

INCENTIVES AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to tax credits.

Highlighted Provisions:

This bill:

▶ requires each state agency that issues a tax credit certificate for an income tax credit to provide the State Tax Commission with an electronic link to a webpage where the state agency lists the names of the claimants and amounts of tax credits claimed;

▶ requires the Office of Energy Development to provide the State Tax Commission with an electronic link to a webpage where the Office of Energy Development lists the names of the claimants and amounts of a severance tax credit claimed;

▶ requires the State Tax Commission to create a webpage that links to each state agency's list of tax credit claimants;

▶ creates a statutory certificate process for the historic preservation tax credits;

▶ requires the State Historic Preservation Office to report the number of estimated new jobs created by approved historic rehabilitation work in the Department of Cultural and Community Engagement's annual report;

▶ modifies the corporate and individual recycling market development zone tax credits:

- to eliminate the expenditures credit; and
- to limit the machinery and equipment credit to taxpayers who do not qualify for



- 28 a sales and use tax exemption on the purchase of machinery and equipment;
- 29 ▶ modifies the corporate and individual research activities tax credits by requiring:
 - 30 • an independent certified public accountant to verify a taxpayer's eligibility and
 - 31 calculate the amount of tax credit a taxpayer may claim; and
 - 32 • the Governor's Office of Economic Opportunity to issue a tax credit certificate;
- 33 ▶ removes solar and wind equipment from eligibility for a renewable energy system
- 34 tax credit that is based on the amount of electricity produced;
- 35 ▶ clarifies the production capacity requirements for solar equipment to be eligible for
- 36 the renewable energy systems tax credits;
- 37 ▶ provides that the corporate and individual alternative energy development tax
- 38 credits do not automatically expire for lack of use before the 2027 tax year;
- 39 ▶ requires the Governor's Office of Economic Opportunity to report in the annual
- 40 report the amount of new state revenue generated from motion picture projects
- 41 within the state;
- 42 ▶ repeals the following income tax credits:
 - 43 • qualifying solar projects; and
 - 44 • investment in life sciences establishments;
- 45 ▶ repeals the Technology and Life Science Economic Development Act;
- 46 ▶ schedules the repeal of the renewable energy systems tax credits;
- 47 ▶ modifies reporting and study requirements related to repealed income tax credits;
- 48 and
- 49 ▶ makes technical and conforming changes.

50 **Money Appropriated in this Bill:**

51 None

52 **Other Special Clauses:**

53 This bill provides a special effective date.

54 This bill provides retrospective operation.

55 **Utah Code Sections Affected:**

56 AMENDS:

57 **59-5-102**, as last amended by Laws of Utah 2021, Chapter 280

58 **59-7-610**, as last amended by Laws of Utah 2021, Chapter 367

- 59 [59-7-612](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 60 [59-7-614](#), as last amended by Laws of Utah 2022, Chapter 274
- 61 [59-7-614.7](#), as last amended by Laws of Utah 2021, Chapter 280
- 62 [59-7-626](#), as enacted by Laws of Utah 2021, Chapter 374
- 63 [59-10-137](#), as last amended by Laws of Utah 2022, Chapter 264
- 64 [59-10-1002.2](#), as last amended by Laws of Utah 2022, Chapter 12
- 65 [59-10-1007](#), as last amended by Laws of Utah 2021, Chapter 367
- 66 [59-10-1012](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 67 [59-10-1014](#), as last amended by Laws of Utah 2021, Chapter 280
- 68 [59-10-1029](#), as last amended by Laws of Utah 2021, Chapter 280
- 69 [59-10-1106](#), as last amended by Laws of Utah 2021, Chapters 280, 374
- 70 [59-10-1113](#), as last amended by Laws of Utah 2022, Chapter 274
- 71 [63I-2-259](#), as last amended by Laws of Utah 2022, Chapter 264
- 72 [63N-8-105](#), as last amended by Laws of Utah 2021, Chapter 282

73 ENACTS:

- 74 [59-1-214](#), Utah Code Annotated 1953
- 75 [63N-20-101](#), Utah Code Annotated 1953
- 76 [63N-20-102](#), Utah Code Annotated 1953

77 REPEALS AND REENACTS:

- 78 [59-7-609](#), as enacted by Laws of Utah 1995, Chapter 42
- 79 [59-10-1006](#), as renumbered and amended by Laws of Utah 2006, Chapter 223

80 REPEALS:

- 81 [59-10-1024](#), as last amended by Laws of Utah 2021, Chapter 280
- 82 [59-10-1025](#), as last amended by Laws of Utah 2019, Chapter 465
- 83 [63N-2-801](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 84 [63N-2-802](#), as last amended by Laws of Utah 2016, Chapter 354
- 85 [63N-2-803](#), as last amended by Laws of Utah 2016, Chapter 354
- 86 [63N-2-804](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 87 [63N-2-805](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 88 [63N-2-806](#), as last amended by Laws of Utah 2016, Chapter 354
- 89 [63N-2-807](#), as renumbered and amended by Laws of Utah 2015, Chapter 283

- 90 [63N-2-808](#), as last amended by Laws of Utah 2021, Chapter 282
 - 91 [63N-2-809](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
 - 92 [63N-2-810](#), as last amended by Laws of Utah 2022, Chapter 362
 - 93 [63N-2-811](#), as last amended by Laws of Utah 2021, Chapter 382
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94

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

96 Section 1. Section **59-1-214** is enacted to read:

97 **59-1-214. Disclosure of tax credit recipients.**

98 (1) As used in this section:

99 (a) "Recipient" means a taxpayer, a claimant, an estate, or a trust that:

100 (i) applies for a tax credit certificate on or after January 1, 2024; and

101 (ii) claims the tax credit for which a tax credit certificate is issued.

102 (b) "Tax credit certificate" means a document that:

103 (i) a state agency is required by statute to issue upon an application by a taxpayer, a
104 claimant, an estate, or a trust;

105 (ii) verifies a taxpayer's, a claimant's, an estate's, or a trust's eligibility to claim a tax
106 credit;

107 (iii) lists the amount of tax credit that a taxpayer, a claimant, an estate, or a trust may
108 claim for the taxable year; and

109 (iv) without which the taxpayer, the claimant, the estate, or the trust may not claim the
110 tax credit.

111 (2) Each state agency shall provide the commission with a link to a webpage where the
112 state agency discloses, for each tax credit for which the state agency issues a tax credit
113 certificate:

114 (a) the names of each recipient of a tax credit certificate; and

115 (b) the amount of tax credit each recipient claims.

116 (3) The Office of Energy Development is not required to comply with Subsection (2)
117 for a tax credit described in:

118 (a) Subsection [59-7-614\(3\)](#); or

119 (b) Section [59-10-1014](#).

120 (4) The commission shall create a single webpage on the commission's website that

121 links to each state agency's webpage containing the information described in Subsection (2)
122 and Subsection 59-5-102(7)(g).

123 Section 2. Section 59-5-102 is amended to read:

124 **59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual**
125 **exemption -- Tax credits -- Tax rate reduction.**

126 (1) As used in this section:

127 (a) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

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

129 (c) "Royalty rate" means the percentage of the interests described in Subsection
130 (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian
131 tribe and the oil or gas producer.

132 (d) "Taxable value" means the total value of the oil or gas minus:

133 (i) any royalties paid to, or the value of oil or gas taken in kind by, the interest holders
134 described in Subsection (2)(b)(i); and

135 (ii) the total value of oil or gas exempt from severance tax under Subsection (2)(b)(ii).

136 (e) "Taxable volume" means:

137 (i) for oil, the total volume of barrels minus:

138 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and
139 the total volume of barrels; and

140 (B) the number of barrels that are exempt under Subsection (2)(b)(ii); and

141 (ii) for natural gas, the total volume of MCFs minus:

142 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and
143 the total volume of MCFs; and

144 (B) the number of MCFs that are exempt under Subsection (2)(b)(ii).

