

## HB0262S02 compared with HB0262

~~{deleted text}~~ shows text that was in HB0262 but was deleted in HB0262S02.

inserted text shows text that was not in HB0262 but was inserted into HB0262S02.

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Representative Kay J. Christofferson proposes the following substitute bill:

### INCENTIVES AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kay J. Christofferson**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends provisions related to tax credits and incentives.

##### Highlighted Provisions:

This bill:

- ▶ provides for the treatment of a carry forward when an income tax credit expires or repeals;

~~{~~ → ~~modifies the research activities tax credit by:~~

~~—~~ • ~~eliminating the credit equal to 7.5% of qualified research expenses; and~~

~~—~~ • ~~requiring the State Tax Commission to provide, and the taxpayer to complete and retain, a worksheet to calculate the credits;~~

~~—~~ → ~~modifies the formula for calculating the individual historic preservation tax credit;~~

~~}~~ ▶ modifies the formulas for calculating the corporate and individual renewable energy

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system tax credits;

~~{~~ → modifies the criteria for qualifying for an enterprise zone tax credit;  
→ sets an end date for entering or extending contracts authorizing an economic development tax increment financing tax credit;

‡ ▶ repeals the following corporate income tax credits:

- interest income from state and federal securities;

~~{~~ • ~~historic preservation;~~

‡ • renewable energy system for a residential unit; ~~{~~

~~→~~ • ~~alternative energy development;~~ } and

- recycling market development zone;

▶ repeals the following individual income tax credits:

- recycling market development zone;

- qualifying solar projects; and

- investment in life science establishments; ~~{ and }~~

~~{~~ • ~~alternative energy development;~~

‡ ▶ repeals the Technology and Life Science Economic Development Act;

~~{~~ → ~~repeals the motion pictures incentives;~~

~~→~~ ~~repeals the Alternative Energy Development Tax Credit Act;~~

‡ ▶ modifies reporting and study requirements related to repealed income tax credits;  
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:

**19-13-102**, as renumbered and amended by Laws of Utah 2020, Chapter 360

**19-13-109**, as renumbered and amended by Laws of Utah 2020, Chapter 360

**59-2-102**, as last amended by Laws of Utah 2021, Chapter 314

**59-7-159**, as last amended by Laws of Utah 2021, Chapters 282 and 367

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- ~~{ 59-7-612, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1~~
- ‡ 59-7-614, as last amended by Laws of Utah 2021, Chapters 280 and 374
- ~~{ 59-7-614.2, as last amended by Laws of Utah 2021, Chapter 282~~
- ‡ 59-7-624, as last amended by Laws of Utah 2021, Chapter 282
- ~~{ 59-7-903, as last amended by Laws of Utah 2016, Chapters 64 and 135~~
- ‡ 59-10-137, as last amended by Laws of Utah 2021, Chapters 282 and 367
- 59-10-1002.2, as last amended by Laws of Utah 2021, Chapters 68 and 428
- ~~{ 59-10-1006, as renumbered and amended by Laws of Utah 2006, Chapter 223~~
- ~~— 59-10-1012, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1~~
- ‡ 59-10-1014, as last amended by Laws of Utah 2021, Chapter 280
- 59-10-1106, as last amended by Laws of Utah 2021, Chapters 280 and 374
- ~~{ 59-10-1107, as last amended by Laws of Utah 2021, Chapter 282~~
- ‡ 59-10-1112, as last amended by Laws of Utah 2021, Chapter 282
- ~~{ 63J-1-602.1, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438~~
- ~~— 63N-2-104, as last amended by Laws of Utah 2021, Chapters 282, 381 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 282~~
- ~~— 63N-2-106, as last amended by Laws of Utah 2021, Chapter 282~~
- ~~— 63N-2-213, as last amended by Laws of Utah 2021, Chapter 282~~
- ‡ 63N-2-304, as last amended by Laws of Utah 2019, Chapter 247
- ~~{ 79-6-401, as renumbered and amended by Laws of Utah 2021, Chapter 280~~
- ‡ENACTS:
  - 59-7-538, Utah Code Annotated 1953
  - 59-10-552, Utah Code Annotated 1953
- REPEALS:
  - 19-13-110, as renumbered and amended by Laws of Utah 2020, Chapter 360
  - 59-7-601, as last amended by Laws of Utah 2005, Chapter 105
  - ~~{ 59-7-609, as enacted by Laws of Utah 1995, Chapter 42~~
  - ‡ 59-7-610, as last amended by Laws of Utah 2021, Chapter 367
  - ~~{ 59-7-614.5, as last amended by Laws of Utah 2021, Chapter 282~~
  - ~~— 59-7-614.7, as last amended by Laws of Utah 2021, Chapter 280~~
  - ‡ 59-10-1007, as last amended by Laws of Utah 2021, Chapter 367

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59-10-1024, as last amended by Laws of Utah 2021, Chapter 280

59-10-1025, as last amended by Laws of Utah 2019, Chapter 465

~~{ 59-10-1029, as last amended by Laws of Utah 2021, Chapter 280~~

~~— 59-10-1108, as last amended by Laws of Utah 2021, Chapter 282~~

‡ 63N-2-801, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-802, as last amended by Laws of Utah 2016, Chapter 354

63N-2-803, as last amended by Laws of Utah 2016, Chapter 354

63N-2-804, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-805, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-806, as last amended by Laws of Utah 2016, Chapter 354

63N-2-807, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-808, as last amended by Laws of Utah 2021, Chapter 282

63N-2-809, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-810, as last amended by Laws of Utah 2021, Chapter 282

63N-2-811, as last amended by Laws of Utah 2021, Chapter 382

~~{ 63N-8-101, as renumbered and amended by Laws of Utah 2015, Chapter 283~~

~~— 63N-8-102, as last amended by Laws of Utah 2021, Chapter 282~~

~~— 63N-8-103, as last amended by Laws of Utah 2021, Chapters 282 and 436~~

~~— 63N-8-104, as last amended by Laws of Utah 2021, Chapter 282~~

~~— 63N-8-105, as last amended by Laws of Utah 2021, Chapter 282~~

~~— 79-6-501, as renumbered and amended by Laws of Utah 2021, Chapter 280~~

~~— 79-6-502, as renumbered and amended by Laws of Utah 2021, Chapter 280~~

~~— 79-6-503, as last amended by Laws of Utah 2021, Chapter 64 and renumbered and amended by Laws of Utah 2021, Chapter 280~~

~~— 79-6-504, as renumbered and amended by Laws of Utah 2021, Chapter 280~~

~~— 79-6-505, as renumbered and amended by Laws of Utah 2021, Chapter 280~~

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

Section 1. Section **19-13-102** is amended to read:

**19-13-102. Definitions.**

As used in this part:

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(1) "Composting" means the controlled decay of landscape waste or sewage sludge and organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other organisms.

(2) "Postconsumer waste material" means any product generated by a business or consumer that has served its intended end use, and that has been separated from solid waste for the purposes of collection, recycling, and disposition and that does not include secondary waste material.

(3) (a) "Recovered materials" means waste materials and by-products that have been recovered or diverted from solid waste.

(b) "Recovered materials" does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(4) (a) "Recycling" means the diversion of materials from the solid waste stream and the beneficial use of the materials and includes a series of activities by which materials that would become or otherwise remain waste are diverted from the waste stream for collection, separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of the materials as substitutes for goods made from virgin materials.

(b) "Recycling" does not include burning municipal solid waste for energy recovery.

(5) "Recycling market development zone" or "zone" means an area designated by the office as meeting the requirements of this part.

(6) (a) "Secondary waste material" means industrial by-products that go to disposal facilities and waste generated after completion of a manufacturing process.

(b) "Secondary waste material" does not include internally generated scrap commonly returned to industrial or manufacturing processes, such as home scrap and mill broke.

~~[(7) "Tax incentive" means a nonrefundable tax credit available under Section 59-7-610 or 59-10-1007.]~~

Section 2. Section **19-13-109** is amended to read:

### **19-13-109. Revocation of designations.**

(1) The department may revoke the designation of a recycling market development zone ~~[if no businesses utilize the tax incentives during any calendar year].~~

(2) Before revocation of the zone, the department shall conduct a public hearing within

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a reasonable distance of the zone to determine reasons for inactivity and explore possible alternative actions.

Section 3. Section **59-2-102** is amended to read:

### **59-2-102. Definitions.**

As used in this chapter:

(1) (a) "Acquisition cost" means any cost required to put an item of tangible personal property into service.

(b) "Acquisition cost" includes:

(i) the purchase price of a new or used item;

(ii) the cost of freight, shipping, loading at origin, unloading at destination, crating, skidding, or any other applicable cost of shipping;

(iii) the cost of installation, engineering, rigging, erection, or assembly, including foundations, pilings, utility connections, or similar costs; and

(iv) sales and use taxes.

(2) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(3) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(4) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(5) "Aircraft" means the same as that term is defined in Section 72-10-102.

