

Representative Melissa G. Ballard proposes the following substitute bill:

ALTERNATIVE FUEL INCENTIVES AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies and enacts incentives related to alternative fuels.

Highlighted Provisions:

This bill:

- ▶ enacts refundable corporate and individual tax credits for systems that produce hydrogen from renewable and nonrenewable sources;
 - ▶ provides a process for a lessee of a renewable energy system or a hydrogen production system to obtain a written certification to claim an income tax credit;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-7-614, as last amended by Laws of Utah 2019, Chapter 247

59-10-1106, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1



26 ENACTS:

27 [59-7-626](#), 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 [59-7-614](#) is amended to read:

32 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**

33 **Rulemaking authority.**

34 (1) As used in this section:

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

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

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

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

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

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

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

45 (c) "Commercial energy system" means a system that is:

46 (i) (A) an active solar system;

47 (B) a biomass system;

48 (C) a direct use geothermal system;

49 (D) a geothermal electricity system;

50 (E) a geothermal heat pump system;

51 (F) a hydroenergy system;

52 (G) a passive solar system; or

53 (H) a wind system;

54 (ii) located in the state; and

55 (iii) used:

56 (A) to supply energy to a commercial unit; or

57 (B) as a commercial enterprise.

58 (d) "Commercial enterprise" means an entity, the purpose of which is to produce:

59 (i) electrical, mechanical, or thermal energy for sale from a commercial energy system;

60 or

61 (ii) hydrogen for sale from a hydrogen production system.

62 (e) (i) "Commercial unit" means a building or structure that an entity uses to transact
63 business.

64 (ii) Notwithstanding Subsection (1)(e)(i):

65 (A) with respect to an active solar system used for agricultural water pumping or a
66 wind system, each individual energy generating device is considered to be a commercial unit;

67 or

68 (B) if an energy system is the building or structure that an entity uses to transact
69 business, a commercial unit is the complete energy system itself.

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

73 (g) "Geothermal electricity" means energy that is:

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

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

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

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

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

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

81 (j) "Hydroenergy system" means a system of apparatus and equipment that is capable
82 of:

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

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

86 (k) "Hydrogen production system" means a system of apparatus and equipment, located
87 in this state, that uses:

88 (i) electricity from a renewable energy source to create hydrogen gas from water,
89 regardless of whether the renewable energy source is at a separate facility or the same facility
90 as the system of apparatus and equipment; or

91 (ii) uses renewable natural gas to produce hydrogen gas.

92 ~~[(k)]~~ (l) "Office" means the Office of Energy Development created in Section
93 [63M-4-401](#).

94 ~~[(h)]~~ (m) (i) "Passive solar system" means a direct thermal system that utilizes the
95 structure of a building and ~~[its]~~ the structure's operable components to provide for collection,
96 storage, and distribution of heating or cooling during the appropriate times of the year by
97 utilizing the climate resources available at the site.

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

100 ~~[(m)]~~ (n) "Photovoltaic system" means an active solar system that generates electricity
101 from sunlight.

102 ~~[(m)]~~ (o) (i) "Principal recovery portion" means the portion of a lease payment that
103 constitutes the cost a person incurs in acquiring a commercial energy system.

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

105 (A) an interest charge; or

106 (B) a maintenance expense.

107 (p) "Renewable energy source" means the same as that term is defined in Section
108 [54-17-601](#).

109 ~~[(o)]~~ (q) "Residential energy system" means the following used to supply energy to or
110 for a residential unit:

111 (i) an active solar system;

112 (ii) a biomass system;

113 (iii) a direct use geothermal system;

114 (iv) a geothermal heat pump system;

115 (v) a hydroenergy system;

116 (vi) a passive solar system; or

117 (vii) a wind system.

118 ~~[(p)]~~ (r) (i) "Residential unit" means a house, condominium, apartment, or similar

119 dwelling unit that:

120 (A) is located in the state; and

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

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

123 (A) Section 59-2-405;

124 (B) Section 59-2-405.1;

125 (C) Section 59-2-405.2;

126 (D) Section 59-2-405.3; or

127 (E) Section 72-10-110.5.

128 ~~[(7)]~~ (s) "Wind system" means a system of apparatus and equipment that is capable of:

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

130 (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,

131 or storage.