145 (f) "Total value" means the value, as determined by Section 59-5-103.1, of all oil or
146 gas that is:

147 (i) produced; and

148 (ii) (A) saved;

149 (B) sold; or

150 (C) transported from the field where the oil or gas was produced.

151 (g) "Total volume" means:

- 152 (i) for oil, the number of barrels:
- 153 (A) produced; and
- 154 (B) (I) saved;
- 155 (II) sold; or
- 156 (III) transported from the field where the oil was produced; and
- 157 (ii) for natural gas, the number of MCFs:
- 158 (A) produced; and
- 159 (B) (I) saved;
- 160 (II) sold; or
- 161 (III) transported from the field where the natural gas was produced.

162 (h) "Value of oil or gas taken in kind" means the volume of oil or gas taken in kind
163 multiplied by the market price for oil or gas at the location where the oil or gas was produced
164 on the date the oil or gas was taken in kind.

165 (2) (a) Except as provided in Subsection (2)(b), a person owning an interest in oil or
166 gas produced from a well in the state, including a working interest, royalty interest, payment
167 out of production, or any other interest, or in the proceeds of the production of oil or gas, shall
168 pay to the state a severance tax on the owner's interest in the taxable value of the oil or gas:

- 169 (i) produced; and
- 170 (ii) (A) saved;
- 171 (B) sold; or
- 172 (C) transported from the field where the substance was produced.

173 (b) The severance tax imposed by Subsection (2)(a) does not apply to:

- 174 (i) an interest of:
 - 175 (A) the United States in oil or gas or in the proceeds of the production of oil or gas;
 - 176 (B) the state or a political subdivision of the state in oil or gas or in the proceeds of the
177 production of oil or gas; and

- 178 (C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the
179 proceeds of the production of oil or gas produced from land under the jurisdiction of the United
180 States; and

- 181 (ii) the value of:
 - 182 (A) oil or gas produced from stripper wells, unless the exemption prevents the

183 severance tax from being treated as a deduction for federal tax purposes;

184 (B) oil or gas produced in the first 12 months of production for wildcat wells started
185 after January 1, 1990; and

186 (C) oil or gas produced in the first six months of production for development wells
187 started after January 1, 1990.

188 (3) (a) The severance tax on oil shall be calculated as follows:

189 (i) dividing the taxable value by the taxable volume;

190 (ii) (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the
191 figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection
192 (4)(a)(i); and

193 (B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure
194 calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);

195 (iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and

196 (iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.

197 (b) The severance tax on natural gas shall be calculated as follows:

198 (i) dividing the taxable value by the taxable volume;

199 (ii) (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the
200 figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection
201 (4)(b)(i); and

202 (B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure
203 calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);

204 (iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and

205 (iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.

206 (c) The severance tax on natural gas liquids shall be calculated by multiplying the
207 taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).

208 (4) Subject to Subsection (9):

209 (a) the severance tax rate for oil is as follows:

210 (i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil;

211 and

212 (ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;

213 (b) the severance tax rate for natural gas is as follows:

214 (i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per
215 MCF for gas; and

216 (ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas;
217 and

218 (c) the severance tax rate for natural gas liquids is 4% of the taxable value of the
219 natural gas liquids.

220 (5) If oil or gas is shipped outside the state:

221 (a) the shipment constitutes a sale; and

222 (b) the oil or gas is subject to the tax imposed by this section.

223 (6) (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is
224 not imposed until the oil or gas is:

225 (i) sold;

226 (ii) transported; or

227 (iii) delivered.

228 (b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax
229 imposed by this section.

230 (7) (a) Subject to other provisions of this Subsection (7), a taxpayer that pays for all or
231 part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal
232 to the amount stated on a tax credit certificate that the office issues to the taxpayer.

233 (b) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:

234 (i) 20% of the taxpayer's payment of expenses of a well recompletion or workover
235 during the calendar year; and

236 (ii) \$30,000.

237 (c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the
238 next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for
239 the calendar year in which the taxpayer claims the tax credit.

240 (d) (i) To claim a tax credit under this Subsection (7), a taxpayer shall follow the
241 procedures and requirements of this Subsection (7)(d).

242 (ii) The taxpayer shall prepare a summary of the taxpayer's expenses of a well
243 recompletion or workover during the calendar year that the well recompletion or workover is
244 completed.

- 245 (iii) An independent certified public accountant shall:
- 246 (A) review the summary from the taxpayer; and
- 247 (B) provide a report on the accuracy and validity of the amount of expenses of a well
248 recompletion or workover that the taxpayer included in the summary, in accordance with the
249 agreed upon procedures.
- 250 (iv) The taxpayer shall submit the taxpayer's summary and the independent certified
251 public accountant's report to the division to verify that the expenses certified by the
252 independent certified public accountant are well recompletion or workover expenses.
- 253 (v) The division shall return to the taxpayer:
- 254 (A) the taxpayer's summary;
- 255 (B) the report by the independent certified public accountant; and
- 256 (C) a report by the division that includes the amount of approved well recompletion or
257 workover expenses.
- 258 (vi) The taxpayer shall apply to the office for a tax credit certificate to receive a written
259 certification, on a form approved by the commission, that includes:
- 260 (A) the amount of the taxpayer's payments of expenses of a well recompletion or
261 workover during the calendar year; and
- 262 (B) the amount of the taxpayer's tax credit.
- 263 (vii) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate
264 for the same time period that a person is required to keep books and records under Section
265 [59-1-1406](#).
- 266 (e) The office shall submit to the commission an electronic list that includes:
- 267 (i) the name and identifying information of each taxpayer to which the office issues a
268 tax credit certificate; and
- 269 (ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.
- 270 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 271 (i) the office may make rules to govern the application process for receiving a tax
272 credit certificate under this Subsection (7); and
- 273 (ii) the division shall make rules to establish the agreed upon procedures described in
274 Subsection (7)(d)(iii).
- 275 (g) The office shall provide the commission with a link to a webpage where the office

276 discloses:

277 (i) the names of each recipient of a tax credit certificate; and

278 (ii) the amount of tax credit each recipient claims.

279 (8) (a) Subject to the other provisions of this Subsection (8), a taxpayer may claim a
280 tax credit against a severance tax owing on natural gas under this section if:

281 (i) the taxpayer is required to pay a severance tax on natural gas under this section;

282 (ii) the taxpayer owns or operates a plant in the state that converts natural gas to
283 hydrogen fuel; and

284 (iii) all of the natural gas for which the taxpayer owes a severance tax under this
285 section is used for the production in the state of hydrogen fuel for use in zero emission motor
286 vehicles.

287 (b) The taxpayer may claim a tax credit equal to the lesser of:

288 (i) the amount of tax that the taxpayer owes under this section; and

289 (ii) \$5,000,000.

290 (c) (i) To claim a tax credit under this Subsection (8), a taxpayer shall follow the
291 procedures and requirements of this Subsection (8)(c).

292 (ii) The taxpayer shall request that the division verify that the taxpayer owns or
293 operates a plant in this state:

294 (A) that converts natural gas to hydrogen fuel; and

295 (B) at which all natural gas is converted to hydrogen fuel for use in zero emission
296 motor vehicles.

297 (d) The division shall submit to the commission an electronic list that includes the
298 name and identifying information of each taxpayer for which the division completed the
299 verification described in Subsection (8)(c).

300 (9) A 50% reduction in the tax rate is imposed upon the incremental production
301 achieved from an enhanced recovery project.

302 (10) The taxes imposed by this section are:

303 (a) in addition to all other taxes provided by law; and

304 (b) delinquent, unless otherwise deferred, on June 1 following the calendar year when
305 the oil or gas is:

306 (i) produced; and

- 307 (ii) (A) saved;
308 (B) sold; or
309 (C) transported from the field.