(6) (a) Except as provided in Subsection (6)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

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(b) "Airline" does not include an:

- (i) air charter service; or
- (ii) air contract service.

(7) "Assessment roll" or "assessment book" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(8) "Base parcel" means a parcel of property that was legally:

- (a) subdivided into two or more lots, parcels, or other divisions of land; or
- (b) (i) combined with one or more other parcels of property; and
- (ii) subdivided into two or more lots, parcels, or other divisions of land.

(9) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (9), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

- (i) assessed by a county assessor in accordance with Part 3, County Assessment; and
- (ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (9), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

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(10) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or



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(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13)(a) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(b) For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;  
and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

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- (iv) patronage; or
- (v) a factor similar to Subsections (16)(b)(i) through (iv).
- (c) "Goodwill" does not include:
  - (i) the intangible property described in Subsection (19)(a) or (b);
  - (ii) locational attributes of real property, including:
    - (A) zoning;
    - (B) location;
    - (C) view;
    - (D) a geographic feature;
    - (E) an easement;
    - (F) a covenant;
    - (G) proximity to raw materials;
    - (H) the condition of surrounding property; or
    - (I) proximity to markets;
  - (iii) value attributable to the identification of an improvement to real property,

including:

- (A) reputation of the designer, builder, or architect of the improvement;
- (B) a name given to, or associated with, the improvement; or
- (C) the historic significance of an improvement; or
- (iv) the enhancement or assemblage value specifically attributable to the interrelation

of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

- (a) for a county, city, or town, the legislative body of the county, city, or town;
- (b) for a local district under Title 17B, Limited Purpose Local Government Entities -

Local Districts, the local district's board of trustees;

- (c) for a school district, the local board of education;
- (d) for a special service district under Title 17D, Chapter 1, Special Service District

Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

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(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301; or

(e) for a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, the public infrastructure district's board of trustees.

(18) (a) Except as provided in Subsection (18)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (18)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (18)(a); and

(B) installed solely to serve the operation of the item described in Subsection (18)(a);

and

(ii) an item described in Subsection (18)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that

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transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(19) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614~~(5)~~(4).

(20) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

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(21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

(22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(25) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(28) "Personal property" includes:

(a) every class of property as defined in Subsection (29) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an

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improvement;

- (c) bridges and ferries;
- (d) livestock; and
- (e) outdoor advertising structures as defined in Section 72-7-502.

(29) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(30) "Public utility" means:

(a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(31) (a) Subject to Subsection (31)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

- (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;
- (ii) are owned by the owner of the dwelling unit that is the primary residence of a

tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (31) and Subsection (34).

(32) "Real estate" or "real property" includes:

- (a) the possession of, claim to, ownership of, or right to the possession of land;
- (b) all mines, minerals, and quarries in and under the land, all timber belonging to

individuals or corporations growing or being on the lands of this state or the United States, and

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all rights and privileges appertaining to these; and

(c) improvements.

(33) (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(34) (a) "Residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) "Residential property" includes:

(i) except as provided in Subsection (34)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant;

and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant;

and

(ii) if the county assessor determines that the property will be used for residential purposes as a primary residence:

(A) property under construction; or

(B) unoccupied property.

(c) "Residential property" does not include property used for transient residential use.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (31) and this Subsection (34).

(35) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

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(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(36) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (10)(c) as county-assessed commercial vehicles.

(37) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

(38) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(39) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

Section 4. Section **59-7-159** is amended to read:

### **59-7-159. Review of credits allowed under this chapter.**

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be



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continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Opportunity is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

~~[(i) Section 59-7-601;]~~

~~[(ii) (i) Section 59-7-607;~~

~~[(iii) (ii) Section 59-7-612; ~~and~~~~

~~[(iv) (iii) Section 59-7-614.1 ~~and~~~~; and ~~[(v) (iv) Section 59-7-614.5 ~~and~~~~

~~[(vi) (iv) Section 59-7-614.5 ~~and~~~~

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

~~[(i) Section 59-7-609; ~~and~~~~

~~[(ii) Section 59-7-614.2; ~~and~~~~

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~~{(iii)}~~ ~~{(i)}~~ Section 59-7-614.10;

~~{(iv)}~~ ~~{(ii)}~~ Section 59-7-619; and

~~{(v)} Section 59-7-620; and]~~

~~{(vi)}~~ ~~{(iii)}~~ v Section 59-7-624.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under ~~{}~~the following sections: ~~{ Section 59-7-614.}~~

~~{(i)} Section 59-7-610;~~

~~{(ii)}~~ (i) Section 59-7-614; and ~~{}~~

~~{(iii)}~~ (ii) Section 59-7-614.7. ~~{}~~

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 5. Section **59-7-538** is enacted to read:

### **59-7-538. Carry forward of expired or repealed tax credit.**

When a nonrefundable corporate income tax credit under Part 6, Credits, expires or is repealed, the commission shall allow a taxpayer to carry forward any amount of the tax credit that remains for the period of time described in the tax credit for the taxable year in which the taxpayer first claimed the tax credit.

Section 6. Section ~~{59-7-612}~~ 59-7-614 is amended to read:

~~{~~ ~~59-7-612. Tax credits for research activities conducted in the state -- Carry forward -- Worksheet -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.~~

~~\_\_\_\_\_ (1) (a) As used in this section:~~

~~\_\_\_\_\_ (i) "Basic research" means the same as that term is defined in Section 41(c)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state.~~

~~\_\_\_\_\_ (ii) "Committee" means the Revenue and Taxation Interim Committee.~~

~~\_\_\_\_\_ (iii) "Qualified research" means the same as that term is defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this~~

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state:

~~—— (iv) "Qualified research expenses" means the same as that term is defined in Section 41(b), Internal Revenue Code, except that the term includes only:~~

~~—— (A) in-house research expenses incurred in this state; and~~

~~—— (B) contract research expenses incurred in this state.~~

~~—— (b) Except as provided in Subsection (1)(a), a term used in this section that is defined in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41, Internal Revenue Code.~~

~~—— [(1)] (2) (a) A taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:~~

~~—— (i) a research tax credit of 5% of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection [(4);] (5); and~~

~~—— (ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the base amount provided for under Subsection [(4); and] (5);~~

~~—— [(iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the current taxable year.]~~

~~—— (b) Subject to Subsection [(5)] (6), a taxpayer may claim a tax credit under:~~

~~—— (i) Subsection [(1)(a)(i) or (1)(a)(iii)] (2)(a)(i), for the taxable year for which the taxpayer incurs the qualified research expenses; or~~

~~—— (ii) Subsection [(1)] (2)(a)(ii), for the taxable year for which the taxpayer makes the payment to the qualified organization.~~

~~—— (c) The tax credits provided for in this section:~~

~~—— (i) do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code[.]; and~~

~~—— (ii) do not terminate if a credit terminates under Section 41, Internal Revenue Code.~~

~~—— [(2)] (3) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.~~

~~—— [(3)] (4) Except as specifically provided for in this section[: (a)], the tax credits authorized under Subsection [(1)] (2) shall be calculated as provided in Section 41, Internal Revenue Code[; and].~~

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~~—— [(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).]~~

~~—— [(4) (5) For purposes of this section [(a)] the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:~~

~~—— [(i) (a) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;~~

~~—— [(ii) (b) a taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; and~~

~~—— [(iii) (c) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:~~

~~—— [(A) (i) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B), Internal Revenue Code, regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and~~

~~—— [(B) (ii) may not revoke an election to be treated as a start-up company under Subsection [(4)(a)(iii)(A);] (5)(c)(i):~~

~~—— [(b) "basic research" is as defined in Section 41(c)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;]~~

~~—— [(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;]~~

~~—— [(d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:]~~

~~—— [(i) in-house research expenses incurred in this state; and]~~

~~—— [(ii) contract research expenses incurred in this state; and]~~

~~—— [(e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.]~~

~~—— [(5) (a) (6) If the amount of a tax credit claimed by a taxpayer under Subsection [(1)(a)(i) or (ii)] (2) exceeds the taxpayer's tax liability under this chapter for a taxable year, the [amount of the tax credit exceeding the tax liability] taxpayer:~~

~~—— [(i) may be carried forward]~~

~~—— (a) may carry forward the amount of the tax credit that exceeds the taxpayer's tax~~

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~~liability for a period that does not exceed the next 14 taxable years; and~~

~~—— [(ii)] (b) may not [be carried back] carry back the amount of the tax credit that exceeds the taxpayer's tax liability to a taxable year preceding the current taxable year.~~

~~—— [(b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).]~~

~~—— (7) (a) (i) The commission shall provide a worksheet for calculating the tax credits available under this section.~~

~~—— (ii) A taxpayer shall complete the worksheet for each taxable year in which the taxpayer claims a tax credit under this section and retain the completed worksheet for the same time period that a person is required to keep books and records under Section 59-1-1406.~~

~~—— [(6)] (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules [for purposes of this section] prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.~~