132 (2) A taxpayer may claim an energy system tax credit as provided in this section

133 against a tax due under this chapter for a taxable year.

134 (3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a
135 nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer
136 owns or uses if:

137 (i) the taxpayer:

138 (A) purchases and completes a residential energy system to supply all or part of the
139 energy required for the residential unit; or

140 (B) participates in the financing of a residential energy system to supply all or part of
141 the energy required for the residential unit; and

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

144 ~~[(iii)]~~ (ii) the taxpayer obtains a written certification from the office in accordance with
145 Subsection ~~[(7)]~~ (8).

146 (b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection
147 (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy
148 system installed with respect to each residential unit the taxpayer owns or uses.

149 (ii) A tax credit under this Subsection (3) may include installation costs.

150 (iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in
151 which the residential energy system is completed and placed in service.

152 (iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax
153 liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the
154 tax credit exceeding the liability [~~may be carried forward~~] for a period that does not exceed the
155 next four taxable years.

156 (c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a
157 residential energy system, other than a photovoltaic system, may not exceed \$2,000 per
158 residential unit.

159 (d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a
160 photovoltaic system may not exceed:

161 (i) for a system installed on or after January 1, 2018, but on or before December 31,
162 2020, \$1,600;

163 (ii) for a system installed on or after January 1, 2021, but on or before December 31,
164 2021, \$1,200;

165 (iii) for a system installed on or after January 1, 2022, but on or before December 31,
166 2022, \$800;

167 (iv) for a system installed on or after January 1, 2023, but on or before December 31,
168 2023, \$400; and

169 (v) for a system installed on or after January 1, 2024, \$0.

170 (e) If a taxpayer sells a residential unit to another person before the taxpayer claims the
171 tax credit under this Subsection (3):

172 (i) the taxpayer may assign the tax credit to the other person; and

173 (ii) (A) if the other person files a return under this chapter, the other person may claim
174 the tax credit under this section as if the other person had met the requirements of this section
175 to claim the tax credit; or

176 (B) if the other person files a return under Chapter 10, Individual Income Tax Act, the
177 other person may claim the tax credit under Section 59-10-1014 as if the other person had met
178 the requirements of Section 59-10-1014 to claim the tax credit.

179 (4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a
180 refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

- 181 (i) the commercial energy system does not use:
- 182 (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a
183 total of 660 or more kilowatts of electricity; or
- 184 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;
- 185 (ii) the taxpayer purchases or participates in the financing of the commercial energy
186 system;
- 187 (iii) (A) the commercial energy system supplies all or part of the energy required by
188 commercial units owned or used by the taxpayer; or
- 189 (B) the taxpayer sells all or part of the energy produced by the commercial energy
190 system as a commercial enterprise;
- 191 ~~[(iv) the commercial energy system is completed and placed in service on or after
192 January 1, 2007; and]~~
- 193 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7)
194 for hydrogen production using electricity for which the taxpayer claims a tax credit under this
195 Subsection (4); and
- 196 (v) the taxpayer obtains a written certification from the office in accordance with
197 Subsection ~~[(7)]~~ (8).
- 198 (b) (i) Subject to Subsections (4)(b)(ii) through ~~[(v)]~~ (iv), the tax credit is equal to 10%
199 of the reasonable costs of the commercial energy system.
- 200 (ii) A tax credit under this Subsection (4) may include installation costs.
- 201 (iii) A taxpayer ~~[may claim]~~ is eligible to claim a tax credit under this Subsection (4)
202 for the taxable year in which the commercial energy system is completed and placed in service.
- 203 ~~[(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.]~~
- 204 ~~[(v)]~~ (iv) The total amount of tax credit a taxpayer may claim under this Subsection (4)
205 may not exceed \$50,000 per commercial unit.
- 206 (c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a
207 commercial energy system installed on a commercial unit may claim a tax credit under this
208 Subsection (4) if the taxpayer ~~[confirms that the lessor irrevocably elects not to claim the tax~~
209 ~~credit]~~ obtains a written certification from the office in accordance with Subsection (8).
- 210 (ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this
211 Subsection (4) only the principal recovery portion of the lease payments.

