

ELECTRIC ENERGY STORAGE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nate Blouin

House Sponsor: _____

LONG TITLE

General Description:

This bill creates a tax credit for commercial entities to install energy storage systems in the state.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates an income tax credit for the installation of a commercial energy storage system for use by commercial entities;
- ▶ requires the Public Service Commission to create rules for the qualifications for the credit; and
- ▶ requires the Office of Energy Development to issue a certificate for the tax credit.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

79-6-401, as last amended by Laws of Utah 2022, Chapter 322

ENACTS:

59-7-627, Utah Code Annotated 1953



28 [59-10-1114](#), Utah Code Annotated 1953

29

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

31 Section 1. Section [59-7-627](#) is enacted to read:

32 **[59-7-627](#). Refundable commercial energy storage tax credit.**

33 (1) As used in this section:

34 (a) "Commercial energy storage system" means an energy storage system with a
35 storage capacity greater than one megawatt hour, that is used to provide energy to a commercial
36 unit.

37 (b) "Commercial unit" means a building or structure that a person uses to conduct
38 commercial or industrial activities.

39 (c) "Energy storage system" means a system used to store electrical energy, or
40 mechanical, chemical, or thermal energy that was once electrical energy, for use as electrical
41 energy at a later date or in a process that offsets electricity use at peak times.

42 (d) "Office" means the Office of Energy Development created in Section [79-6-401](#).

43 (e) "Qualified utility" means the same as that term is defined in Section [54-17-801](#).

44 (f) "Utility-controlled commercial energy storage system" means a commercial energy
45 storage system participating in a commission approved qualified utility program.

46 (2) (a) A taxpayer or qualified utility may claim a refundable tax credit with respect to
47 a commercial energy storage system owned by the taxpayer or a qualified utility if:

48 (i) the commercial energy storage system supplies all or part of the energy required by
49 commercial units owned or used by the taxpayer; and

50 (ii) the taxpayer obtains a written certificate from the office in accordance with
51 Subsection (3).

52 (b) The tax credit is equal to:

53 (i) 30% of the reasonable costs, including installation costs, of a utility-controlled
54 commercial energy storage system; or

55 (ii) 10% of the reasonable costs, including installation costs, of a commercial energy
56 storage system that is not a utility-controlled commercial energy storage system.

57 (c) The amount of the tax credit may not exceed:

58 (i) \$300,000 for a utility-controlled commercial energy storage system; or

59 (ii) \$100,000 for a commercial energy storage system that is not a utility-controlled
60 commercial energy storage system.

61 (d) A taxpayer is eligible to claim a tax credit under this section for the taxable year in
62 which the commercial energy storage system is completed and placed in service.

63 (3) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall
64 obtain a written certificate from the office.

65 (b) The office shall issue to a taxpayer a written certificate if the office determines that
66 the commercial energy storage system with respect to which the taxpayer seeks to claim a tax
67 credit is:

68 (i) used to supply all or part of the energy required by commercial units owned or used
69 by the taxpayer;

70 (ii) completely installed; and

71 (iii) safe, efficient, and functioning to store electrical energy, or mechanical, chemical,
72 or thermal energy that was once electrical energy, for use as electrical energy at a later date or
73 in a process that offsets electricity use at peak times.

74 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
75 Public Service Commission of Utah shall make rules:

76 (i) for determining whether a commercial energy system meets the requirements
77 described in Subsection (3)(b)(iii);

78 (ii) for determining whether a commercial energy storage system is a utility-controlled
79 energy storage system; and

80 (iii) establishing the reasonable costs of a commercial energy storage system.

81 (d) A taxpayer that obtains a written certificate from the office shall retain the
82 certificate for the same time period a person is required to keep books and records under
83 Section [59-1-1406](#).

84 (e) The office shall submit to the commission an electronic list that includes:

85 (i) the name and identifying information of each taxpayer to which the office issues a
86 written certificate; and

87 (ii) for each taxpayer:

88 (A) the amount of the tax credit listed on the written certificate; and

89 (B) the date the commercial energy storage is completed and installed.

90 Section 2. Section **59-10-1114** is enacted to read:

91 **59-10-1114. Refundable commercial energy storage tax credit.**

92 (1) As used in this section:

93 (a) "Commercial energy storage system" means an energy storage system that is used to
94 provide energy to a commercial unit.

95 (b) "Commercial unit" means a building or structure that an entity uses to transact
96 business.

97 (c) "Energy storage system" means a system used to store electrical energy, or
98 mechanical, chemical, or thermal energy that was once electrical energy, for use as electrical
99 energy at a later date or in a process that offsets electricity use at peak times.

100 (d) "Office" means the Office of Energy Development created in Section [79-6-401](#).

101 (e) "Qualified utility" means the same as that term is defined in Section [54-17-801](#).

102 (f) "Utility-controlled commercial energy storage system" means a commercial energy
103 storage system participating in a commission approved qualified utility program.