~~—— [(7)] (8) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall provide an electronic report of the modification or repeal to the [Revenue and Taxation Interim Committee] committee within 60 days after the day on which the modification or repeal becomes effective.~~

~~—— [(8)] (9) (a) The [Revenue and Taxation Interim Committee] committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection [(7)] (8) a modification or repeal of a provision of Section 41, Internal Revenue Code.~~

~~—— (b) The review described in Subsection [(8)] (9)(a) is in addition to the review required by Section 59-7-159.~~

~~—— (c) Notwithstanding Subsection [(8)] (9)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.~~

~~—— (d) The [Revenue and Taxation Interim Committee] committee shall address in a review under this section:~~

~~—— (i) the cost of the tax credits provided for in this section;~~

~~—— (ii) the purpose and effectiveness of the tax credits provided for in this section;~~

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- ~~— (iii) whether the tax credits provided for in this section benefit the state; and~~
- ~~— (iv) whether the tax credits provided for in this section should be:~~
- ~~— (A) continued;~~
- ~~— (B) modified; or~~
- ~~— (C) repealed.~~
- ~~— (e) If the [Revenue and Taxation Interim Committee reviews the tax credits provided for in this section] committee conducts a review under this Subsection (9), the committee shall issue a report of the [Revenue and Taxation Interim Committee's] committee's findings.~~
- ~~— Section 7. Section **59-7-614** is amended to read:~~

### ~~‡~~ **59-7-614. 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) "Commercial energy system" means a system that is:
    - (i) (A) an active solar system;
    - (B) a biomass system;
    - (C) a direct use geothermal system;
    - (D) a geothermal electricity system;
    - (E) a geothermal heat pump system;
    - (F) a hydroenergy system;
    - (G) a passive solar system; or
    - (H) a wind system;

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(ii) located in the state; and

(iii) used:

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

(B) as a commercial enterprise.

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

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

or

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

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

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

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

or

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

(f) "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.

(g) "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.

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

(i) "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.

(j) "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

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

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

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

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

(l) "Office" means the Office of Energy Development created in Section 79-6-401.

(m) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and the structure's 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.

(n) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

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

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

(A) an interest charge; or

(B) a maintenance expense.

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

~~[(q) "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]~~



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~~[(vii) a wind system.]~~

~~[(r) (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 59-2-405;]~~

~~[(B) Section 59-2-405.1;]~~

~~[(C) Section 59-2-405.2;]~~

~~[(D) Section 59-2-405.3; or]~~

~~[(E) Section 72-10-110.5.]~~

~~[(s) (q) "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, sale,~~

~~or storage.~~

(2) A taxpayer 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), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:]~~

~~[(i) the taxpayer:]~~

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

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

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

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

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

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~~[(iii) A taxpayer 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.]~~

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

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

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

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

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

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

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

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

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

~~[(i) the taxpayer may assign the tax credit to the other person; and]~~

~~[(ii) (A) 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; or]~~

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

~~[(4)] (3) (a) Subject to the other provisions of this Subsection [(4)] (3), a taxpayer may claim a refundable tax credit under this Subsection [(4)] (3) with respect to a commercial energy system if:~~

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(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

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

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

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection [~~(7)~~] (6) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection [~~(4)~~] (3); and

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

(b) (i) Subject to Subsections [~~(4)~~] (3)(b)(ii) through (iv), the tax credit is equal to [~~10~~] 5% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection [~~(4)~~] (3) may include installation costs.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection [~~(4)~~] (3) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a taxpayer may claim under this Subsection [~~(4)~~] (3) may not exceed [~~\$50,000~~] \$25,000 per commercial unit.

(c) (i) Subject to Subsections [~~(4)~~] (3)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection [~~(4)~~] (3) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection [~~(4)~~] (3)(c)(i) may claim as a tax credit under this Subsection [~~(4)~~] (3) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection [~~(4)~~] (3)(c)(i) may claim a tax credit under this Subsection [~~(4)~~] (3) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

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~~[(5)]~~ (4) (a) Subject to the other provisions of this Subsection ~~[(5)]~~ (4), a taxpayer may claim a refundable tax credit under this Subsection ~~[(5)]~~ (4) with respect to a commercial energy system if:

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

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

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

(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection ~~[(7)]~~ (6) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection ~~[(5)]~~ (4); and

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

(b) (i) Subject to Subsection ~~[(5)]~~ (4)(b)(ii), a tax credit under this Subsection ~~[(5)]~~ (4) is equal to the product of:

(A) ~~[0.35 cents]~~ \$~~0.175~~00175; and

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

(ii) A taxpayer is eligible to claim a tax credit under this Subsection ~~[(5)]~~ (4) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection ~~[(5)]~~ (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

~~[(6)]~~ (5) (a) Subject to the other provisions of this Subsection ~~[(6)]~~ (5), a taxpayer may claim a refundable tax credit as provided in this Subsection ~~[(6)]~~ (5) if:

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

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

(B) the taxpayer sells all or part of the energy produced by the commercial energy

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system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection ~~[(4)]~~ (3) and has not claimed and will not claim a tax credit under Subsection ~~[(7)]~~ (6) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection ~~[(6)]~~ (5); and

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

(b) (i) Subject to Subsection ~~[(6)]~~ (5)(b)(ii), a tax credit under this Subsection ~~[(6)]~~ (5) is equal to the product of:

(A) ~~[0.35 cents]~~ \$0.~~175~~00175; and

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

(ii) A taxpayer is eligible to claim a tax credit under this Subsection ~~[(6)]~~ (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection ~~[(6)]~~ (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

~~[(7)]~~ (6) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection ~~[(7)]~~ (6) if:

(i) the taxpayer owns a hydrogen production system;

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

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

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection ~~[(4)]~~ (5), or ~~[(6)]~~ (3), (4), or (5) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this Subsection ~~[(7)]~~ (6); and

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

(b) (i) Subject to Subsections ~~[(7)]~~ (6)(b)(ii) and (iii), a tax credit under this Subsection ~~[(7)]~~ (6) is equal to the product of:

(A) \$0.12; and

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

(ii) A taxpayer may not receive a tax credit under this Subsection [~~(7)~~] (6) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection [~~(7)~~] (6) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

~~[(8)]~~ (7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

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

(ii) [~~the residential energy system;~~] the commercial energy system[;] or the hydrogen production system with respect to which the taxpayer 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;~~] the commercial energy system[;] or the hydrogen production system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

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

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

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

(d) A taxpayer 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.

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

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

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(ii) for each taxpayer:

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

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

~~[(9)]~~ (8) 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.

~~[(10)]~~ (9) 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.

Section ~~{8}~~7. Section ~~{59-7-614.2}~~59-7-624 is amended to read:

~~{~~ **59-7-614.2. Refundable economic development tax credit.**

~~\_\_\_\_\_~~ (1) As used in this section:

~~\_\_\_\_\_~~ (a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section 63N-2-103.

~~\_\_\_\_\_~~ (b) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

~~\_\_\_\_\_~~ (c) "Incremental job" means the same as that term is defined in Section 63N-1a-102.

~~\_\_\_\_\_~~ (d) "Local government entity" means the same as that term is defined in Section 63N-2-103.

~~\_\_\_\_\_~~ (e) "New state revenue" means the same as that term is defined in Section 63N-1a-102.

~~\_\_\_\_\_~~ (f) "Office" means the Governor's Office of Economic Opportunity.

~~\_\_\_\_\_~~ (2) Subject to the other provisions of this section, a business entity, local government entity, or community reinvestment agency may claim a refundable tax credit for economic development.

~~\_\_\_\_\_~~ (3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity, local government entity, or community reinvestment agency for the taxable year.

~~\_\_\_\_\_~~ (4) A community reinvestment agency may claim a tax credit under this section only if a local government entity assigns the tax credit to the community reinvestment agency in accordance with Section 63N-2-104.

