

SB0077S03 compared with SB0077S02

~~text~~ shows text that was in SB0077S02 but was deleted in SB0077S03.

text shows text that was not in SB0077S02 but was inserted into SB0077S03.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Derek L. Kitchen proposes the following substitute bill:

ELECTRIC ENERGY ~~STORAGE~~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 ~~for the purchase of an~~related to 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~~ or certain electric commercial class 8 vehicles;

- ▶ provides that a taxpayer may not claim more than one state tax credit for ~~the~~ each qualified purchase ~~of an electric energy storage asset~~; and

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- ▶ 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

ENACTS:

59-7-625, Utah Code Annotated 1953

~~{ 59-10-1102.1, Utah Code Annotated 1953~~

{ 59-10-1113, Utah Code Annotated 1953

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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- (i) purchases a qualified heavy duty vehicle; and
- (ii) receives a tax credit certificate from the director.

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

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

(2) 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:

(a) in an amount equal to:

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

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

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

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

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

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

(3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an application for, and the director may not issue to the taxpayer, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the taxpayer for 10 qualified purchases in the same taxable year.

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

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

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

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-10-1033 may not exceed \$500,000.

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

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

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

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

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

(2)(b) ~~;~~

~~;~~ and

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

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

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

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

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

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

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

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

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

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

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

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

(c) once per vehicle.

(8) A qualified taxpayer may not:

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

or

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

(9) 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.

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

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

Section ~~{1}~~2. Section 59-7-625 is enacted to read:

59-7-625. ~~{ Nonrefundable }~~ **Refundable** 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.

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

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

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

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

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

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

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

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

(i) a qualified heavy duty vehicle; or

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

(~~f~~~~i~~~~t~~)~~A~~) commercial use;

(~~f~~~~i~~~~t~~)~~B~~) industrial use; or

(~~f~~~~i~~~~t~~)~~C~~) residential use.

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

(i) makes a qualified purchase; and

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

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

(~~f~~~~h~~~~i~~) "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 refundable tax credit:

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

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

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

(~~fi~~B) \$5,000; or

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

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

(~~fi~~B) \$100,000~~;~~; and

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

(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 \$5,000,000.

(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~~;~~; and

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

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(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~~ chapter for ~~each~~ a qualified purchase ~~or~~;

~~(iii) A qualified taxpayer may not~~ carry forward or carry back a tax credit under this section.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

(i) purchases a qualified heavy duty vehicle; and

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

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

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

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

(a) in an amount equal to:

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

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

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

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

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

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

(3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the director may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified purchases in the same taxable year.

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

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

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

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-7-618 may not exceed

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\$500,000.

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

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

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

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

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

(2)(b) ~~;~~

~~;~~ and

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

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

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

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

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

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

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

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

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

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- (7) The tax credit under this section is allowed only:
- (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;
 - (b) for the taxable year in which the qualified purchase occurs; and
 - (c) once per vehicle.
- (8) A qualified taxpayer may not:
- (a) assign a tax credit or a tax credit certificate under this section to another person~~(a)~~;

or

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

(9) 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.

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

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

Section ~~{2}~~4. Section ~~{59-10-1102.1}~~59-10-1113 is enacted to read:

~~{~~ **59-10-1102.1. Apportionment of tax credit:**

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

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

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

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

~~{~~ **59-10-1113. Refundable tax credit related to electric energy**~~{ storage}~~.

(1) As used in this section:

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

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

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

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

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

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

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

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

(i) a qualified heavy duty vehicle; or

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

~~(f)A~~ commercial use;

~~(f)B~~ industrial use; or

~~(f)C~~ residential use.

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

(i) makes a qualified purchase; and

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

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

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

(2) Subject to ~~Section 59-10-1102.1 and~~ the other provisions of this section, a

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qualified taxpayer may claim a ~~nonrefundable~~ refundable tax credit ~~against tax otherwise due under this chapter~~:

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

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

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

~~(i)B~~ \$5,000; or

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

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

~~(i)B~~ \$100,000; ~~and~~

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

(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 \$5,000,000.

(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 ~~and~~

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

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(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~~ chapter for ~~each~~ a qualified purchase ~~;~~ or

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

Section ~~4~~ 5. **Retrospective operation.**

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