212 (iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this
213 Subsection (4) for a period that does not exceed seven taxable years after the ~~[date]~~ day on
214 which the lease begins, as stated in the lease agreement.

215 (5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a
216 refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

217 (i) the commercial energy system uses wind, geothermal electricity, or biomass
218 equipment capable of producing a total of 660 or more kilowatts of electricity;

219 (ii) (A) the commercial energy system supplies all or part of the energy required by
220 commercial units owned or used by the taxpayer; or

221 (B) the taxpayer sells all or part of the energy produced by the commercial energy
222 system as a commercial enterprise;

223 ~~[(iii) the commercial energy system is completed and placed in service on or after~~
224 ~~January 1, 2007; and]~~

225 [(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7)
226 for hydrogen production using electricity for which the taxpayer claims a tax credit under this
227 Subsection (5); and

228 (iv) the taxpayer obtains a written certification from the office in accordance with
229 Subsection ~~[(7)]~~ (8).

230 (b) (i) Subject to ~~[Subsections]~~ Subsection (5)(b)(ii) ~~[and (iii)]~~, a tax credit under this
231 Subsection (5) is equal to the product of:

232 (A) 0.35 cents; and

233 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

234 (ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) ~~[may be~~
235 ~~claimed]~~ for production occurring during a period of 48 months beginning with the month in
236 which the commercial energy system is placed in commercial service.

237 ~~[(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.]~~

238 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial
239 unit may claim a tax credit under this Subsection (5) if the taxpayer ~~[confirms that the lessor~~
240 ~~irrevocably elects not to claim the tax credit]~~ obtains a written certification from the office in
241 accordance with Subsection (8).

242 (6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a

243 refundable tax credit as provided in this Subsection (6) if:

244 (i) the taxpayer owns a commercial energy system that uses solar equipment capable of
245 producing a total of 660 or more kilowatts of electricity;

246 (ii) (A) the commercial energy system supplies all or part of the energy required by
247 commercial units owned or used by the taxpayer; or

248 (B) the taxpayer sells all or part of the energy produced by the commercial energy
249 system as a commercial enterprise;

250 (iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed
251 and will not claim a tax credit under Subsection (7) for hydrogen production using electricity
252 for which a taxpayer claims a tax credit under this Subsection (6); and

253 [~~(iv) the commercial energy system is completed and placed in service on or after~~
254 ~~January 1, 2015; and]~~

255 [~~(v)~~] (iv) the taxpayer obtains a written certification from the office in accordance with
256 Subsection [~~(7)~~] (8).

257 (b) (i) Subject to [~~Subsections~~] Subsection (6)(b)(ii) [~~and (iii)~~], a tax credit under this
258 Subsection (6) is equal to the product of:

259 (A) 0.35 cents; and

260 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

261 (ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) [~~may be~~
262 ~~claimed for~~] production occurring during a period of 48 months beginning with the month in
263 which the commercial energy system is placed in commercial service.

264 [~~(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.~~]

265 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial
266 unit may claim a tax credit under this Subsection (6) if the taxpayer [~~confirms that the lessor~~
267 ~~irrevocably elects not to claim the tax credit~~] obtains a written certification in accordance with
268 Subsection (8).

269 (7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7)
270 if:

271 (i) the taxpayer owns a hydrogen production system;

272 (ii) the hydrogen production system is completed and placed in service on or after
273 January 1, 2022;

274 (iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own
275 use in commercial units, the hydrogen produced from the hydrogen production system;

276 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4),
277 (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this
278 Subsection (7); and

279 (v) the taxpayer obtains a written certification from the office in accordance with
280 Subsection (8).

281 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7)
282 is equal to the product of:

283 (A) \$0.12; and

284 (B) the number of kilograms of hydrogen produced during the taxable year.

285 (ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than
286 5,600 metric tons of hydrogen per taxable year.

287 (iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production
288 occurring during a period of 48 months beginning with the month in which the hydrogen
289 production system is placed in commercial service.

290 (c) (i) Subject to Subsections (7)(c)(ii) and (iii), a taxpayer that is a lessee of a
291 hydrogen production system installed on a commercial unit may claim a tax credit under this
292 Subsection (7) if the lessee obtains a written certification from the office in accordance with
293 Subsection (8).