~~\_\_\_\_\_~~ (5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall make a refund to the following that claim a tax credit under this

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section:

~~—— (i) a local government entity;~~

~~—— (ii) a community reinvestment agency; or~~

~~—— (iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.~~

~~—— (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community reinvestment agency as required by Subsection (5)(a).~~

~~—— [(6) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.]~~

~~—— [(b) Except as provided in Subsection (6)(c), for purposes of the study required by this Subsection (6), the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:]~~

~~—— [(i) the amount of tax credit that the office grants to each business entity, local government entity, or community reinvestment agency for each calendar year;]~~

~~—— [(ii) the criteria that the office uses in granting a tax credit;]~~

~~—— [(iii) (A) for a business entity, the new state revenue generated by the business entity for the calendar year; or]~~

~~—— [(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section 63N-2-104, the new state revenue generated as a result of a new commercial project within the local government entity for each calendar year;]~~

~~—— [(iv) estimates for each of the next three calendar years of the following:]~~

~~—— [(A) the amount of tax credits that the office will grant;]~~

~~—— [(B) the amount of new state revenue that will be generated; and]~~

~~—— [(C) the number of new incremental jobs within the state that will be generated;]~~

~~—— [(v) the information contained in the office's latest report under Section 63N-2-106; and]~~

~~—— [(vi) any other information that the Revenue and Taxation Interim Committee requests.]~~



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~~\_\_\_\_\_ [(c) (i) In providing the information described in Subsection (6)(b), the office shall redact information that identifies a recipient of a tax credit under this section.]~~

~~\_\_\_\_\_ [(ii) If, notwithstanding the redactions made under Subsection (6)(c)(i), reporting the information described in Subsection (6)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b) in the aggregate for all entities and agencies that receive the tax credit under this section.]~~

~~\_\_\_\_\_ [(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (6)(a) include an evaluation of:]~~

~~\_\_\_\_\_ [(i) the cost of the tax credit to the state;]~~

~~\_\_\_\_\_ [(ii) the purpose and effectiveness of the tax credit; and]~~

~~\_\_\_\_\_ [(iii) the extent to which the state benefits from the tax credit.]~~

~~\_\_\_\_\_ Section 9. Section ~~59-7-624~~ is amended to read:~~

~~†~~ **59-7-624. Targeted business income tax credit.**

(1) As used in this section, "business applicant" means the same as that term is defined in Section 63N-2-302.

(2) A business applicant that is certified and issued a targeted business income tax eligibility certificate by the Governor's Office of Economic Opportunity under Section 63N-2-304 may claim a refundable tax credit in the amount specified on the targeted business income tax eligibility certificate.

(3) For a taxable year for which a business applicant claims a targeted business income tax credit under this section, the business applicant may not claim or carry forward a tax credit under [~~Section 59-7-610, Section 59-10-1007, or~~] Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

Section ~~{10}~~8. Section ~~{59-7-903}~~59-10-137 is amended to read:

~~{~~ **~~59-7-903. Removal of tax credit from tax return -- Prohibition on claiming a tax credit -- Commission publishing requirements.~~**

~~\_\_\_\_\_ (1) Subject to Subsection (2) [and except as provided in Subsection (3)], the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim the tax credit if:~~

~~\_\_\_\_\_ (a) the total amount of tax credit claimed or carried forward by all persons who file a~~

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tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

~~—— (b) less than 10 persons per year for the three consecutive taxable years described in Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.~~

~~—— (2) If the commission determines the requirements of Subsection (1) are met, the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim the tax credit beginning two taxable years after the January 1 immediately following the date the commission determines the requirements of Subsection (1) are met.~~

~~—— [(3) This section does not apply to a tax credit under Section 59-7-609.]~~

~~—— [(4)] (3) The commission shall, on or before the November interim meeting of the year after the taxable year in which the commission determines the requirements of Subsection (1) are met, report to the Revenue and Taxation Interim Committee by electronic means that, in accordance with this section:~~

~~—— (a) the commission is required to remove a tax credit from a return on which the tax credit appears; and~~

~~—— (b) a person filing a tax return may not claim the tax credit.~~

~~—— [(5)] (4) (a) Within a 30-day period after making the report required by Subsection [(4)] (3), the commission shall publish a list in accordance with Subsection [(5)] (4)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears:~~

~~—— (b) The list shall:~~

~~—— (i) be published on:~~

~~—— (A) the commission's website; and~~

~~—— (B) the public legal notice website in accordance with Section 45-1-101;~~

~~—— (ii) include a statement that:~~

~~—— (A) the commission is required to remove the tax credit from each return on which the tax credit appears; and~~

~~—— (B) the tax credit may not be claimed on a return;~~

~~—— (iii) state the taxable year for which the removal described in Subsection [(5)] (4)(a) takes effect; and~~

~~—— (iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection [(5)] (4).~~

~~—— Section 11. Section 59-10-137 is amended to read:~~

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### ‡ 59-10-137. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Opportunity is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

(iii) Section 59-10-1015;

~~[(iv) Section 59-10-1025;]~~

~~[(v)]~~ (iv) Section 59-10-1027;

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- ~~[(v)]~~ (v) Section 59-10-1031;
- ~~[(vii)]~~ (vi) Section 59-10-1032;
- ~~[(viii)]~~ (vii) Section 59-10-1035;
- ~~[(ix)]~~ (viii) Section 59-10-1104; and
- ~~[(x)]~~ (ix) Section 59-10-1105~~;~~and;
- ~~[(xi) Section 59-10-1108;]~~

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-10-1005;
- (ii) Section 59-10-1006;
- (iii) Section 59-10-1012;
- (iv) Section 59-10-1022;
- (v) Section 59-10-1023;
- (vi) Section 59-10-1028;
- (vii) Section 59-10-1034;
- (viii) Section 59-10-1037;~~;~~and
- ~~[(ix)]~~ (ix) Section 59-10-1107; ~~and~~ ~~[(x)]~~
- ~~[(x)]~~ ~~[(ix)]~~ Section 59-10-1112.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- ~~[(i) Section 59-10-1007;]~~
- ~~[(ii)]~~ (i) Section 59-10-1014;
- ~~[(iii)]~~ (ii) Section 59-10-1017;
- ~~[(iv)]~~ (iii) Section 59-10-1018;
- ~~[(v)]~~ (iv) Section 59-10-1019;
- ~~[(vi) Section 59-10-1024;]~~
- ~~[(vii)]~~ (v) Section 59-10-1029; ~~[(viii)]~~
- ~~[(viii)]~~ ~~[(v)]~~ (vi) Section 59-10-1036;
- ~~[(ix)]~~ ~~[(vi)]~~ (vii) Section 59-10-1106; and

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[(x)] (~~vii~~viii) Section 59-10-1111.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section ~~{12}~~9. Section **59-10-552** is enacted to read:

### **59-10-552. Carry forward of expired or repealed tax credit.**

When a nonrefundable individual income tax credit, under Part 10, Nonrefundable Tax Credit Act, expires or is repealed, the commission shall allow a claimant, estate, or trust to carry forward any amount of the tax credit that remains for the period of time described in the tax credit for the taxable year in which the claimant, estate, or trust first claimed the tax credit.

Section ~~{13}~~10. Section **59-10-1002.2** is amended to read:

### **59-10-1002.2. Apportionment of tax credits.**

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, [~~59-10-1024,~~] 59-10-1028, 59-10-1042, or 59-10-1043 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, [~~59-10-1024,~~] or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been

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allowed to claim but for the apportionment requirements of this section.

Section ~~{14}~~11. Section ~~{59-10-1006}~~59-10-1014 is amended to read:

~~{~~ ~~59-10-1006. Historic preservation tax credit.~~

~~— [(1) (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to a claimant, estate, or trust, as a nonrefundable tax credit against the income tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more than \$10,000, incurred in connection with any residential certified historic building. When qualifying expenditures of more than \$10,000 are incurred, the tax credit allowed by this section shall apply to the full amount of expenditures.]~~

~~— (1) As used in this section:~~

~~— (a) "Certified historic building" means a building that:~~

~~— (i) (A) is listed on the National Register of Historic Places within three years of taking the credit under this section; or~~

~~— (B) is located in a National Register Historic District; and~~

~~— (ii) has been designated by the Division of State History as being of significance to the district.~~

~~— (b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.~~

~~— (ii) "Qualified rehabilitation expenditures" does not include expenditures related to:~~

~~— (A) a claimant's, estate's, or trust's personal labor;~~

~~— (B) cost of acquisition of the property;~~

~~— (C) any expenditure attributable to the enlargement of an existing building;~~

~~— (D) rehabilitation of a certified historic building without the approval required in Subsection (2)(b); or~~

~~— (E) any expenditure attributable to landscaping or other site features, outbuildings, garages, and related features.~~

~~— (c) "Residential" means a building used for residential use, either owner occupied or income producing.~~

~~— (2) (a) A claimant, estate, or trust may claim a nonrefundable tax credit in an amount~~

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~~equal to 10% of qualified rehabilitation expenses if the qualified rehabilitation expenses:~~

~~—— (i) cost more than \$10,000; and~~

~~—— (ii) are incurred in connection with any residential certified historic building.~~

~~—— (b) [All rehabilitation work to which the tax credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project] The State Historic Preservation Office shall approve all rehabilitation work for which a claimant, estate, or trust may claim a tax credit as meeting the Secretary of the Interior's Standards for Rehabilitation before completion of the rehabilitation project so that the office can provide corrective comments to the claimant, estate, or trust [in order] to preserve the historical qualities of the building.~~

~~—— [(c) Any amount of tax credit remaining may be carried forward to each of the five taxable years following the qualified expenditures.]~~

~~—— (c) A claimant, estate, or trust may carry forward any amount of the tax credit that exceeds the claimant's, estate's, or trust's tax liability for five taxable years after the year in which the claimant, estate, or trust incurred the qualified rehabilitation expenditures.~~

~~—— (d) The commission, in consultation with the Division of State History, shall [promulgate] make rules to implement this section.~~

~~—— [(2) As used in this section:]~~

~~—— [(a) "Certified historic building" means a building that is listed on the National Register of Historic Places within three years of taking the credit under this section or that is located in a National Register Historic District and the building has been designated by the Division of State History as being of significance to the district.]~~

~~—— [(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.]~~

~~—— [(ii) "Qualified rehabilitation expenditures" does not include expenditures related to:]~~

~~—— [(A) a claimant's, estate's, or trust's personal labor;]~~

~~—— [(B) cost of acquisition of the property;]~~

~~—— [(C) any expenditure attributable to the enlargement of an existing building;]~~

~~—— [(D) rehabilitation of a certified historic building without the approval required in~~

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Subsection (1)(b); or]

— [(E) any expenditure attributable to landscaping and other site features, outbuildings, garages, and related features.]