310 (11) With respect to the tax imposed by this section on each owner of an interest in the
311 production of oil or gas or in the proceeds of the production of oil or gas in the state, each
312 owner is liable for the tax in proportion to the owner's interest in the production or in the
313 proceeds of the production.

314 (12) The tax imposed by this section shall be reported and paid by each producer that
315 takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of
316 each owner entitled to participate in the oil or gas sold by the producer or transported by the
317 producer from the field where the oil or gas is produced.

318 (13) Each producer shall deduct the tax imposed by this section from the amounts due
319 to other owners for the production or the proceeds of the production.

320 Section 3. Section **59-7-609** is repealed and reenacted to read:

321 **59-7-609. Historic preservation credit.**

322 (1) As used in this section:

323 (a) "Certified historic building" means a building that:

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

326 (ii) (A) is located in a National Register Historic District; and

327 (B) has been designated by the office as being of significance to the district.

328 (b) "Office" means the State Historic Preservation Office.

329 (c) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
330 the rehabilitation and restoration of the physical elements of the building.

331 (ii) "Qualified rehabilitation expenditures" includes the historic decorative elements
332 and the upgrading of the structural, mechanical, electrical, and plumbing systems.

333 (iii) "Qualified rehabilitation expenditures" does not include expenditures related to:

334 (A) the taxpayer's personal labor;

335 (B) cost of acquisition of the property;

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

337 (D) rehabilitation of a certified historic building without the approval required in

338 Subsection (3)(a)(i):

339 (E) an expenditure attributable to landscaping or other site features, outbuildings,
340 garages, and related features; or

341 (F) demolition and removal costs for an existing building on a property site.

342 (d) "Residential" means a building used for residential use, either owner occupied or
343 income producing.

344 (2) A taxpayer may claim a nonrefundable tax credit in an amount equal to 20% of
345 qualified rehabilitation expenditures if:

346 (a) the qualified rehabilitation expenditures cost more than \$10,000;

347 (b) the qualified rehabilitation expenditures are incurred in connection with a
348 residential certified historic building; and

349 (c) the taxpayer has a written tax credit certificate issued by the office in accordance
350 with Subsection (3).

351 (3) (a) The office shall issue a tax credit certificate if the office:

352 (i) approves all rehabilitation work for which a taxpayer may claim a tax credit as
353 meeting the Secretary of the Interior's Standards for Rehabilitation before completion of the
354 rehabilitation project so that the office can provide corrective comments to the taxpayer to
355 preserve the historic qualities of the building;

356 (ii) determines that the rehabilitation project conforms with the approved rehabilitation
357 work; and

358 (iii) verifies the property is a residential certified historic building and the amount of
359 the taxpayer's qualified rehabilitation expenditures.

360 (b) The tax credit certificate shall list the amount of the tax credit that the taxpayer is
361 eligible to claim.

362 (c) A taxpayer that receives a tax credit certificate under this section shall retain the tax
363 credit certificate for the same time period a person is required to keep books and records under
364 Section [59-1-1406](#).

365 (d) The office shall provide the commission with an electronic report that includes for
366 each taxpayer to which the office issued a tax credit certificate under this section for a taxable
367 year:

368 (i) the name of the taxpayer;

369 (ii) the identifying information of the taxpayer; and
 370 (iii) the amount of tax credit that the taxpayer is eligible to claim.

371 (4) A taxpayer may carry forward the amount of the tax credit that exceeds the
 372 taxpayer's tax liability for five taxable years after the year in which the taxpayer claims a tax
 373 credit under this section.

374 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 375 commission, in consultation with the office, shall make rules to implement this section.

376 (6) The office shall include the number of estimated new jobs created in the state from
 377 rehabilitation work in the annual report described in Section [9-1-208](#).

378 Section 4. Section **59-7-610** is amended to read:

379 **59-7-610. Recycling market development zones tax credits.**

380 (1) As used in this section, a "qualifying taxpayer" means a business that:

381 (a) operates in a recycling market development zone as defined in Section [19-13-102](#);

382 and

383 (b) is not eligible for a sales and use tax exemption under Subsection [59-12-104](#)(14).

384 (2) Subject to other provisions of this section, a qualifying taxpayer [~~that is a business~~
 385 ~~operating in a recycling market development zone as defined in Section [19-13-102](#)] may claim~~
 386 ~~[the following nonrefundable tax credits: (a)] a tax credit equal to the product of the percentage~~
 387 ~~listed in Subsection [59-7-104](#)(2) and the purchase price paid for machinery and equipment used~~
 388 ~~directly in:~~

389 ~~[(+)] (a) commercial composting; or~~

390 ~~[(+)] (b) manufacturing facilities or plant units that[: (A) manufacture, process,~~
 391 ~~compound, or produce recycled items of tangible personal property for sale; or (B)] reduce or~~
 392 ~~reuse postconsumer waste material[: and].~~

393 ~~[(b) a tax credit equal to the lesser of:]~~

394 ~~[(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test~~
 395 ~~inventory, and utilities made by the taxpayer for establishing and operating recycling or~~
 396 ~~composting technology in the state; and]~~

397 ~~[(ii) \$2,000.]~~

398 ~~[(2)] (3) (a) To claim a tax credit described in Subsection [(+)] (2), the qualifying~~
 399 ~~taxpayer shall receive from the Department of Environmental Quality a written certification, on~~

400 a form approved by the commission, that includes:

401 (i) a statement that the taxpayer is a qualifying taxpayer [~~is operating a business within~~
402 ~~the boundaries of a recycling market development zone~~];

403 [~~(ii) for a claim of the tax credit described in Subsection (1)(a):~~]

404 [~~(A)~~] (ii) the type of the machinery and equipment that the qualifying taxpayer
405 purchased;

406 [~~(B)~~] (iii) the date that the qualifying taxpayer purchased the machinery and equipment;

407 [~~(C)~~] (iv) the purchase price for [~~the~~] each item of machinery and equipment;

408 [~~(D)~~] (v) the total purchase price for all machinery and equipment for which the
409 qualifying taxpayer is claiming a tax credit;

410 [~~(E)~~] (vi) a statement that the machinery and equipment are integral to the composting
411 or recycling process; and

412 [~~(F)~~] (vii) the amount of the qualifying taxpayer's tax credit [~~;~~ and].

413 [~~(iii) for a claim of the tax credit described in Subsection (1)(b):~~]

414 [~~(A) the type of net expenditure that the taxpayer made to a third party;~~]

415 [~~(B) the date that the taxpayer made the payment to a third party;~~]

416 [~~(C) the amount that the taxpayer paid to each third party;~~]

417 [~~(D) the total amount that the taxpayer paid to all third parties;~~]

418 [~~(E) a statement that the net expenditures support the establishment and operation of~~
419 ~~recycling or composting technology in the state; and]~~

420 [~~(F) the amount of the taxpayer's tax credit.~~]

421 (b) (i) The Department of Environmental Quality shall provide a qualifying taxpayer
422 seeking to claim a tax credit under Subsection [~~(1)~~] (2) with a copy of the written certification.

423 (ii) The qualifying taxpayer shall retain a copy of the written certification for the same
424 period of time that a person is required to keep books and records under Section 59-1-1406.

425 (c) The Department of Environmental Quality shall submit to the commission an
426 electronic list that includes:

427 (i) the name and identifying information of each qualifying taxpayer to which the
428 Department of Environmental Quality issues a written certification; and

429 (ii) for each qualifying taxpayer, the amount of each tax credit listed on the written
430 certification.

431 ~~[(3)]~~ (4) A qualifying taxpayer may not claim a tax credit ~~[under Subsection (1)(a);~~
 432 ~~Subsection (1)(b), or both]~~ that exceeds 40% of the qualifying taxpayer's state income tax
 433 liability as the tax liability is calculated:

434 (a) for the taxable year in which the qualifying taxpayer made the purchases ~~[or~~
 435 ~~payments];~~

436 (b) before any other tax credits the qualifying taxpayer may claim for the taxable year;
 437 and

438 (c) before the qualifying taxpayer claims a tax credit authorized by this section.