104 (2) (a) A claimant, estate, or trust or qualified utility may claim a refundable tax credit
105 with respect to a commercial energy storage system owned by a claimant, estate, or trust, or
106 qualified utility if:

107 (i) the commercial energy storage system supplies all or part of the energy required by
108 commercial units owned or used by the claimant, estate, or trust or qualified utility; and

109 (ii) the claimant, estate, or trust obtains a written certificate from the office in
110 accordance with Subsection (3).

111 (b) The tax credit is equal to:

112 (i) 30% of the reasonable costs, including installation costs, of a utility-controlled
113 commercial energy storage system; or

114 (ii) 10% of the reasonable costs, including installation costs, of a commercial energy
115 storage system that is not a utility-controlled commercial energy storage system.

116 (c) The amount of the tax credit may not exceed:

117 (i) \$300,000 for a utility-controlled commercial energy storage system; or

118 (ii) \$100,000 for a commercial energy storage system that is not a utility-controlled
119 commercial energy storage system.

120 (d) A claimant, estate, or trust is eligible to claim a tax credit under this section for the

121 taxable year in which the commercial energy storage system is completed and placed in
122 service.

123 (3) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
124 claimant, estate, or trust shall obtain a written certificate from the office.

125 (b) The office shall issue to the claimant, estate, or trust a written certificate if the
126 office determines that the commercial energy storage system with respect to which the
127 claimant, estate, or trust seeks to claim a tax credit is:

128 (i) used to supply all or part of the energy required by commercial units owned or used
129 by the claimant, estate, or trust;

130 (ii) completely installed; and

131 (iii) safe, efficient, and functioning to store electrical energy, or mechanical, chemical,
132 or thermal energy that was once electrical energy, for use as electrical energy at a later date or
133 in a process that offsets electricity use at peak times.

134 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
135 Public Service Commission of Utah shall make rules:

136 (i) for determining whether the commercial energy system meets the requirements
137 described in Subsection (3)(b)(iii);

138 (ii) for determining whether a commercial energy storage system is a utility-controlled
139 energy storage system; and

140 (iii) establishing the reasonable costs of a commercial energy storage system.

141 (d) A claimant, estate, or trust that obtains a written certificate from the office shall
142 retain the certificate for the same time period a person is required to keep books and records
143 under Section [59-1-1406](#).

144 (e) The office shall submit to the commission an electronic list that includes:

145 (i) the name and identifying information of each claimant, estate, or trust to which the
146 office issues a written certificate; and

147 (ii) for each claimant, estate, or trust:

148 (A) the amount of the tax credit listed on the written certificate; and

149 (B) the date the commercial energy storage system is completed and installed.

150 Section 3. Section **79-6-401** is amended to read:

151 **79-6-401. Office of Energy Development -- Creation -- Director -- Purpose --**

152 **Rulemaking regarding confidential information -- Fees -- Transition for employees.**

153 (1) There is created an Office of Energy Development in the Department of Natural
154 Resources.

155 (2) (a) The energy advisor shall serve as the director of the office or, on or before June
156 30, 2029, appoint a director of the office.

157 (b) The director:

158 (i) shall, if the energy advisor appoints a director under Subsection (2)(a), report to the
159 energy advisor; and

160 (ii) may appoint staff as funding within existing budgets allows.

161 (c) The office may consolidate energy staff and functions existing in the state energy
162 program.

163 (3) The purposes of the office are to:

164 (a) serve as the primary resource for advancing energy and mineral development in the
165 state;

166 (b) implement:

167 (i) the state energy policy under Section [79-6-301](#); and

168 (ii) the governor's energy and mineral development goals and objectives;

169 (c) advance energy education, outreach, and research, including the creation of
170 elementary, higher education, and technical college energy education programs;

171 (d) promote energy and mineral development workforce initiatives; and

172 (e) support collaborative research initiatives targeted at Utah-specific energy and
173 mineral development.

174 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal
175 Funds Procedures Act, the office may:

176 (a) seek federal grants or loans;

177 (b) seek to participate in federal programs; and

178 (c) in accordance with applicable federal program guidelines, administer federally
179 funded state energy programs.

180 (5) The office shall perform the duties required by Sections [11-42a-106](#), [59-5-102](#),
181 [59-7-614.7](#), [59-7-627](#), [59-10-1029](#), [59-10-1114](#), [63C-26-202](#), Part 5, Alternative Energy
182 Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit

183 Act.

184 (6) (a) For purposes of administering this section, the office may make rules, by
185 following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as
186 confidential, and not as a public record, information that the office receives from any source.

187 (b) The office shall maintain information the office receives from any source at the
188 level of confidentiality assigned by the source.

189 (7) The office may charge application, filing, and processing fees in amounts
190 determined by the office in accordance with Section [63J-1-504](#) as dedicated credits for
191 performing office duties described in this part.

192 (8) (a) An employee of the office is an at-will employee.

193 (b) For an employee of the office on July 1, 2021, the employee shall have the same
194 salary and benefit options the employee had when the office was part of the office of the
195 governor.

196 Section 4. **Retrospective operation.**

197 The following sections have retrospective operation for a taxable year beginning on or
198 after January 1, 2023:

199 (1) Section [59-7-627](#); and

200 (2) Section [59-10-1114](#).