— [(c) "Residential" means a building used for residential use, either owner-occupied or income-producing.]

— Section 15. Section ~~59-10-1012~~ is amended to read:

— ~~59-10-1012. Tax credits for research activities conducted in the state -- Carry forward -- Worksheet -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.~~

— (1) (a) As used in this section:

— (i) "Basic research" means the same as that term is defined in Section 41(c)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state.

— (ii) "Committee" means the Revenue and Taxation Interim Committee.

— (iii) "Qualified research" means the same as that term is defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.

— (iv) "Qualified research expenses" means the same as that term is defined in Section 41(b), Internal Revenue Code, except that the term includes only:

— (A) in-house research expenses incurred in this state; and

— (B) contract research expenses incurred in this state.

— (b) Except as provided in Subsection (1)(a), a term used in this section that is defined in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41, Internal Revenue Code.

— ~~[(1)]~~ (2) (a) A claimant, estate, or trust meeting the requirements of this section may claim the following nonrefundable tax credits:

— (i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection ~~[(3)]~~ (4); and

— (ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(c), Internal Revenue Code, of 5% for the current taxable year that exceed the base amount provided for under Subsection ~~[(3); and]~~ (4).



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~~\_\_\_\_\_ [(iii) a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year.]~~

~~\_\_\_\_\_ (b) Subject to Subsection [(4)] (5), a claimant, estate, or trust may claim a tax credit under:~~

~~\_\_\_\_\_ (i) Subsection [(1)(a)(i) or (1)(a)(iii)] (2)(a)(i), for the taxable year for which the claimant, estate, or trust incurs the qualified research expenses; or~~

~~\_\_\_\_\_ (ii) Subsection [(1)] (2)(a)(ii), for the taxable year for which the claimant, estate, or trust makes the payment to the qualified organization:~~

~~\_\_\_\_\_ (c) The tax credits provided for in this section:~~

~~\_\_\_\_\_ (i) do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code[.]; and~~

~~\_\_\_\_\_ (ii) do not terminate if a credit terminates under Section 41, Internal Revenue Code.~~

~~\_\_\_\_\_ [(2)] (3) Except as specifically provided for in this section[: (a)], the tax credits authorized under Subsection [(1)] (2) shall be calculated as provided in Section 41, Internal Revenue Code[.]; and]~~

~~\_\_\_\_\_ [(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).]~~

~~\_\_\_\_\_ [(3)] (4) For purposes of this section[: (a)], the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:~~

~~\_\_\_\_\_ [(i)] (a) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;~~

~~\_\_\_\_\_ [(ii)] (b) a claimant's, estate's, or trust's gross receipts include only those gross receipts attributable to sources within this state as provided in Section 59-10-118; and~~

~~\_\_\_\_\_ [(iii)] (c) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a claimant, estate, or trust:~~

~~\_\_\_\_\_ [(A)] (i) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B), Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and~~

~~\_\_\_\_\_ [(B)] (ii) may not revoke an election to be treated as a start-up company under Subsection [(3)(a)(iii)(A)]; (4)(c)(i):~~

~~\_\_\_\_\_ [(b) "basic research" is as defined in Section 41(c)(7), Internal Revenue Code, except~~

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~~that the term includes only basic research conducted in this state;]~~

~~—— [(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;]~~

~~—— [(d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:]~~

~~—— [(i) in-house research expenses incurred in this state; and]~~

~~—— [(ii) contract research expenses incurred in this state; and]~~

~~—— [(e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.]~~

~~—— [(4) (a)] (5) If the amount of a tax credit claimed by a claimant, estate, or trust under Subsection [(1)] (2)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the [amount of the tax credit exceeding the tax liability] claimant, estate, or trust:~~

~~—— [(i)] (a) may [be carried forward] carry forward the amount of the tax credit that exceeds the claimant's, estate's, or trust's tax liability for a period that does not exceed the next 14 taxable years; and~~

~~—— [(ii)] (b) may not [be carried back] carry back the amount of the tax credit that exceeds the claimant's, estate's, or trust's tax liability to a taxable year preceding the current taxable year:~~

~~—— [(b) A claimant, estate, or trust may not carry forward the tax credit allowed by Subsection (1)(a)(iii).]~~

~~—— (6) (a) The commission shall provide a worksheet for a claimant, estate, or trust to calculate the tax credits available under this section.~~

~~—— (b) A claimant, estate, or trust shall complete the worksheet for each taxable year in which the claimant, estate, or trust claims a tax credit under this section and retain the completed worksheet for the same time period that a person is required to keep books and records under Section 59-1-1406.~~

~~—— [(5)] (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules [for purposes of this section] prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state:~~

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~~[(6)] (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal by electronic means to the [Revenue and Taxation Interim Committee] committee within 60 days after the day on which the modification or repeal becomes effective.~~

~~[(7)] (8) (a) The [Revenue and Taxation Interim Committee] committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection [(6)] (7) a modification or repeal of a provision of Section 41, Internal Revenue Code.~~

~~(b) The review described in Subsection [(7)] (8)(a) is in addition to the review required by Section 59-10-137.~~

~~(c) Notwithstanding Subsection [(7)] (8)(a), the [Revenue and Taxation Interim Committee] committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.~~

~~(d) The [Revenue and Taxation Interim Committee] committee shall address in a review under this section:~~

~~(i) the cost of the tax credits provided for in this section;~~

~~(ii) the purpose and effectiveness of the tax credits provided for in this section;~~

~~(iii) whether the tax credits provided for in this section benefit the state; and~~

~~(iv) whether the tax credits provided for in this section should be:~~

~~(A) continued;~~

~~(B) modified; or~~

~~(C) repealed.~~

~~(e) If the [Revenue and Taxation Interim Committee reviews the tax credits provided for in this section,] committee conducts a review under this Subsection (8), the committee shall issue a report of the [Revenue and Taxation Interim Committee's] committee's findings.~~

~~Section 16. 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:

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(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.

(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 79-6-401.

(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

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are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(k) (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.

(l) "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.

(m) (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 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(n) "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.

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(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) ~~[For a taxable year beginning on or after January 1, 2007, a]~~ A claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

(a) the claimant, estate, or trust:

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

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

(b) the residential energy system is installed on or after January 1, 2007; and

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

(4) (a) For a residential energy system, other than a photovoltaic 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; and

(ii) \$2,000.

(b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic 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; or

(ii) (A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, \$2,000;

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

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

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

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

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

(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).

(d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.

(e) If the amount of a tax credit 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 for a period that does not exceed the next four taxable years.

(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.

(g) (i) Subject to Subsections (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 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 (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection (3) only the principal recovery portion of the lease payments.

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

(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 Subsection (3):

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

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(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.

(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 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 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) 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 Subsection (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 (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(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.

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

(i) the name and identifying information of each claimant, estate, or trust to which the



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office issues a written certification; and

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

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

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

(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) 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 under this section for that purchase.]~~

Section ~~(17)~~12. Section **59-10-1106** is amended to read:

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

(1) As used in this section:

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

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

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

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

(e) "Commercial unit" means the same as that term is defined in Section 59-7-614.

(f) "Direct use geothermal system" means the same as that term is defined in Section 59-10-1014.

(g) "Geothermal electricity" means the same as that term is defined in Section 59-10-1014.

(h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.

(i) "Geothermal heat pump system" means the same as that term is defined in Section 59-10-1014.

(j) "Hydroenergy system" means the same as that term is defined in Section 59-10-1014.

(k) "Hydrogen production system" means the same as that term is defined in Section

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59-7-614.

(l) "Office" means the Office of Energy Development created in Section 79-6-401.

(m) "Passive solar system" means the same as that term is defined in Section 59-10-1014.

(n) "Principal recovery portion" means the same as that term is defined in Section 59-10-1014.

(o) "Wind system" means the same as that term is defined in Section 59-10-1014.

(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), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;

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

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

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

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

(b) (i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to ~~[+0]~~ 5% of the reasonable costs of the commercial energy system.