439 ~~[(4)]~~ (5) The commission shall make rules governing what information a qualifying
 440 taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

441 ~~[(5)]~~ (6) Except as provided in Subsections ~~[(6) through]~~ (7) and (8), a qualifying
 442 taxpayer may carry forward, to the next three taxable years, the amount of a tax credit
 443 ~~[described in Subsection (1)(a) that the]~~ that the qualifying taxpayer does not use for the
 444 taxable year.

445 ~~[(6)]~~ (7) A qualifying taxpayer may not claim or carry forward a tax credit ~~[described~~
 446 ~~in Subsection (1)(a) in]~~ under this section for a taxable year during which the qualifying
 447 taxpayer claims or carries forward a tax credit under Section 63N-2-213.

448 ~~[(7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable~~
 449 ~~year during which the taxpayer claims or carries forward a tax credit under Section~~
 450 ~~63N-2-213.]~~

451 (8) A qualifying taxpayer may not claim or carry forward a tax credit under this section
 452 for a taxable year during which the qualifying taxpayer claims the targeted business income tax
 453 credit under Section 59-7-624.

454 Section 5. Section 59-7-612 is amended to read:

455 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
 456 **forward -- Commission to report modification or repeal of certain federal provisions --**
 457 **Revenue and Taxation Interim Committee study.**

458 (1) (a) As used in this section:

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

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

462 (iii) "Independent verification" means a report from an independent certified public
463 accountant that:

464 (A) verifies the amount of qualified research expenses and payments to a qualified
465 organization for basic research the taxpayer made during the taxable year;

466 (B) describes the qualified research expenses or payments for basic research that are
467 included in the calculation of a tax credit under this section; and

468 (C) calculates, in accordance with this section, the amount of each tax credit that the
469 taxpayer may claim.

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

473 (v) "Qualified research expenses" means the same as that term is defined in Section
474 41(b), Internal Revenue Code, except that the term includes only:

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

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

477 (vi) "Qualifying taxpayer" means a taxpayer that obtains an independent verification
478 and receives a tax credit certificate in accordance with Section [63N-20-102](#).

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

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

484 (i) a research tax credit of 5% of the qualifying taxpayer's qualified research expenses
485 for the current taxable year that exceed the base amount provided for under Subsection [~~(4)~~]
486 (5);

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

490 (iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the
491 current taxable year.

492 (b) The amount of each tax credit that the qualifying taxpayer is eligible to claim under

493 Subsection (2)(a)(i), (ii), or (iii) is the amount listed on the tax credit certificate.

494 (c) Subject to Subsection ~~[(5)]~~ (6), a qualifying taxpayer may claim a tax credit under:

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

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

499 ~~[(e)]~~ (d) The tax credits provided for in this section:

500 (i) do not include the alternative incremental credit provided for in Section 41(c)(4),

501 Internal Revenue Code~~[-]~~ and

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

503 ~~[(2)]~~ (3) For purposes of claiming a tax credit under this section, a unitary group as
504 defined in Section 59-7-101 is considered to be one taxpayer.

505 ~~[(3)]~~ (4) Except as specifically provided for in this section~~[:(a)]~~, the tax credits
506 authorized under Subsection ~~[(1)]~~ (2) shall be calculated as provided in Section 41, Internal
507 Revenue Code~~[-and]~~.

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

510 ~~[(4) For purposes of this section:]~~

511 ~~[(a)]~~ (5) ~~[the]~~ The base amount shall be calculated as provided in Sections 41(c) and
512 41(h), Internal Revenue Code, except that:

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

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

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

520 ~~[(A)]~~ (i) may elect to be treated as a start-up company as provided in Section
521 41(c)(3)(B), Internal Revenue Code, regardless of whether the taxpayer meets the requirements
522 of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and

523 ~~[(B)]~~ (ii) may not revoke an election to be treated as a start-up company under

524 Subsection ~~[(4)(a)(iii)(A);~~ (5)(c)(i).

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

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

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

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

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

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

535 ~~[(5)]~~ (6) (a) If the amount of a tax credit claimed by a qualifying taxpayer under
536 Subsection ~~[(1)(a)(i)]~~ (2)(a)(i) or (ii) exceeds the qualifying taxpayer's tax liability under this
537 chapter for a taxable year, the ~~[amount of the tax credit exceeding the tax liability]~~ qualifying
538 taxpayer:

539 (i) may ~~[be carried forward]~~ carry forward the amount of the tax credit that exceeds the
540 qualifying taxpayer's tax liability for a period that does not exceed the next 14 taxable years;
541 and

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

544 (b) A qualifying taxpayer may not carry forward or carry back the tax credit allowed by
545 Subsection ~~[(1)(a)(iii)]~~ (2)(a)(iii).

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

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

554 (8) (a) The ~~[Revenue and Taxation Interim Committee]~~ committee shall review the tax

555 credits provided for in this section on or before October 1 of the year after the year in which the
556 commission reports under Subsection (7) a modification or repeal of a provision of Section 41,
557 Internal Revenue Code.

558 (b) The review described in Subsection (8)(a) is in addition to the review required by
559 Section 59-7-159.

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

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

- 566 (i) the cost of the tax credits provided for in this section;
567 (ii) the purpose and effectiveness of the tax credits provided for in this section;
568 (iii) whether the tax credits provided for in this section benefit the state; and
569 (iv) whether the tax credits provided for in this section should be:
570 (A) continued;
571 (B) modified; or
572 (C) repealed.

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

576 Section 6. Section 59-7-614 is amended to read:

577 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**
578 **Rulemaking authority.**

579 (1) As used in this section:

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

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

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

585 (ii) "Active solar system" includes water heating, space heating or cooling, and

586 electrical or mechanical energy generation.

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

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

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

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

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

592 (B) a biomass system;

593 (C) a direct use geothermal system;

594 (D) a geothermal electricity system;

595 (E) a geothermal heat pump system;

596 (F) a hydroenergy system;

597 (G) a passive solar system; or

598 (H) a wind system;

599 (ii) located in the state; and

600 (iii) used:

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

602 (B) as a commercial enterprise.

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

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

605 or

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

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

608 business.

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

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

612 or

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

615 (f) "Direct use geothermal system" means a system of apparatus and equipment that
616 enables the direct use of geothermal energy to meet energy needs, including heating a building,

617 an industrial process, and aquaculture.

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

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

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

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

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

623 (i) enables the use of thermal properties contained in the earth at temperatures well

624 below 100 degrees Fahrenheit; and

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

626 (j) "Hydroenergy system" means a system of apparatus and equipment that is capable

627 of:

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

629 energy; and

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

631 (k) "Hydrogen production system" means a system of apparatus and equipment, located

632 in this state, that uses:

633 (i) electricity from a renewable energy source to create hydrogen gas from water,

634 regardless of whether the renewable energy source is at a separate facility or the same facility

635 as the system of apparatus and equipment; or

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

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

638 (m) (i) "Passive solar system" means a direct thermal system that utilizes the structure

639 of a building and the structure's operable components to provide for collection, storage, and

640 distribution of heating or cooling during the appropriate times of the year by utilizing the

641 climate resources available at the site.

642 (ii) "Passive solar system" includes those portions and components of a building that

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

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

645 sunlight.

646 (o) (i) "Principal recovery portion" means the portion of a lease payment that

647 constitutes the cost a person incurs in acquiring a commercial energy system.