294 (ii) A taxpayer described in Subsection (7)(c)(i) may claim as a tax credit under this
295 Subsection (7) only the principal recovery portion of the lease payments.

296 (iii) A taxpayer described in Subsection (7)(c)(i) may claim a tax credit under this
297 Subsection (7) for a period that does not exceed seven taxable years after the day on which the
298 lease begins, as stated in the lease agreement.

299 ~~[(7)]~~ (8) (a) Before a taxpayer, including a lessee under Subsection (4), (5), (6), or (7),
300 may claim a tax credit under this section, the taxpayer shall obtain a written certification from
301 the office.

302 (b) The office shall issue a taxpayer that is not a lessee a written certification if the
303 office determines that:

304 (i) the taxpayer meets the requirements of this section to receive a tax credit; and

305 (ii) the residential energy system [~~or~~], the commercial energy system, or the hydrogen
 306 production system with respect to which the taxpayer seeks to claim a tax credit:

307 (A) has been completely installed;

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

309 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
 310 energy system [~~or~~], the commercial energy system, or the hydrogen production system uses the
 311 state's renewable and nonrenewable energy resources in an appropriate and economic manner.

312 (c) The office shall issue a taxpayer that is a lessee a written certification if the office
 313 receives:

314 (i) a copy of the lessor's written certification or other proof, in a form established by the
 315 office, that the lessor qualified for a tax credit under Subsection (4), (5), (6), or (7); and

316 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
 317 lessor qualified.

318 [~~(c)~~] (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 319 Act, the office may make rules:

320 (i) for determining whether a residential energy system [~~or~~], a commercial energy
 321 system, or a hydrogen production system meets the requirements of Subsection [~~(7)~~] (8)(b)(ii);
 322 and

323 (ii) for purposes of a tax credit under Subsection (3) [~~or~~], (4), or (6), establishing the
 324 reasonable costs of a residential energy system or a commercial energy system, as an amount
 325 per unit of energy production.

326 [~~(d)~~] (e) A taxpayer, including a lessee, that obtains a written certification from the
 327 office shall retain the certification for the same time period a person is required to keep books
 328 and records under Section 59-1-1406.

329 [~~(e)~~] (f) The office shall submit to the commission an electronic list that includes:

330 (i) the name and identifying information of each taxpayer or lessee to which the office
 331 issues a written certification; and

332 (ii) for each taxpayer or lessee:

333 (A) the amount of the tax credit listed on the written certification; and

334 (B) the date the renewable energy system was installed.

335 [~~(8)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

336 Act, the commission may make rules to address the certification of a tax credit under this
337 section.

338 ~~[(9)]~~ (10) A tax credit under this section is in addition to any tax credits provided under
339 the laws or rules and regulations of the United States.

340 Section 2. Section **59-7-626** is enacted to read:

341 **59-7-626. Refundable tax credit for nonrenewable hydrogen production system.**

342 (1) As used in this section:

343 (a) "Commercial enterprise" means an entity, the purpose of which is to produce
344 hydrogen for sale from a hydrogen production system.

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

347 (c) "Hydrogen production system" means a system of apparatus and equipment, located
348 in this state, that produces hydrogen from nonrenewable sources.

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

350 (2) (a) A taxpayer may claim a refundable credit under this section if:

351 (i) the taxpayer owns a hydrogen production system;

352 (ii) the hydrogen production system is completed and placed in service on or after
353 January 1, 2022;

354 (iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own
355 use in commercial units, the hydrogen produced from the hydrogen production system;

356 (iv) the taxpayer has not claimed and will not claim a tax credit under Section [59-7-614](#)
357 for electricity used to meet the requirements of this section; and

358 (v) the taxpayer obtains a written certification from the office in accordance with
359 Subsection (3).

360 (b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal
361 to the product of:

362 (A) \$0.12; and

363 (B) the number of kilograms of hydrogen produced during the taxable year.

364 (ii) A taxpayer may not receive a tax credit under this section for more than 5,600
365 metric tons of hydrogen per taxable year.

366 (iii) A taxpayer is eligible to claim a tax credit under this section for production

367 occurring during a period of 48 months beginning with the month in which the hydrogen
368 production system is placed in commercial service.