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

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3)

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for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed [~~\$50,000~~] \$25,000 per commercial unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial 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)(c)(i) 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)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

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

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

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

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

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

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

(b) (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to the product of:

(A) [~~0.35 cents~~] ~~\$0.175~~ \$0.00175; and

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

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4)

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

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

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

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

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

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

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (5); and

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

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) [~~0.35 cents~~] ~~\$0.175~~ \$0.00175; and

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

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (6) if:

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

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

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

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6); and

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

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

(A) \$0.12; and

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

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

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

(7) (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 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 credit; and

(ii) the commercial energy system or the hydrogen production 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 commercial

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energy system or the hydrogen production system uses the state's renewable and nonrenewable resources in an appropriate and economic manner.

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

(i) for determining whether a commercial energy system or a hydrogen production system meets the requirements of Subsection (7)(b)(ii); and

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

(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.

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

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

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

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

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

(8) 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.

(9) 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.

~~[(10) 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 under this section for that purchase.]~~

Section ~~{18}~~13. Section ~~{59-10-1107}~~59-10-1112 is amended to read:

~~{~~ ~~59-10-1107. Refundable economic development tax credit.~~

~~\_\_\_\_\_ (1) As used in this section:~~

~~\_\_\_\_\_ (a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as defined in Section 63N-2-103.~~

~~\_\_\_\_\_ (b) "Incremental job" means the same as that term is defined in Section 63N-1a-102.~~

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- ~~—— (c) "New state revenue" means the same as that term is defined in Section 63N-1a-102.~~
- ~~—— (d) "Office" means the Governor's Office of Economic Opportunity.~~
- ~~—— (2) Subject to the other provisions of this section, a business entity may claim a refundable tax credit for economic development.~~
- ~~—— (3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.~~
- ~~—— (4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.~~
- ~~—— (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).~~
- ~~—— [(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.]~~
- ~~—— [(b) Except as provided in Subsection (5)(c), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:]~~
- ~~—— [(i) the amount of tax credit the office grants to each taxpayer for each calendar year;]~~
- ~~—— [(ii) the criteria the office uses in granting a tax credit;]~~
- ~~—— [(iii) the new state revenue generated by each taxpayer for each calendar year;]~~
- ~~—— [(iv) estimates for each of the next three calendar years of the following:]~~
- ~~—— [(A) the amount of tax credits that the office will grant;]~~
- ~~—— [(B) the amount of new state revenue that will be generated; and]~~
- ~~—— [(C) the number of new incremental jobs within the state that will be generated;]~~
- ~~—— [(v) the information contained in the office's latest report under Section 63N-2-106; and]~~
- ~~—— [(vi) any other information that the Revenue and Taxation Interim Committee requests.]~~
- ~~—— [(c) (i) In providing the information described in Subsection (5)(b), the office shall~~

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~~redact information that identifies a recipient of a tax credit under this section.]~~

~~—— [(ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the information described in Subsection (5)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b) in the aggregate for all taxpayers that receive the tax credit under this section.]~~

~~—— [(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:]~~

~~—— [(i) the cost of the tax credit to the state;]~~

~~—— [(ii) the purpose and effectiveness of the tax credit; and]~~

~~—— [(iii) the extent to which the state benefits from the tax credit.]~~

~~—— Section 19. Section 59-10-1112 is amended to read:~~

~~‡~~ **59-10-1112. Targeted business income tax credit.**

(1) As used in this section, "business applicant" means the same as that term is defined in Section 63N-2-302.

(2) A business applicant that is certified and issued a targeted business income tax eligibility certificate by the Governor's Office of Economic Opportunity under Section 63N-2-304 may claim a refundable tax credit in the amount specified on the targeted business income tax eligibility certificate.

(3) For a taxable year for which a business applicant claims a targeted business income tax credit under this section, the business applicant may not claim or carry forward a tax credit under [~~Section 59-7-610, Section 59-10-1007, or~~] Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

Section ~~{20}~~14. Section ~~{63J-1-602.1}~~63N-2-304 is amended to read:

~~{~~ ~~**63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**~~

~~—— Appropriations made from the following accounts or funds are nonlapsing:~~

~~—— (1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.~~

~~—— (2) The Native American Repatriation Restricted Account created in Section 9-9-407.~~

~~—— (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.~~



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- ~~—— (4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.~~
- ~~—— (5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.~~
- ~~—— (6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.~~
- ~~—— (7) The "Latino Community Support Restricted Account" created in Section 13-1-16.~~
- ~~—— (8) The Clean Air Support Restricted Account created in Section 19-1-109.~~
- ~~—— (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.~~
- ~~—— (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.~~
- ~~—— (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.~~
- ~~—— (12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.~~
- ~~—— (13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.~~
- ~~—— (14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.~~
- ~~—— (15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.~~
- ~~—— (16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.~~
- ~~—— (17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.~~
- ~~—— (18) The Technology Development Restricted Account created in Section 31A-3-104.~~
- ~~—— (19) The Criminal Background Check Restricted Account created in Section 31A-3-105.~~
- ~~—— (20) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.~~
- ~~—— (21) The Title Licensee Enforcement Restricted Account created in Section~~

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~~31A-23a-415.~~

~~—— (22) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.~~

~~—— (23) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.~~

~~—— (24) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.~~

~~—— (25) The School Readiness Restricted Account created in Section 35A-15-203.~~

~~—— (26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.~~

~~—— (27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.~~

~~—— (28) The Oil and Gas Conservation Account created in Section 40-6-14.5.~~

~~—— (29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.~~

~~—— (30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.~~

~~—— (31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.~~

~~—— (32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.~~

~~—— (33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.~~

~~—— (34) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.~~

~~—— (35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.~~

~~—— (36) The DNA Specimen Restricted Account created in Section 53-10-407.~~

~~—— (37) The Canine Body Armor Restricted Account created in Section 53-16-201.~~

~~—— (38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.~~

~~—— (39) The Higher Education Capital Projects Fund created in Section 53B-22-202.~~

~~—— (40) A certain portion of money collected for administrative costs under the School~~

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~~Institutional Trust Lands Management Act, as provided under Section 53C-3-202.~~

~~—— (41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).~~

~~—— (42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.~~

~~—— (43) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.~~

~~—— (44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.~~

~~—— (45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.~~

~~—— (46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.~~

~~—— (47) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.~~

~~—— (48) The Relative Value Study Restricted Account created in Section 59-9-105.~~

~~—— (49) The Cigarette Tax Restricted Account created in Section 59-14-204.~~

~~—— (50) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.~~

~~—— (51) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.~~

~~—— (52) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.~~

~~—— (53) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.~~

~~—— (54) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.~~

~~—— (55) The Choose Life Adoption Support Restricted Account created in Section~~

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~~62A-4a-608.~~

~~—— (56) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.~~

~~—— (57) The Immigration Act Restricted Account created in Section 63G-12-103.~~

~~—— (58) Money received by the military installation development authority, as provided in Section 63H-1-504.~~

~~—— (59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.~~

~~—— (60) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.~~

~~—— (61) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.~~

~~—— (62) The Utah Capital Investment Restricted Account created in Section 63N-6-204.~~

~~—— [(63) The Motion Picture Incentive Account created in Section 63N-8-103.]~~

~~—— [(64)] (63) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.~~

~~—— [(65)] (64) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13c-104(2).~~

~~—— [(66)] (65) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.~~

~~—— [(67)] (66) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.~~

~~—— [(68)] (67) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.~~

~~—— [(69)] (68) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.~~

~~—— [(70)] (69) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.~~

~~—— [(71)] (70) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).~~

~~—— [(72)] (71) Fees for certificate of admission created under Section 78A-9-102.~~

~~—— [(73)] (72) Funds collected for adoption document access as provided in Sections~~

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~~78B-6-141, 78B-6-144, and 78B-6-144.5.~~

~~—— [(74)] (73) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.~~

~~—— [(75)] (74) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.~~

~~—— [(76)] (75) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.~~

~~—— [(77)] (76) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.~~

~~—— [(78)] (77) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.~~

~~—— Section 21. Section **63N-2-104** is amended to read:~~

~~—— **63N-2-104. Creation of economic development zones -- Tax credits -- Assignment of tax credit.**~~

~~—— (1) The office may create an economic development zone in the state if the following requirements are satisfied:~~

~~—— (a) the area is zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan that contemplates future growth;~~

~~—— (b) the request to create a development zone has first been approved by an appropriate local government entity; and~~

~~—— (c) local incentives have been or will be committed to be provided within the area in accordance with the community's approved incentive policy and application process.~~

~~—— (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the requirements for a business entity or local government entity to qualify for a tax credit for a new commercial project in a development zone under this part.~~

~~—— (b) The office shall ensure that the requirements described in Subsection (2)(a) include the following:~~

~~—— (i) the new commercial project is within the development zone;~~

~~—— (ii) the new commercial project includes direct investment within the geographic~~

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boundaries of the development zone;

~~—— (iii) the new commercial project brings new incremental jobs to Utah;~~

~~—— (iv) the new commercial project includes the creation of high-paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors;~~

~~—— (v) the new commercial project generates new state revenues;~~

~~—— (vi) a business entity, a local government entity, or a community reinvestment agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63N-2-105; and~~

