

HB0023S01 compared with HB0023

~~{deleted text}~~ shows text that was in HB0023 but was deleted in HB0023S01.

Inserted text shows text that was not in HB0023 but was inserted into HB0023S01.

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.

Representative Jeremy A. Peterson proposes the following substitute bill:

INCOME TAX CREDIT MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: _____

LONG TITLE

~~{Committee Note:~~

~~—The Revenue and Taxation Interim Committee recommended this bill.~~

~~{General Description:~~

This bill amends the individual income tax credit for certain residential renewable energy systems.

Highlighted Provisions:

This bill:

- ▶ phases out the individual income tax credit for certain residential renewable energy systems; and
- ▶ amends the maximum individual income tax credit for certain residential renewable energy systems.

Money Appropriated in this Bill:

HB0023S01 compared with HB0023

None

Other Special Clauses:

~~{ This bill provides a special effective date.~~

~~{ This bill provides revisor instructions.}~~ None

Utah Code Sections Affected:

AMENDS:

59-10-1014, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

~~{ Utah Code Sections Affected by Revisor Instructions:~~

~~{ **59-10-1014**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1~~

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

Section 1. Section **59-10-1014** is amended to read:

59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --

Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

HB0023S01 compared with HB0023

(e) "Geothermal energy" means energy generated by heat that is contained in the earth.

(f) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

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

(i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(k) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

HB0023S01 compared with HB0023

(l) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-404;

(B) Section 59-2-405;

(C) Section 59-2-405.1;

(D) Section 59-2-405.2; or

(E) Section 59-2-405.3.

(m) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) ~~[(a) Subject to the other provisions of this Subsection (3);]~~ For a taxable year beginning on or before December 31, 2021, a claimant, estate, or trust may claim a nonrefundable tax credit under this ~~[Subsection (3)]~~ section with respect to a residential unit the claimant, estate, or trust owns or uses if:

~~[(i)]~~ (a) the claimant, estate, or trust:

~~[(A)]~~ (i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

~~[(B)]~~ (ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

~~[(ii)]~~ (b) the residential energy system is ~~[completed and placed in service]~~ installed on or after January 1, 2007; and

~~[(iii)]~~ (c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection ~~[(4)]~~ (5).

~~[(b) (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit is equal to]~~

(4) (a) For a residential energy system, other than an active solar system or a passive

HB0023S01 compared with HB0023

solar system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses[-

(ii) ~~A tax credit under this Subsection (3) may include installation costs.]; and~~

(ii) \$2,000.

(b) Subject to Subsection (5)(d), for a residential energy system that is an active solar system or a passive solar system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; ~~and~~ or

(ii) (A) for a ~~written certification issued~~ system installed on or after January 1, 2007, but before ~~the effective date of this bill~~ December 31, 2017, \$2,000;

(B) for a ~~written certification issued~~ system installed on or after January 1, 2018, but on or before December 31, 2018, \$1, ~~500~~ 600;

(C) for a ~~written certification issued~~ system installed on or after January 1, 2019, but on or before December 31, 2019, \$1, ~~000~~ 200;

(D) for a ~~written certification issued~~ system installed on or after January 1, 2020, but on or before December 31, 2020, ~~\$500~~ \$800; and

(E) for a ~~written certification issued~~ system installed on or after January 1, 2021, but on or before December 31, 2021, ~~\$250~~ \$400.

(c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

~~[(iii)] (d)~~ (d) A claimant, estate, or trust may claim a tax credit under [this] Subsection (3) for the taxable year in which the residential energy system is ~~completed and placed in service~~ installed.

~~[(iv)] (e)~~ (e) If the amount of a tax credit [under this Subsection (3)] listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability [may be carried forward] for a period that does not exceed the next four taxable years.

HB0023S01 compared with HB0023

~~[(v)]~~ The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed \$2,000 per residential unit.]

~~[(vi)]~~ (f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.

~~[(e)]~~ (g) (i) Subject to Subsections ~~[(3)(e)]~~ (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under ~~[this]~~ Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection ~~[(3)(e)]~~ (4)(g)(i) that leases a residential energy system may claim as a tax credit under ~~[this]~~ Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection ~~[(3)(e)]~~ (4)(g)(i) that leases a residential energy system may claim a tax credit under ~~[this]~~ Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

~~[(d)]~~ (h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under ~~[this]~~ Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

~~[(4)]~~ (5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) ~~{} The {} Subject to Subsections (5)(c) and (d), the {}~~ office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax

HB0023S01 compared with HB0023

credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

~~{ (c) (i) Beginning on the effective date of this bill and ending on December 31, 2017, the office may not receive requests for written certification or issue a written certification for an active solar system or a passive solar system.~~

~~— (ii) (A) Beginning on January 1, 2018, the office shall receive requests for written certification and issue written certification of an active solar system or a passive solar system that is installed on or after January 1, 2018.~~

~~— (B) The office shall issue a written certification for a request received on or after January 1, 2018, in accordance with this Subsection (5).~~

~~— (d) For a calendar year beginning on or after January 1, 2018, and ending on or before December 31, 2021:~~

~~— (i) the office shall issue written certifications for active solar systems or passive solar systems in the order that the office receives the requests for written certification; and~~

~~— (ii) for the final claimant, estate, or trust to receive a written certification of an active solar system or passive solar system under this Subsection (5), the tax credit described in this section is equal to the lesser of:~~

~~— (A) the amount described in Subsection (4)(b) for the applicable calendar year; and~~

~~— (B) the difference between the total aggregate dollar amount of written certifications that the office may issue under Subsection (6) for the applicable calendar year and the total aggregate dollar amount of the written certifications that the office already issued for active solar systems and passive solar systems for that calendar year.~~

~~†~~ ~~{(c)}~~ ~~{(e)}~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of

HB0023S01 compared with HB0023

Subsection ~~[(4)]~~ (5)(b)(ii); and

(ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection ~~[(3)]~~ (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

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

~~[(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.]~~

~~[(6) (a) Beginning on the effective date of this bill and ending on December 31, 2017, the office may issue a written certification for an active solar system or a passive solar system under Subsection (5) only if the claimant, estate, or trust requests the written certification before the effective date of this bill.~~

~~[(b) Beginning on January 1, 2018, and ending on December 31, 2018, the total aggregate dollar amount of written certifications that the office issues for active solar systems or passive solar systems may not exceed \$4,000,000.~~

~~[(c) Beginning on January 1, 2019, and ending on December 31, 2019, the total aggregate dollar amount of written certifications that the office issues for active solar systems or passive solar systems may not exceed \$3,000,000.~~

~~[(d) Beginning on January 1, 2020, and ending on December 31, 2020, the total aggregate dollar amount of written certifications that the office issues for active solar systems or passive solar systems may not exceed \$2,000,000.~~

~~[(e) Beginning on January 1, 2021, and ending on December 31, 2021, the total aggregate dollar amount of written certifications that the office issues for active solar systems or passive solar systems may not exceed \$1,000,000.~~

~~[(f) On or after January 1, 2022, the office may not issue a written certification for an active solar system or passive solar system.~~

~~[(6)]~~ (6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

~~[(7)]~~ (7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit

HB0023S01 compared with HB0023

under this section for that purchase.

~~{ Section 2. **Effective date.**}~~

~~{ If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.~~

~~Section 3. **Revisor instructions.**~~

~~It is the intent of the Legislature that, in preparing the Utah Code database for publication, the Office of Legislative Research and General Counsel shall replace the language "the effective date of this bill" in Subsections 59-10-1014(4)(b)(ii)(A), (5)(c), and (6)(a) with the bill's actual effective date.~~

~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~