369 (c) (i) Subject to Subsections (2)(c)(ii) and (iii), a taxpayer that is a lessee of a
370 hydrogen production system installed on a commercial unit may claim a tax credit under this
371 section if the lessee obtains a written certification from the office in accordance with
372 Subsection (3).

373 (ii) A taxpayer described in Subsection (2)(c)(i) may claim as a tax credit under this
374 section only the principal recovery portion of the lease payments.

375 (iii) A taxpayer described in Subsection (2)(c)(i) may claim a tax credit under this
376 section for a period that does not exceed seven taxable years after the day on which the lease
377 begins, as stated in the lease agreement.

378 (3) (a) Before a taxpayer, including a lessee, may claim a tax credit under this section,
379 the taxpayer shall obtain a written certification from the office.

380 (b) The office shall issue a taxpayer that is not a lessee a written certification if the
381 office determines that:

382 (i) the taxpayer meets the requirements of this section to receive a tax credit; and

383 (ii) the hydrogen production system with respect to which the taxpayer seeks to claim a
384 tax credit:

385 (A) has been completely installed; and

386 (B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen
387 production system uses the state's nonrenewable energy resources in an appropriate and
388 economic manner.

389 (c) The office shall issue a taxpayer that is a lessee a written certification if the office
390 receives:

391 (i) a copy of the lessor's written certification or other proof, in a form established by the
392 office, that the lessor qualified for a tax credit under this section; and

393 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
394 lessor qualified.

395 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
396 office may make rules for determining whether a hydrogen production system meets the
397 requirements of Subsection (3)(b)(ii).

398 (e) A taxpayer, including a lessee, that obtains a written certification from the office
 399 shall retain the certification for the same time period a person is required to keep books and
 400 records under Section 59-1-1406.

401 (f) The office shall submit to the commission an electronic list that includes:

402 (i) the name and identifying information of each taxpayer or lessee to which the office
 403 issues a written certification; and

404 (ii) for each taxpayer or lessee:

405 (A) the amount of the tax credit listed on the written certification; and

406 (B) the date the hydrogen production system was installed.

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

409 (5) A tax credit under this section is in addition to any tax credits provided under the
 410 laws or rules and regulations of the United States.

411 Section 3. Section 59-10-1106 is amended to read:

412 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**
 413 **Certification -- Rulemaking authority.**

414 (1) As used in this section:

415 (a) "Active solar system" means the same as that term is defined in Section
 416 59-10-1014.

417 (b) "Biomass system" means the same as that term is defined in Section 59-10-1014.

418 (c) "Commercial energy system" means the same as that term is defined in Section
 419 59-7-614.

420 (d) "Commercial enterprise" means the same as that term is defined in Section
 421 59-7-614.

422 (e) [(f)] "Commercial unit" means the same as that term is defined in Section 59-7-614.
 423 [(ii) Notwithstanding Subsection (1)(c)(i):]

424 [(A) with respect to an active solar system used for agricultural water pumping or a
 425 wind system, each individual energy-generating device is considered to be a commercial unit;
 426 or]

427 [(B) if an energy system is the building or structure that a claimant, estate, or trust uses
 428 to transact business, a commercial unit is the complete energy system itself.]

- 429 (f) "Direct use geothermal system" means the same as that term is defined in Section
430 [59-10-1014](#).
- 431 (g) "Geothermal electricity" means the same as that term is defined in Section
432 [59-10-1014](#).
- 433 (h) "Geothermal energy" means the same as that term is defined in Section [59-10-1014](#).
- 434 (i) "Geothermal heat pump system" means the same as that term is defined in Section
435 [59-10-1014](#).
- 436 (j) "Hydroenergy system" means the same as that term is defined in Section
437 [59-10-1014](#).
- 438 (k) "Hydrogen production system" means the same as that term is defined in Section
439 [59-7-614](#).
- 440 ~~(k)~~ (l) "Office" means the Office of Energy Development created in Section
441 [63M-4-401](#).
- 442 ~~(l)~~ (m) "Passive solar system" means the same as that term is defined in Section
443 [59-10-1014](#).
- 444 ~~(m)~~ (n) "Principal recovery portion" means the same as that term is defined in Section
445 [59-10-1014](#).
- 446 ~~(n)~~ (o) "Wind system" means the same as that term is defined in Section [59-10-1014](#).
- 447 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in
448 this section against a tax due under this chapter for a taxable year.
- 449 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust
450 may claim a refundable tax credit under this Subsection (3) with respect to a commercial
451 energy system if:
- 452 (i) the commercial energy system does not use:
- 453 (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a
454 total of 660 or more kilowatts of electricity; or
- 455 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;
- 456 (ii) the claimant, estate, or trust purchases or participates in the financing of the
457 commercial energy system;
- 458 (iii) (A) the commercial energy system supplies all or part of the energy required by
459 commercial units owned or used by the claimant, estate, or trust; or