~~—— (vii) unless otherwise advisable in light of economic circumstances, the new commercial project relates to the industry clusters identified by the commission under Section 63N-1a-202.~~

~~—— (3) (a) [The] Except as provided in Subsection (3)(c), the office, after consultation with the GO Utah board, may enter into a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the requirements described in this section.~~

~~—— (b) (i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.~~

~~—— (ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.~~

~~—— (c) (i) Except as provided in Subsection (3)(c)(ii)(A), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize or commit to authorize a tax credit that exceeds:~~

~~—— (A) 50% of the new state revenues from the new commercial project in any given year;~~  
or

~~—— (B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years.~~

~~—— (ii) If the office authorizes or commits to authorize a tax credit for a new commercial project located within the boundary of:~~

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~~—— (A) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years;~~

~~—— (B) a county of the third class, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years; and~~

~~—— (C) a county of the fourth, fifth, or sixth class, the office shall authorize a tax credit of 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years.~~

~~—— (iii) Notwithstanding any other provisions of this section, the office may not authorize a tax credit under this section for a new commercial project:~~

~~—— (A) to a business entity that has claimed a High Cost Infrastructure Development Tax Credit described in Section 79-6-603 related to the same new commercial project; or~~

~~—— (B) in an amount more than the amount of the capital investment in the new commercial project.~~

~~—— (d) (i) A local government entity may by resolution assign a tax credit authorized by the office to a community reinvestment agency.~~

~~—— (ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.~~

~~—— (iii) If a local government entity assigns a tax credit to a community reinvestment agency, the written agreement described in Subsection (3)(a) shall:~~

~~—— (A) be between the office, the local government entity, and the community reinvestment agency;~~

~~—— (B) establish the obligations of the local government entity and the community reinvestment agency; and~~

~~—— (C) establish the extent to which any of the local government entity's obligations are transferred to the community reinvestment agency.~~

~~—— (iv) If a local government entity assigns a tax credit to a community reinvestment agency:~~

~~—— (A) the community reinvestment agency shall retain records as described in Subsection~~

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~~(4)(d); and~~

~~—— (B) a tax credit certificate issued in accordance with Section 63N-2-105 shall list the community reinvestment agency as the named applicant.~~

~~—— (c) On or after July 1, 2022, the office may not:~~

~~—— (i) enter into a new written agreement under Subsection (3)(a); or~~

~~—— (ii) modify an existing written agreement described in Subsection (3)(a) to increase the maximum amount of the tax credit a business entity or local government agency may claim or to extend the length of time a business entity or local government agency may claim the credit.~~

~~—— (4) The office shall ensure that the written agreement described in Subsection (3):~~

~~—— (a) specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;~~

~~—— (b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;~~

~~—— (c) establishes the length of time the business entity or local government entity may claim a tax credit;~~

~~—— (d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and~~

~~—— (e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.~~

~~—— (5) The office may attribute an incremental job or a high paying job to a new commercial project regardless of whether the job is performed in person, within the development zone or remotely from elsewhere in the state:~~

~~—— Section 22. Section ~~63N-2-106~~ is amended to read:~~

~~—— **63N-2-106. Reports -- Posting monthly and annual reports.**~~

~~—— (1) The office shall include the following information in the annual written report described in Section 63N-1a-306:~~

~~—— (a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;~~

~~—— (b) how many new incremental jobs and high paying jobs are employees of a company~~



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~~that received tax credits under this part, including the number of employees who work for a third-party rather than directly for a company, receiving the tax credits under this part;~~

~~—— (c) the estimated amount of tax credit commitments made by the office and the period of time over which tax credits will be paid;~~

~~—— (d) the economic impact on the state from new state revenues and the provision of tax credits under this part;~~

~~—— (e) the estimated costs and economic benefits of the tax credit commitments made by the office;~~

~~—— (f) the actual costs and economic benefits of the tax credit commitments made by the office; and~~

~~—— (g) tax credit commitments made by the office, with the associated calculation.~~

~~—— (2) Each month, the office shall post on [its] the office's website and on a state website:~~

~~—— (a) the new tax credit commitments made by the office during the previous month; and~~

~~—— (b) the estimated costs and economic benefits of those tax credit commitments.~~

~~—— [(3) (a) On or before November 1, 2014, and every three years after November 1, 2014, the office shall:]~~

~~—— [(i) conduct an audit of the tax credits allowed under Section 63N-2-105;]~~

~~—— [(ii) study the tax credits allowed under Section 63N-2-105; and]~~

~~—— [(iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.]~~

~~—— [(b) The audit shall include an evaluation of:]~~

~~—— [(i) the cost of the tax credits;]~~

~~—— [(ii) the purposes and effectiveness of the tax credits;]~~

~~—— [(iii) the extent to which the state benefits from the tax credits; and]~~

~~—— [(iv) the state's return on investment under this part measured by new state revenues, compared with the costs of tax credits provided and GOED's expenses in administering this part.]~~

~~—— [(c) The office shall provide the results of the audit described in this Subsection (3):]~~

~~—— [(i) in the written annual report described in Subsection (1); and]~~

~~—— [(ii) as part of the reviews described in Sections 59-7-159 and 59-10-137.]~~

~~—— Section 23. Section **63N-2-213** is amended to read:~~

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~~63N-2-213. State tax credits.~~

~~(1) The office shall certify a business entity's eligibility for a tax credit described in this section.~~

~~(2) A business entity seeking to receive a tax credit as provided in this section shall provide the office with:~~

~~(a) an application for a tax credit certificate in a form approved by the office, including a certification, by an officer of the business entity, of a signature on the application, and~~

~~(b) documentation that demonstrates the business entity has met the requirements to receive the tax credit.~~

~~(3) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:~~

~~(a) deny the tax credit, or~~

~~(b) inform the business entity that the application or documentation was inadequate and ask the business entity to submit additional documentation.~~

~~(4) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation provide reasonable justification for authorizing a tax credit, the office shall:~~

~~(a) determine the amount of the tax credit to be granted to the business entity;~~

~~(b) issue a tax credit certificate to the business entity; and~~

~~(c) provide a digital record of the tax credit certificate to the State Tax Commission.~~

~~(5) A business entity may not claim a tax credit under this section unless the business entity has a tax credit certificate issued by the office.~~

~~(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules describing:~~

~~(a) the form and content of an application for a tax credit under this section;~~

~~(b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and~~

~~(c) administration of the program, including relevant timelines and deadlines.~~

~~(7) Subject to the limitations of Subsections (8) through (10), and if the requirements of this part are met, the following nonrefundable tax credits against a tax under Title 59,~~

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~~Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:~~

~~—— (a) a tax credit of \$750 [may be claimed by a business entity] for each new full-time employee position created within the enterprise zone[;] if:~~

~~—— [(b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:]~~

~~—— [(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or]~~

~~—— [(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;]~~

~~—— [(c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;]~~

~~—— [(d) an additional tax credit of \$200 may be claimed for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;]~~

~~—— [(e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more, including that the building has had or contained no occupants, tenants, furniture, or personal property for two years or more, in the time period immediately before the rehabilitation; and]~~

~~—— (i) the new full-time position pays at least 125% of:~~

~~—— (A) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or~~

~~—— (B) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located; and~~

~~—— (ii) (A) the new full-time position is filled by an employee who is insured under an employer-sponsored health insurance program; and~~

~~—— (B) the employer pays at least 50% of the premium cost for the year in which the credit~~

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is claimed, and

— ~~[(f)] (b) an annual investment tax credit [may be claimed] in an amount equal to [5] 2.5% of the first [\$750,000] \$500,000 qualifying investment in plant, equipment, or other depreciable property.~~

— ~~(8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax credit under [Subsections (7)(a) through (d)] Subsection (7)(a) may claim the tax credit for no more than 30 full-time employee positions in a taxable year.~~

— ~~(b) A business entity that received a tax credit for one or more new full-time employee positions under [Subsections (7)(a) through (d)] Subsection (7)(a) in a [prior] previous taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under [Subsections (7)(a) through (d)] Subsection (7)(a) if:~~

— ~~(i) the business entity has created a new full-time position within the enterprise zone; and~~

— ~~(ii) the total number of employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the highest number of employee positions that existed at the business entity in the previous taxable year.~~

— ~~(c) Construction jobs are not eligible for the tax [credits under Subsections (7)(a) through (d)] credit described in Subsection (7)(a).~~

— ~~(9) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.~~

— ~~[(10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business entity primarily engaged in retail trade, residential rental property, or by a public utilities business.]~~

— ~~(10) A business entity primarily engaged in retail trade or residential rental property or a public utilities business may not claim a tax credit under Subsection (7).~~

— ~~(11) A business entity that has no employees:~~

— ~~(a) may not claim [tax credits under Subsections (7)(a) through (d)] a tax credit described in Subsection (7)(a); and~~

— ~~(b) may claim [tax credits under Subsections (7)(e) through (f)] a tax credit described~~

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~~in Subsection (7)(b):~~

~~—— (12) [(a)] A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-304.~~

~~—— [(b) A business entity may not claim or carry forward a tax credit available under this section for a taxable year during which the business entity claims or carries forward a tax credit available under Section 59-7-610 or 59-10-1007.]~~

~~—— (13) (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed:~~

~~—— (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation Interim Committee shall:~~

~~—— (i) schedule time on at least one committee agenda to conduct the review;~~

~~—— (ii) invite state agencies, individuals, and organizations concerned with the credits under review to provide testimony;~~

~~—— (iii) ensure that the recommendations described in this section include an evaluation of:~~

~~—— (A) the cost of the tax credits to the state;~~

~~—— (B) the purpose and effectiveness of the tax credits; and~~

~~—— (C) the extent to which the state benefits from the tax credits; and~~

~~—— (iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee:~~

~~—— Section 24. Section 63N-2-304 is amended to read:~~

‡ **63N-2-304. Application for targeted business income tax credit.**

(1) (a) A business applicant may apply to the office for a targeted business income tax credit eligibility certificate under this part if the business applicant:

(i) is located in:

(A) an enterprise zone; and

(B) a county with a population of less than 25,000;

(ii) meets the requirements of Section 63N-2-212;

(iii) provides a community investment project within the enterprise zone; and

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(iv) is not engaged in the following:

- (A) construction;
- (B) retail trade; or
- (C) public utility activities.