- 648 (ii) "Principal recovery portion" does not include:
- 649 (A) an interest charge; or
- 650 (B) a maintenance expense.
- 651 (p) "Renewable energy source" means the same as that term is defined in Section
- 652 54-17-601.
- 653 (q) "Residential energy system" means the following used to supply energy to or for a
- 654 residential unit:
- 655 (i) an active solar system;
- 656 (ii) a biomass system;
- 657 (iii) a direct use geothermal system;
- 658 (iv) a geothermal heat pump system;
- 659 (v) a hydroenergy system;
- 660 (vi) a passive solar system; or
- 661 (vii) a wind system.
- 662 (r) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
- 663 unit that:
- 664 (A) is located in the state; and
- 665 (B) serves as a dwelling for a person, group of persons, or a family.
- 666 (ii) "Residential unit" does not include property subject to a fee under:
- 667 (A) Section 59-2-405;
- 668 (B) Section 59-2-405.1;
- 669 (C) Section 59-2-405.2;
- 670 (D) Section 59-2-405.3; or
- 671 (E) Section 72-10-110.5.
- 672 (s) "Wind system" means a system of apparatus and equipment that is capable of:
- 673 (i) intercepting and converting wind energy into mechanical or electrical energy; and
- 674 (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,
- 675 or storage.
- 676 (2) [A] For a taxable year beginning before January 1, 2034, a taxpayer may claim an
- 677 energy system tax credit as provided in this section against a tax due under this chapter [~~for a~~
- 678 ~~taxable year~~].

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

682 (i) the taxpayer:

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

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

687 (ii) the taxpayer obtains a written certification from the office in accordance with
688 Subsection (8).

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

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

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

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

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

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

703 (i) for a system installed on or after January 1, 2018, but on or before December 31,
704 2020, \$1,600;

705 (ii) for a system installed on or after January 1, 2021, but on or before December 31,
706 2021, \$1,200;

707 (iii) for a system installed on or after January 1, 2022, but on or before December 31,
708 2022, \$800;

709 (iv) for a system installed on or after January 1, 2023, but on or before December 31,

710 2023, \$400; and
711 (v) for a system installed on or after January 1, 2024, \$0.
712 (e) If a taxpayer sells a residential unit to another person before the taxpayer claims the
713 tax credit under this Subsection (3):
714 (i) the taxpayer may assign the tax credit to the other person; and
715 (ii) (A) if the other person files a return under this chapter, the other person may claim
716 the tax credit under this section as if the other person had met the requirements of this section
717 to claim the tax credit; or
718 (B) if the other person files a return under Chapter 10, Individual Income Tax Act, the
719 other person may claim the tax credit under Section 59-10-1014 as if the other person had met
720 the requirements of Section 59-10-1014 to claim the tax credit.
721 (4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a
722 refundable tax credit under this Subsection (4) with respect to a commercial energy system if:
723 (i) the commercial energy system does not use:
724 (A) wind, geothermal electricity, [~~solar,~~] or biomass equipment capable of producing a
725 total of 660 or more kilowatts of electricity; or
726 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;
727 (ii) the taxpayer purchases or participates in the financing of the commercial energy
728 system;
729 (iii) (A) the commercial energy system supplies all or part of the energy required by
730 commercial units owned or used by the taxpayer; or
731 (B) the taxpayer sells all or part of the energy produced by the commercial energy
732 system as a commercial enterprise;
733 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7)
734 for hydrogen production using electricity for which the taxpayer claims a tax credit under this
735 Subsection (4); and
736 (v) the taxpayer obtains a written certification from the office in accordance with
737 Subsection (8).
738 (b) (i) Subject to Subsections (4)(b)(ii) through (iv), the tax credit is equal to 10% of
739 the reasonable costs of the commercial energy system.
740 (ii) A tax credit under this Subsection (4) may include installation costs.

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

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

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

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

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

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

756 (i) (A) the commercial energy system uses [~~wind;~~] geothermal electricity[;] or biomass
757 equipment capable of producing a total of 660 or more kilowatts of electricity; or

758 (B) the commercial energy system uses wind equipment capable of producing a total of
759 660 or more kilowatts of electricity and the production begins before January 1, 2024;

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

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

764 (iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7)
765 for hydrogen production using electricity for which the taxpayer claims a tax credit under this
766 Subsection (5); and

767 (iv) the taxpayer obtains a written certification from the office in accordance with
768 Subsection (8).

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

771 (A) 0.35 cents; and

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

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

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

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

781 (i) the taxpayer owns a commercial energy system that uses solar equipment capable of
782 producing a total of [~~660~~] 2,000 or more kilowatts of electricity and the production begins
783 before January 1, 2024;

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

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

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

791 (iv) the taxpayer obtains a written certification from the office in accordance with
792 Subsection (8).

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

795 (A) 0.35 cents; and

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

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

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

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

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

806 (ii) the hydrogen production system is completed and placed in service on or after

807 January 1, 2022;

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

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

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

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

817 (A) \$0.12; and

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

819 (ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than
820 5,600 metric tons of hydrogen per taxable year.

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

824 (8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall
825 obtain a written certification from the office.

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

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

828 (ii) the residential energy system, the commercial energy system, or the hydrogen

829 production system with respect to which the taxpayer seeks to claim a tax credit:

830 (A) has been completely installed;

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

832 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential

833 energy system, the commercial energy system, or the hydrogen production system uses the

834 state's renewable and nonrenewable energy resources in an appropriate and economic manner.

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

837 (i) for determining whether a residential energy system, a commercial energy system,
838 or a hydrogen production system meets the requirements of Subsection (8)(b)(ii); and

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

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

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

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

848 (ii) for each taxpayer:

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

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

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

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

855 Section 7. Section [59-7-614.7](#) is amended to read:

856 **[59-7-614.7. Nonrefundable alternative energy development tax credit.](#)**

857 (1) As used in this section:

858 (a) "Alternative energy entity" means the same as that term is defined in Section
859 [79-6-502](#).

860 (b) "Alternative energy project" means the same as that term is defined in Section
861 [79-6-502](#).

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

863 (2) Subject to the other provisions of this section, an alternative energy entity may
864 claim a nonrefundable tax credit for alternative energy development as provided in this section.

865 (3) The tax credit under this section is the amount listed as the tax credit amount on a
866 tax credit certificate that the office issues under Title 79, Chapter 6, Part 5, Alternative Energy
867 Development Tax Credit Act, to the alternative energy entity for the taxable year.

868 (4) An alternative energy entity may carry forward a tax credit under this section for a
869 period that does not exceed the next seven taxable years if:

870 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
871 taxable year; and

872 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
873 under this chapter for that taxable year.

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

877 (b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by
878 this Subsection (5), the office shall provide the following information, if available to the office,
879 to the Office of the Legislative Fiscal Analyst by electronic means:

880 (A) the amount of tax credit that the office grants to each alternative energy entity for
881 each taxable year;

882 (B) the new state revenues generated by each alternative energy project;

883 (C) the information contained in the office's latest report under Section 79-6-505; and

884 (D) any other information that the Office of the Legislative Fiscal Analyst requests.

885 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
886 redact information that identifies a recipient of a tax credit under this section.

887 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
888 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
889 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
890 provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative
891 energy entities that receive the tax credit under this section.

892 (c) As part of the study required by this Subsection (5), the Office of the Legislative
893 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
894 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
895 office under Subsection (5)(b).

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

- 898 (i) the cost of the tax credit to the state;
- 899 (ii) the purpose and effectiveness of the tax credit; and
- 900 (iii) the extent to which the state benefits from the tax credit.

901 (6) Notwithstanding Section 59-7-903, the commission may not remove the tax credit
902 described in this section from the tax return for a taxable year beginning before January 1,
903 2027.