460 (B) the claimant, estate, or trust sells all or part of the energy produced by the
461 commercial energy system as a commercial enterprise;

462 ~~[(iv) the commercial energy system is completed and placed in service on or after~~
463 ~~January 1, 2007; and]~~

464 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
465 Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust
466 claims a tax credit under this Subsection (3); and

467 (v) the claimant, estate, or trust obtains a written certification from the office in
468 accordance with Subsection ~~[(6)]~~ (7).

469 (b) (i) Subject to Subsections (3)(b)(ii) through ~~[(v)]~~ (iv), the tax credit is equal to 10%
470 of the reasonable costs of the commercial energy system.

471 (ii) A tax credit under this Subsection (3) may include installation costs.

472 (iii) A claimant, estate, or trust ~~[may claim]~~ is eligible to claim a tax credit under this
473 Subsection (3) for the taxable year in which the commercial energy system is completed and
474 placed in service.

475 ~~[(iv) A tax credit under this Subsection (3) may not be carried forward or carried back.]~~

476 ~~[(v)]~~ (iv) The total amount of tax credit a claimant, estate, or trust may claim under this
477 Subsection (3) may not exceed \$50,000 per commercial unit.

478 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a
479 lessee of a commercial energy system installed on a commercial unit may claim a tax credit
480 under this Subsection (3) if the claimant, estate, or trust ~~[confirms that the lessor irrevocably~~
481 ~~elects not to claim the tax credit]~~ obtains a written certification from the office in accordance
482 with Subsection (7).

483 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax
484 credit under this Subsection (3) only the principal recovery portion of the lease payments.

485 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit
486 under this Subsection (3) for a period that does not exceed seven taxable years after the ~~[date]~~
487 day on which the lease begins, as stated in the lease agreement.

488 (4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust
489 may claim a refundable tax credit under this Subsection (4) with respect to a commercial
490 energy system if:

491 (i) the commercial energy system uses wind, geothermal electricity, or biomass
492 equipment capable of producing a total of 660 or more kilowatts of electricity;

493 (ii) (A) the commercial energy system supplies all or part of the energy required by
494 commercial units owned or used by the claimant, estate, or trust; or
495 (B) the claimant, estate, or trust sells all or part of the energy produced by the
496 commercial energy system as a commercial enterprise;

497 ~~[(iii) the commercial energy system is completed and placed in service on or after
498 January 1, 2007; and]~~

499 (iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under
500 Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust
501 claims a tax credit under this Subsection (4); and

502 (iv) the claimant, estate, or trust obtains a written certification from the office in
503 accordance with Subsection ~~[(6)]~~ (7).

504 (b) (i) Subject to ~~[Subsections]~~ Subsection (4)(b)(ii) ~~[and (iii)]~~, a tax credit under this
505 Subsection (4) is equal to the product of:

506 (A) 0.35 cents; and
507 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

508 (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4)
509 ~~[may be claimed]~~ for production occurring during a period of 48 months beginning with the
510 month in which the commercial energy system is placed in commercial service.

511 ~~[(iii) A tax credit under this Subsection (4) may not be carried forward or back.]~~

512 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
513 on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or
514 trust ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written
515 certification from the office in accordance with Subsection (7).