(b) For a taxable year for which a business applicant claims a targeted business income tax credit available under this part, the business applicant may not claim or carry forward a tax credit available under Section [~~59-7-610, 59-10-1007, or~~] 63N-2-213.

(2) (a) A business applicant seeking to claim a targeted business income tax credit under this part shall submit an application to the office by no later than June 1 of the taxable year in which the business applicant is seeking to claim the targeted business income tax credit.

(b) The application described in Subsection (2)(a) shall include:

(i) any documentation required by the office to demonstrate that the business applicant meets the requirements of Subsection (1);

(ii) a plan developed by the business applicant that describes:

(A) if the community investment project includes significant new employment, the projected number and anticipated wage level of the jobs that the business applicant plans to create as the basis for qualifying for a targeted business income tax credit;

(B) if the community investment project includes significant new capital development, the capital development the business applicant plans to make as the basis for qualifying for a targeted business income tax credit;

(C) how the business applicant's plan coordinates with the goals of the enterprise zone in which the business applicant is providing a community investment project;

(D) how the business applicant's plan coordinates with the overall economic development goals of the county or municipality in which the business applicant is providing a community investment project;

(E) any matching funds that will be used for the community investment project;

(F) how any targeted business income tax credit incentives that were awarded in a previous year have been used for the community investment project by the business applicant; and

(G) the requested amount of the targeted business income tax credit; and

(iii) any additional information required by the office.

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(3) (a) The office shall:

(i) evaluate an application filed under Subsection (2);

(ii) determine whether the business applicant is potentially eligible for a targeted business income tax credit; and

(iii) if the business applicant is potentially eligible for a targeted business income tax credit, determine performance benchmarks and the deadline for meeting those benchmarks that the business applicant must achieve before the office awards a targeted business income tax credit to the business applicant.

(b) If the office determines that the business applicant is potentially eligible for a targeted business income tax credit, the office shall:

(i) notify the business applicant that the business applicant is eligible for a targeted business income tax credit if the business applicant meets the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii);

(ii) notify the business applicant of the potential amount of the targeted business income tax credit that may be awarded to the business applicant, which amount may be no more than \$100,000 for the business applicant in a taxable year; and

(iii) monitor a business applicant to ensure compliance with this section and to measure the business applicant's progress in meeting performance benchmarks.

(c) If the business applicant provides evidence to the office, in a form prescribed by the office, that the business applicant has achieved the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii), the office shall:

(i) certify that the business applicant is eligible for a targeted business income tax credit;

(ii) issue a targeted business income tax credit eligibility certificate to the business applicant in accordance with:

(A) for a business applicant that files a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes, Section 59-7-624; or

(B) for a business applicant that files a return under Title 59, Chapter 10, Individual Income Tax Act, Section 59-10-1112; and

(iii) provide a duplicate copy of the targeted business income tax credit eligibility certificate to the State Tax Commission.

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(4) The total amount of the targeted business income tax credit eligibility certificates that the office issues under this part for all business applicants may not exceed \$300,000 in any fiscal year.

(5) (a) A business applicant shall retain the targeted business income tax credit eligibility certificate as issued under Subsection (3) for the same time period that a person is required to keep books and records under Section 59-1-1406.

(b) The office may audit a business applicant to ensure:

(i) eligibility for a targeted business income tax credit; and

(ii) compliance with this section.

~~{ Section 25. Section 79-6-401 is amended to read:~~

~~79-6-401. Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees -- Transition for employees:~~

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

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

~~(b) The director:~~

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

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

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

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

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

~~(b) implement:~~

~~(i) the state energy policy under Section 79-6-301; and~~

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

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

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



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~~— (c) support collaborative research initiatives targeted at Utah-specific energy and mineral development.~~

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

~~— (a) seek federal grants or loans;~~

~~— (b) seek to participate in federal programs; and~~

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

~~— (5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, [59-7-614.7, 59-10-1029, Part 5, Alternative Energy Development Tax Credit Act,] and Part 6, High Cost Infrastructure Development Tax Credit Act.~~

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

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

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

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

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

‡ Section ~~{26}~~15. **Repealer.**

This bill repeals:

Section **19-13-110, Recycling market development zone credit.**

Section **59-7-601, Credit of interest income from state and federal securities.**

~~{ Section **59-7-609, Historic preservation credit.**~~

‡ Section **59-7-610, Recycling market development zones tax credits.**

~~{ Section **59-7-614.5, Refundable motion picture tax credit.**~~

~~— Section **59-7-614.7, Nonrefundable alternative energy development tax credit.**~~

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‡ Section 59-10-1007, Recycling market development zones tax credits.  
Section 59-10-1024, Nonrefundable tax credit for qualifying solar projects.  
Section 59-10-1025, Nonrefundable tax credit for investment in certain life science establishments.

~~{ Section 59-10-1029, Nonrefundable alternative energy development tax credit.  
Section 59-10-1108, Refundable motion picture tax credit.~~

‡ Section 63N-2-801, Title.  
Section 63N-2-802, Definitions.  
Section 63N-2-803, Tax credits issued by office.  
Section 63N-2-804, Person may not claim or pass through a tax credit without tax credit certificate.

Section 63N-2-805, Application process.  
Section 63N-2-806, Criteria for tax credits.  
Section 63N-2-807, Rulemaking authority.  
Section 63N-2-808, Agreements between office and tax credit applicant and life science establishment -- Tax credit certificate.

Section 63N-2-809, Issuance of tax credit certificates.

Section 63N-2-810, Reports on tax credit certificates.

Section 63N-2-811, Reports of tax credits.

~~{ Section 63N-8-101, Title -- Purpose:~~

~~Section 63N-8-102, Definitions:~~

~~Section 63N-8-103, Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives:~~

~~Section 63N-8-104, Motion picture incentives -- Standards to qualify for an incentive -- Limitations -- Content of agreement between office and motion picture company or digital media company:~~

~~Section 63N-8-105, Annual report:~~

~~Section 79-6-501, Title:~~

~~Section 79-6-502, Definitions:~~

~~Section 79-6-503, Tax credits:~~

~~Section 79-6-504, Qualifications for tax credit -- Procedure:~~

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~~Section 79-6-505, Report to the Legislature.~~

‡ Section ~~{27}~~ 16. **Effective date.**

(1) Except as provided in ~~{Subsections}~~ Subsection (2) and (3), this bill takes effect on January 1, 2023.

(2) The changes to the following sections take effect for a taxable year that begins on or after January 1, 2023:

(a) Section 59-7-601;

(b) Section ~~{59-7-609}~~ 59-7-610;

(c) Section ~~{59-7-610}~~ 59-7-614;

(d) Section ~~{59-7-612}~~ 59-7-624;

(e) Section ~~{59-7-614}~~ 59-10-1002.2;

(f) Section ~~{59-7-614.5}~~ 59-10-1007;

(g) Section ~~{59-7-614.7}~~ 59-10-1014;

(h) Section ~~{59-7-624}~~ 59-10-1024;

(i) Section ~~{59-10-1002.2}~~ 59-10-1025;

(j) Section ~~{59-10-1006}~~ 59-10-1106; and

(k) Section ~~{59-10-1007}~~ 59-10-1112.

~~{ (l) Section 59-10-1012;~~

~~(m) Section 59-10-1014;~~

~~(n) Section 59-10-1024;~~

~~(o) Section 59-10-1025;~~

~~(p) Section 59-10-1029;~~

~~(q) Section 59-10-1106;~~

~~(r) Section 59-10-1108;~~

~~(s) Section 59-10-1112; and~~

~~(t) Section 63N-2-213.~~

~~(3) The changes to Section 63N-2-104 take effect on May 4, 2022.~~

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