904 Section 8. Section 59-7-626 is amended to read:

905 **59-7-626. Refundable tax credit for nonrenewable hydrogen production system.**

906 (1) As used in this section:

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

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

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

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

914 (2) (a) [A] For a taxable year beginning before January 1, 2034, a taxpayer may claim a
915 refundable credit under this section if:

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

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

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

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

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

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

- 927 (A) \$0.12; and
- 928 (B) the number of kilograms of hydrogen produced during the taxable year.
- 929 (ii) A taxpayer may not receive a tax credit under this section for more than 5,600
930 metric tons of hydrogen per taxable year.
- 931 (iii) A taxpayer is eligible to claim a tax credit under this section for production
932 occurring during a period of 48 months beginning with the month in which the hydrogen
933 production system is placed in commercial service.
- 934 (3) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall
935 obtain a written certification from the office.
- 936 (b) The office shall issue a taxpayer a written certification if the office determines that:
- 937 (i) the taxpayer meets the requirements of this section to receive a tax credit; and
- 938 (ii) the hydrogen production system with respect to which the taxpayer seeks to claim a
939 tax credit:
- 940 (A) has been completely installed; and
- 941 (B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen
942 production system uses the state's nonrenewable energy resources in an appropriate and
943 economic manner.
- 944 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
945 office may make rules for determining whether a hydrogen production system meets the
946 requirements of Subsection (3)(b)(ii).
- 947 (d) A taxpayer that obtains a written certification from the office shall retain the
948 certification for the same time period a person is required to keep books and records under
949 Section [59-1-1406](#).
- 950 (e) The office shall submit to the commission an electronic list that includes:
- 951 (i) the name and identifying information of each taxpayer to which the office issues a
952 written certification; and
- 953 (ii) for each taxpayer:
- 954 (A) the amount of the tax credit listed on the written certification; and
- 955 (B) the date the hydrogen production system was installed.
- 956 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
957 commission may make rules to address the certification of a tax credit under this section.

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

960 Section 9. Section **59-10-137** is amended to read:

961 **59-10-137. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

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

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

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

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

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

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

987 (i) Section [59-10-1004](#);

988 (ii) Section [59-10-1010](#);

989 (iii) Section 59-10-1015;
 990 [~~(iv) Section 59-10-1025;~~]
 991 [~~(v)] (iv) Section 59-10-1027;
 992 [~~(vi)] (v) Section 59-10-1031;
 993 [~~(vii)] (vi) Section 59-10-1032;
 994 [~~(viii)] (vii) Section 59-10-1035;
 995 [~~(ix)] (viii) Section 59-10-1104;
 996 [~~(x)] (ix) Section 59-10-1105; and
 997 [~~(xi)] (x) Section 59-10-1108.~~~~~~~~~~~~~~

998 (b) On or before November 30, 2018, and every three years after 2018, the committee
 999 shall conduct the review required under Subsection (2) of the tax credits allowed under the
 1000 following sections:

1001 (i) Section 59-10-1005;
 1002 (ii) Section 59-10-1006;
 1003 (iii) Section 59-10-1012;
 1004 (iv) Section 59-10-1022;
 1005 (v) Section 59-10-1023;
 1006 (vi) Section 59-10-1028;
 1007 (vii) Section 59-10-1034;
 1008 (viii) Section 59-10-1037; and
 1009 (ix) Section 59-10-1107.

1010 (c) On or before November 30, 2019, and every three years after 2019, the committee
 1011 shall conduct the review required under Subsection (2) of the tax credits allowed under the
 1012 following sections:

1013 (i) Section 59-10-1007;
 1014 (ii) Section 59-10-1014;
 1015 (iii) Section 59-10-1017;
 1016 (iv) Section 59-10-1018;
 1017 (v) Section 59-10-1019;
 1018 [~~(vi) Section 59-10-1024;~~]
 1019 [~~(vii)] (vi) Section 59-10-1029;~~

1020 [~~(viii)~~] (vii) Section 59-10-1036;
1021 [~~(ix)~~] (viii) Section 59-10-1106; and
1022 [~~(x)~~] (ix) Section 59-10-1111.

1023 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
1024 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
1025 2017.

1026 (ii) The committee shall complete a review described in this Subsection (3)(d) three
1027 years after the effective date of the tax credit and every three years after the initial review date.

1028 Section 10. Section 59-10-1002.2 is amended to read:

1029 **59-10-1002.2. Apportionment of tax credits.**

1030 (1) A nonresident individual or a part-year resident individual that claims a tax credit
1031 in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023[;
1032 ~~59-10-1024~~], 59-10-1028, 59-10-1042, 59-10-1043, or 59-10-1044 may only claim an
1033 apportioned amount of the tax credit equal to:

1034 (a) for a nonresident individual, the product of:

1035 (i) the state income tax percentage for the nonresident individual; and

1036 (ii) the amount of the tax credit that the nonresident individual would have been
1037 allowed to claim but for the apportionment requirements of this section; or

1038 (b) for a part-year resident individual, the product of:

1039 (i) the state income tax percentage for the part-year resident individual; and

1040 (ii) the amount of the tax credit that the part-year resident individual would have been
1041 allowed to claim but for the apportionment requirements of this section.

1042 (2) A nonresident estate or trust that claims a tax credit in accordance with Section
1043 59-10-1017, 59-10-1020, 59-10-1022[~~59-10-1024~~], or 59-10-1028 may only claim an
1044 apportioned amount of the tax credit equal to the product of:

1045 (a) the state income tax percentage for the nonresident estate or trust; and

1046 (b) the amount of the tax credit that the nonresident estate or trust would have been
1047 allowed to claim but for the apportionment requirements of this section.

1048 Section 11. Section 59-10-1006 is repealed and reenacted to read:

1049 **59-10-1006. Historic preservation tax credit.**

1050 (1) As used in this section:

- 1051 (a) "Certified historic building" means a building that:
1052 (i) is listed on the National Register of Historic Places within three years of taking the
1053 credit under this section; or
1054 (ii) (A) is located in a National Register Historic District; and
1055 (B) has been designated by the office as being of significance to the district.
1056 (b) "Office" means the State Historic Preservation Office.
1057 (c) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
1058 the rehabilitation and restoration of the physical elements of the building.
1059 (ii) "Qualified rehabilitation expenditures" includes the historic decorative elements
1060 and the upgrading of the structural, mechanical, electrical, and plumbing systems.
1061 (iii) "Qualified rehabilitation expenditures" does not include expenditures related to:
1062 (A) the claimant's, estate's, or trust's personal labor;
1063 (B) cost of acquisition of the property;
1064 (C) any expenditure attributable to the enlargement of an existing building;
1065 (D) rehabilitation of a certified historic building without the approval required in
1066 Subsection (3)(a)(i);
1067 (E) an expenditure attributable to landscaping or other site features, outbuildings,
1068 garages, and related features; or
1069 (F) demolition and removal costs for an existing building on a property site.
1070 (d) "Residential" means a building used for residential use, either owner occupied or
1071 income producing.
1072 (2) A claimant, estate, or trust may claim a nonrefundable tax credit in an amount equal
1073 to 20% of qualified rehabilitation expenditures if:
1074 (a) the qualified rehabilitation expenditures cost more than \$10,000;
1075 (b) the qualified rehabilitation expenditures are incurred in connection with a
1076 residential certified historic building; and
1077 (c) the claimant, estate, or trust has a written tax credit certificate issued in accordance
1078 with Subsection (3).
1079 (3) (a) The office shall issue a tax credit certificate if the office:
1080 (i) approves all rehabilitation work for which a claimant, estate, or trust may claim a
1081 tax credit as meeting the Secretary of the Interior's Standards for Rehabilitation before

1082 completion of the rehabilitation project so that the office can provide corrective comments to
1083 the claimant, estate, or trust to preserve the historic qualities of the building;

1084 (ii) determines that the rehabilitation project conforms with the approved rehabilitation
1085 work; and

1086 (iii) verifies the property is a residential certified historic building and the amount of
1087 the claimant's, estate's, or trust's qualified rehabilitation expenditures.

1088 (b) The tax credit certificate shall list the amount of the tax credit that the claimant,
1089 estate, or trust is eligible to claim.