516 (5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust
517 may claim a refundable tax credit as provided in this Subsection (5) if:

518 (i) the claimant, estate, or trust owns a commercial energy system that uses solar
519 equipment capable of producing a total of 660 or more kilowatts of electricity;

520 (ii) (A) the commercial energy system supplies all or part of the energy required by
521 commercial units owned or used by the claimant, estate, or trust; or

522 (B) the claimant, estate, or trust sells all or part of the energy produced by the
523 commercial energy system as a commercial enterprise;
524 (iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);
525 ~~[(iv) the commercial energy system is completed and placed in service on or after~~
526 ~~January 1, 2015; and]~~
527 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
528 Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax
529 credit under this Subsection (5); and
530 (v) the claimant, estate, or trust obtains a written certification from the office in
531 accordance with Subsection ~~[(6)]~~ (7).
532 (b) (i) Subject to ~~[Subsections]~~ Subsection (5)(b)(ii) ~~[and (iii)]~~, a tax credit under this
533 Subsection (5) is equal to the product of:
534 (A) 0.35 cents; and
535 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.
536 (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5)
537 ~~[may be claimed]~~ for production occurring during a period of 48 months beginning with the
538 month in which the commercial energy system is placed in commercial service.
539 ~~[(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.]~~
540 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
541 on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or
542 trust ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written
543 certification from the office in accordance with Subsection (7).
544 (6) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this
545 Subsection (6) if:
546 (i) the claimant, estate, or trust owns a hydrogen production system;
547 (ii) the hydrogen production system is completed and placed in service on or after
548 January 1, 2022;
549 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the
550 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the
551 hydrogen production system;
552 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under

553 Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6);
554 and

555 (v) the claimant, estate, or trust obtains a written certification from the office in
556 accordance with Subsection (7).

557 (b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6)
558 is equal to the product of:

559 (A) \$0.12; and

560 (B) the number of kilograms of hydrogen produced during the taxable year.

561 (ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for
562 more than 5,600 metric tons of hydrogen per taxable year.

563 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6)
564 for production occurring during a period of 48 months beginning with the month in which the
565 hydrogen production system is placed in commercial service.

566 (c) (i) Subject to Subsections (6)(c)(ii) and (iii), a claimant, estate, or trust that is a
567 lessee of a hydrogen production system installed on a commercial unit may claim a tax credit
568 under this Subsection (6) if the lessee obtains a written certification from the office in
569 accordance with Subsection (7).

570 (ii) A claimant, estate, or trust described in Subsection (6)(c)(i) may claim as a tax
571 credit under this Subsection (6) only the principal recovery portion of the lease payments.

572 (iii) A claimant, estate, or trust described in Subsection (6)(c)(i) may claim a tax credit
573 under this Subsection (6) for a period that does not exceed seven taxable years after the day on
574 which the lease begins, as stated in the lease agreement.

575 ~~[(6)]~~ (7) (a) Before a claimant, estate, or trust, including a lessee, may claim a tax
576 credit under this section, the claimant, estate, or trust shall obtain a written certification from
577 the office.

578 (b) The office shall issue a claimant, estate, or trust ~~that is not a lessee~~ a written
579 certification if the office determines that:

580 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
581 credit; and

582 (ii) ~~[the office determines that]~~ the commercial energy system or the hydrogen
583 production system with respect to which the claimant, estate, or trust seeks to claim a tax

584 credit:

585 (A) has been completely installed;

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

587 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial
588 energy system or the hydrogen production system uses the state's renewable and nonrenewable
589 resources in an appropriate and economic manner.

590 (c) The office shall issue a claimant, estate, or trust that is a lessee a written
591 certification if the office receives:

592 (i) a copy of the lessor's written certification or other proof, in a form established by the
593 office, that the lessor qualified for a tax credit under this section; and

594 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
595 lessor qualified.

596 ~~[(c)]~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
597 Act, the office may make rules:

598 (i) for determining whether a commercial energy system or a hydrogen production
599 system meets the requirements of Subsection ~~[(6)]~~ (7)(b)(ii); and

600 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs
601 of a commercial energy system, as an amount per unit of energy production.

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

605 (f) The office shall submit to the commission an electronic list that includes:

606 (i) the name and identifying information of each claimant, estate, trust, or lessee to
607 which the office issues a written certification; and

608 (ii) for each claimant, estate, trust, or lessee:

609 (A) the amount of the tax credit listed on the written certification; and

610 (B) the date the commercial energy system or the hydrogen production system was
611 installed.

