified taxpayer may claim a
340 refundable tax credit:

341 (a) in an amount equal to the lesser of:

342 (i) if the qualified purchase is an electric energy storage asset for residential use:

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

344 (B) \$5,000; or

345 (ii) if the qualified purchase is an electric energy storage asset for commercial use or
346 industrial use or a qualified heavy duty vehicle:

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

348 (B) \$100,000; and

349 (b) for a qualified purchase that is a qualified heavy duty vehicle, if the qualified
350 taxpayer certifies under oath that over 50% of the miles that the qualified heavy duty vehicle
351 will travel annually will be within the state.

352 (3) The aggregate annual total amount of tax credits represented by tax credit
353 certificates that the office issues under this section and Section 59-7-625 may not exceed
354 \$5,000,000.

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

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

358 (B) provide the office proof of a qualified purchase; and

359 (C) if the qualified purchase is a qualified heavy duty vehicle, the certification
360 described in Subsection (2)(b) and a certification under oath that the taxpayer has not claimed
361 another tax credit under this chapter for the same qualified purchase.

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

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

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

366 and

367 (ii) provide the taxpayer with a written tax credit certificate that:
368 (A) states that the taxpayer qualifies for the tax credit; and
369 (B) shows the amount of the tax credit for which the taxpayer qualifies.
370 (c) At least annually, the office shall submit to the commission a list of each qualified
371 taxpayer to whom the office issued a tax credit certificate and the amount of the tax credit.
372 (5) (a) The tax credit described in this section is allowed only for the taxable year in
373 which the qualified purchase occurs.
374 (b) A qualified taxpayer may not:
375 (i) assign a tax credit or tax credit certificate under this section to another person;
376 (ii) claim more than one tax credit under this chapter for a qualified purchase; or
377 (iii) carry forward or carry back a tax credit under this section.
378 **Section 5. Retrospective operation.**
379 This bill has retrospective operation for a taxable year beginning on or after January 1,
380 2020.