1090 (c) A claimant, estate, or trust that receives a tax credit certificate under this section
1091 shall retain the tax credit certificate for the same time period a person is required to keep books
1092 and records under Section [59-1-1406](#).

1093 (d) The office shall provide the commission with an electronic report that includes for
1094 each claimant, estate, or trust to which the office issued a tax credit certificate under this
1095 section for a taxable year:

1096 (i) the name of the claimant, estate, or trust;

1097 (ii) the identifying information of the claimant, estate, or trust; and

1098 (iii) the amount of tax credit that the claimant, estate, or trust is eligible to claim.

1099 (4) A claimant, estate, or trust may carry forward the amount of the tax credit that
1100 exceeds the claimant's, estate's, or trust's tax liability for five taxable years after the year in
1101 which the claimant, estate, or trust claims a tax credit under this section.

1102 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1103 commission, in consultation with the office, shall make rules to implement this section.

1104 (6) The office shall include the number of estimated new jobs created in the state from
1105 rehabilitation work in the annual report described in Section [9-1-208](#).

1106 Section 12. Section **59-10-1007** is amended to read:

1107 **59-10-1007. Recycling market development zones tax credits.**

1108 (1) As used in this section, "qualifying claimant, estate, or trust" means a business that:

1109 (a) operates in a recycling market development zone as defined in Section [19-13-102](#);

1110 and

1111 (b) is not eligible for a sales and use tax exemption under Subsection [59-12-104](#)(14).

1112 (2) Subject to other provisions of this section, a qualifying claimant, estate, or trust [in

1113 a recycling market development zone as defined in Section ~~19-13-102~~ may claim the following
 1114 ~~nonrefundable tax credits:(a)]~~ may claim a tax credit equal to the product of the percentage
 1115 listed in Subsection ~~59-10-104~~(2) and the purchase price paid for machinery and equipment
 1116 used directly in:

1117 ~~[(†)]~~ (a) commercial composting; or

1118 ~~[(†)]~~ (b) manufacturing facilities or plant units that~~[(A) manufacture, process,~~
 1119 ~~compound, or produce recycled items of tangible personal property for sale; or(B)]~~ reduce or
 1120 reuse postconsumer waste material~~[-and].~~

1121 ~~[(b) a tax credit equal to the lesser of:]~~

1122 ~~[(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test~~
 1123 ~~inventory, and utilities made by the claimant, estate, or trust for establishing and operating~~
 1124 ~~recycling or composting technology in the state; and]~~

1125 ~~[(ii) \$2,000.]~~

1126 ~~[(‡)]~~ (3) (a) To claim a tax credit described in Subsection ~~[(†)]~~ (2), the qualifying
 1127 claimant, estate, or trust shall receive from the Department of Environmental Quality a written
 1128 certification, on a form approved by the commission, that includes:

1129 (i) a statement that the claimant, estate, or trust is ~~[operating within the boundaries of a~~
 1130 ~~recycling market development zone]~~ a qualifying claimant, estate, or trust;

1131 ~~[(ii) for a claim of the tax credit described in Subsection (1)(a):]~~

1132 ~~[(A)]~~ (ii) the type of the machinery and equipment that the qualifying claimant, estate,
 1133 or trust purchased;

1134 ~~[(B)]~~ (iii) the date that the qualifying claimant, estate, or trust purchased the machinery
 1135 and equipment;

1136 ~~[(C)]~~ (iv) the purchase price for ~~[the]~~ each item of machinery and equipment;

1137 ~~[(D)]~~ (v) the total purchase price for all machinery and equipment for which the
 1138 qualifying claimant, estate, or trust is claiming a tax credit;

1139 (vi) a statement that the machinery and equipment are integral to the composting or
 1140 recycling process; and

1141 ~~[(E)]~~ (vii) the amount of the qualifying claimant's, estate's, or trust's tax credit~~[-and].~~

1142 ~~[(F) a statement that the machinery and equipment are integral to the composting or~~
 1143 ~~recycling process; and]~~

1144 [~~(iii) for a claim of the tax credit described in Subsection (1)(b):]~~
 1145 [~~(A) the type of net expenditure that the claimant, estate, or trust made to a third party;]~~
 1146 [~~(B) the date that the claimant, estate, or trust made the payment to a third party;]~~
 1147 [~~(C) the amount that the claimant, estate, or trust paid to each third party;]~~
 1148 [~~(D) the total amount that the claimant, estate, or trust paid to all third parties;]~~
 1149 [~~(E) a statement that the net expenditures support the establishment and operation of~~
 1150 ~~recycling or composting technology in the state; and]~~
 1151 [~~(F) the amount of the claimant's, estate's, or trust's tax credit.]~~

1152 (b) (i) The Department of Environmental Quality shall provide a qualifying claimant,
 1153 estate, or trust seeking to claim a tax credit under Subsection ~~[(1)]~~ (2) with a copy of the
 1154 written certification.

1155 (ii) The qualifying claimant, estate, or trust shall retain a copy of the written
 1156 certification for the same period of time that a person is required to keep books and records
 1157 under Section 59-1-1406.

1158 (c) The Department of Environmental Quality shall submit to the commission an
 1159 electronic list that includes:

1160 (i) the name and identifying information of each qualifying claimant, estate, or trust to
 1161 which the Department of Environmental Quality issues a written certification; and

1162 (ii) for each qualifying claimant, estate, or trust, the amount of each tax credit listed on
 1163 the written certification.

1164 ~~[(3)]~~ (4) A qualifying claimant, estate, or trust may not claim a tax credit ~~[under~~
 1165 ~~Subsection (1)(a), Subsection (1)(b), or both]~~ that exceeds 40% of the qualifying claimant's,
 1166 estate's, or trust's state income tax liability as the tax liability is calculated:

1167 (a) for the taxable year in which the qualifying claimant, estate, or trust made the
 1168 purchases ~~[or payments];~~

1169 (b) before any other tax credits the qualifying claimant, estate, or trust may claim for
 1170 the taxable year; and

1171 (c) before the qualifying claimant, estate, or trust claims a tax credit authorized by this
 1172 section.

1173 ~~[(4)]~~ (5) The commission shall make rules governing what information a qualifying
 1174 claimant, estate, or trust shall file with the commission to verify the entitlement to and amount

1175 of a tax credit.

1176 ~~[(5)]~~ (6) Except as provided in Subsections ~~[(6) through]~~ (7) and (8), a qualifying
 1177 claimant, estate, or trust may carry forward, to the next three taxable years, the amount of a tax
 1178 credit ~~[described in Subsection (1)(a)]~~ that the qualifying claimant, estate, or trust does not use
 1179 for the taxable year.

1180 ~~[(6)]~~ (7) A qualifying claimant, estate, or trust may not claim or carry forward a tax
 1181 credit ~~[described in Subsection (1)(a) in]~~ under this section for a taxable year during which the
 1182 qualifying claimant, estate, or trust claims or carries forward a tax credit under Section
 1183 63N-2-213.

1184 ~~[(7) A claimant, estate, or trust may not claim a tax credit described in Subsection~~
 1185 ~~(1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a~~
 1186 ~~tax credit under Section 63N-2-213.]~~

1187 (8) A qualifying claimant, estate, or trust may not claim or carry forward a tax credit
 1188 under this section for a taxable year during which the qualifying claimant, estate, or trust
 1189 claims the targeted business income tax credit under Section 59-10-1112.

1190 Section 13. Section **59-10-1012** is amended to read:

1191 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**
 1192 **forward -- Commission to report modification or repeal of certain federal provisions --**
 1193 **Revenue and Taxation Interim Committee study.**

1194 (1) (a) As used in this section:

1195 (i) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal
 1196 Revenue Code, except that the term includes only basic research conducted in this state.

1197 (ii) "Committee" means the Revenue and Taxation Interim Committee.