612 ~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
613 Act, the commission may make rules to address the certification of a tax credit under this
614 section.

615 ~~[(8)]~~ (9) A tax credit under this section is in addition to any tax credits provided under
616 the laws or rules and regulations of the United States.

617 ~~[(9)]~~ (10) A purchaser of one or more solar units that claims a tax credit under Section
618 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
619 section for that purchase.

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

621 **59-10-1113. Refundable tax credit for nonrenewable hydrogen production system.**

622 (1) As used in this section:

623 (a) "Commercial enterprise" means the same as that term is defined in Section
624 [59-7-626](#).

625 (b) "Commercial unit" means the same as that term is defined in Section [59-7-626](#).

626 (c) "Hydrogen production system" means the same as that term is defined in Section
627 [59-7-626](#).

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

629 (2) (a) A claimant, estate, or trust may claim a refundable credit under this section if:

630 (i) the claimant, estate, or trust owns a hydrogen production system;

631 (ii) the hydrogen production system is completed and placed in service on or after
632 January 1, 2022;

633 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the
634 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the
635 hydrogen production system;

636 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
637 Section [59-10-1106](#) for electricity used to meet the requirements of this section; and

638 (v) the taxpayer obtains a written certification from the office in accordance with
639 Subsection (3).

640 (b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal
641 to the product of:

642 (A) \$0.12; and

643 (B) the number of kilograms of hydrogen produced during the taxable year.

644 (ii) A claimant, estate, or trust may not receive a tax credit under this section for more
645 than 5,600 metric tons of hydrogen per taxable year.

646 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this section for
647 production occurring during a period of 48 months beginning with the month in which the
648 hydrogen production system is placed in commercial service.

649 (c) (i) Subject to Subsections (2)(c)(ii) and (iii), a claimant, estate, or trust that is a
650 lessee of a hydrogen production system installed on a commercial unit may claim a tax credit
651 under this section if the lessee obtains a written certification from the office in accordance with
652 Subsection (3).

653 (ii) A claimant, estate, or trust described in Subsection (2)(c)(i) may claim as a tax
654 credit under this section only the principal recovery portion of the lease payments.

655 (iii) A claimant, estate, or trust described in Subsection (2)(c)(i) may claim a tax credit
656 under this section for a period that does not exceed seven taxable years after the day on which
657 the lease begins, as stated in the lease agreement.

658 (3) (a) Before a claimant, estate, or trust, including a lessee, may claim a tax credit
659 under this section, the claimant, estate, or trust shall obtain a written certification from the
660 office.

661 (b) The office shall issue a claimant, estate, or trust that is not a lessee a written
662 certification if the office determines that:

663 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
664 credit; and

665 (ii) the hydrogen production system with respect to which the claimant, estate, or trust
666 seeks to claim a tax credit:

667 (A) has been completely installed;

668 (B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen
669 production system uses the state's nonrenewable energy resources in an appropriate and
670 economic manner.

671 (c) The office shall issue a claimant, estate, or trust that is a lessee a written
672 certification if the office receives:

673 (i) a copy of the lessor's written certification or other proof, in a form established by the
674 office, that the lessor qualified for a tax credit under this section; and

675 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
676 lessor qualified.

677 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
678 office may make rules for determining whether a hydrogen production system meets the
679 requirements of this Subsection (3)(b)(ii).

680 (e) A claimant, estate, or trust, including a lessee, that obtains a written certification
681 from the office shall retain the certification for the same time period a person is required to
682 keep books and records under Section 59-1-1406.

683 (f) The office shall submit to the commission an electronic list that includes:

684 (i) the name and identifying information of each claimant, estate, trust, or lessee to
685 which the office issues a written certification; and

686 (ii) for each claimant, estate, trust, or lessee:

687 (A) the amount of the tax credit listed on the written certification; and

688 (B) the date the hydrogen production system was installed.

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

691 (5) A tax credit under this section is in addition to any tax credits provided under the
692 laws or rules and regulations of the United States.

693 **Section 5. Effective date.**

694 This bill takes effect for a taxable year beginning on or after January 1, 2022.