1198 (iii) "Independent verification" means a report from an independent certified public
 1199 accountant that:

1200 (A) verifies the amount of qualified research expenses and payments to a qualified
 1201 organization for basic research the claimant, estate, or trust made during the taxable year;

1202 (B) describes the qualified research expenses or payments for basic research that are
 1203 included in the calculation of a tax credit under this section; and

1204 (C) calculates, in accordance with this section, the amount of each tax credit that the
 1205 claimant, estate, or trust may claim.

1206 (iv) "Qualified research" means the same as that term is defined in Section 41(d),
 1207 Internal Revenue Code, except that the term includes only qualified research conducted in this
 1208 state.

1209 (v) "Qualified research expenses" means the same as that term is defined in Section
 1210 41(b), Internal Revenue Code, except that the term includes only:

1211 (A) in-house research expenses incurred in this state; and

1212 (B) contract research expenses incurred in this state.

1213 (vi) "Qualifying claimant" means a claimant, an estate, or a trust that obtains an
 1214 independent verification and receives a tax credit certificate in accordance with Section
 1215 [63N-20-102](#).

1216 (b) Except as provided in Subsection (1)(a), a term used in this section that is defined
 1217 in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41,
 1218 Internal Revenue Code.

1219 (2) (a) A qualifying claimant~~[-, estate, or trust meeting the requirements of this section]~~
 1220 may claim the following nonrefundable tax credits:

1221 (i) a research tax credit of 5% of the qualifying claimant's~~[-, estate's, or trust's]~~ qualified
 1222 research expenses for the current taxable year that exceed the base amount provided for under
 1223 Subsection (3);

1224 (ii) a tax credit for a payment to a qualified organization for basic research as provided
 1225 in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base
 1226 amount provided for under Subsection (3); and

1227 (iii) a tax credit equal to 7.5% of the qualifying claimant's~~[-, estate's, or trust's]~~ qualified
 1228 research expenses for the current taxable year.

1229 (b) The amount of each tax credit that the qualifying claimant is eligible to claim under
 1230 Subsection (2)(a)(i), (ii), or (iii) is the amount listed on the tax credit certificate.

1231 ~~[(b)]~~ (c) Subject to Subsection ~~[(4)]~~ (5), a qualifying claimant~~[-, estate, or trust]~~ may
 1232 claim a tax credit under:

1233 (i) Subsection ~~[(1)(a)(i) or (1)(a)(iii)]~~ (2)(a)(i) or (2)(a)(iii), for the taxable year for
 1234 which the qualifying claimant~~[-, estate, or trust]~~ incurs the qualified research expenses; or

1235 (ii) Subsection ~~[(1)(a)(ii)]~~ (2)(a)(ii), for the taxable year for which the qualifying
 1236 claimant~~[-, estate, or trust]~~ makes the payment to the qualified organization.

1237 ~~[(e)]~~ (d) The tax credits provided for in this section;

1238 (i) do not include the alternative incremental credit provided for in Section 41(c)(4),

1239 Internal Revenue Code~~[-]; and~~

1240 (ii) do not terminate if a credit terminates under Section 41, Internal Revenue Code.

1241 ~~[(2)]~~ (3) Except as specifically provided for in this section~~[:(a)]~~, the tax credits

1242 authorized under Subsection ~~[(+)]~~ (2) shall be calculated as provided in Section 41, Internal

1243 Revenue Code~~[-; and]~~.

1244 ~~[(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating~~

1245 ~~the tax credits authorized under Subsection (1).]~~

1246 ~~[(3)]~~ (4) ~~[For purposes of this section: (a) the]~~ The base amount shall be calculated as

1247 provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

1248 ~~[(+)]~~ (a) the base amount does not include the calculation of the alternative incremental

1249 credit provided for in Section 41(c)(4), Internal Revenue Code;

1250 ~~[(+)]~~ (b) a claimant's, estate's, or trust's gross receipts include only those gross receipts

1251 attributable to sources within this state as provided in Section [59-10-118](#); and

1252 ~~[(+)]~~ (c) notwithstanding Section 41(c), Internal Revenue Code, for purposes of

1253 calculating the base amount, a claimant, estate, or trust:

1254 ~~[(A)]~~ (i) may elect to be treated as a start-up company as provided in Section

1255 41(c)(3)(B), Internal Revenue Code, regardless of whether the claimant, estate, or trust meets

1256 the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and

1257 ~~[(B)]~~ (ii) may not revoke an election to be treated as a start-up company under

1258 Subsection ~~[(3)(a)(iii)(A);]~~(4)(c)(i).

1259 ~~[(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except~~

1260 ~~that the term includes only basic research conducted in this state;]~~

1261 ~~[(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except~~

1262 ~~that the term includes only qualified research conducted in this state;]~~

1263 ~~[(d) "qualified research expenses" is as defined and calculated in Section 41(b),~~

1264 ~~Internal Revenue Code, except that the term includes only:]~~

1265 ~~[(i) in-house research expenses incurred in this state; and]~~

1266 ~~[(ii) contract research expenses incurred in this state; and]~~

1267 ~~[(e) a tax credit provided for in this section is not terminated if a credit terminates~~

1268 ~~under Section 41, Internal Revenue Code.]~~

1269 ~~[(4)]~~ (5) (a) If the amount of a tax credit claimed by a qualifying claimant~~[-estate, or~~
1270 ~~trust]~~ under Subsection ~~[(1)(a)(i)]~~ (2)(a)(i) or (ii) exceeds the qualifying claimant's~~[-estate's, or~~
1271 ~~trust's]~~ tax liability under this chapter for a taxable year, the ~~[amount of the tax credit exceeding~~
1272 ~~the tax liability]~~ qualifying claimant:

1273 (i) may ~~[be carried forward]~~ carry forward the amount of the tax credit that exceeds the
1274 qualifying claimant's tax liability for a period that does not exceed the next 14 taxable years;
1275 and

1276 (ii) may not ~~[be carried back]~~ carry back the amount of the tax credit that exceeds the
1277 qualifying claimant's tax liability to a taxable year preceding the current taxable year.

1278 (b) A qualifying claimant~~[-estate, or trust]~~ may not carry forward or carry back the tax
1279 credit allowed by Subsection ~~[(1)(a)(iii)]~~ (2)(a)(iii).

1280 ~~[(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1281 ~~the commission may make rules for purposes of this section prescribing a certification process~~
1282 ~~for qualified organizations to ensure that amounts paid to the qualified organizations are for~~
1283 ~~basic research conducted in this state.]~~

1284 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
1285 commission shall report the modification or repeal by electronic means to the ~~[Revenue and~~
1286 ~~Taxation Interim Committee]~~ committee within 60 days after the day on which the
1287 modification or repeal becomes effective.

1288 (7) (a) The ~~[Revenue and Taxation Interim Committee]~~ committee shall review the tax
1289 credits provided for in this section on or before October 1 of the year after the year in which the
1290 commission reports under Subsection (6) a modification or repeal of a provision of Section 41,
1291 Internal Revenue Code.

1292 (b) The review described in Subsection (7)(a) is in addition to the review required by
1293 Section [59-10-137](#).

1294 (c) Notwithstanding Subsection (7)(a), the ~~[Revenue and Taxation Interim Committee]~~
1295 committee is not required to review the tax credits provided for in this section if the only
1296 modification to a provision of Section 41, Internal Revenue Code, is the extension of the
1297 termination date provided for in Section 41(h), Internal Revenue Code.

1298 (d) The ~~[Revenue and Taxation Interim Committee]~~ committee shall address in a

1299 review under this section:

- 1300 (i) the cost of the tax credits provided for in this section;
- 1301 (ii) the purpose and effectiveness of the tax credits provided for in this section;
- 1302 (iii) whether the tax credits provided for in this section benefit the state; and
- 1303 (iv) whether the tax credits provided for in this section should be:
- 1304 (A) continued;
- 1305 (B) modified; or
- 1306 (C) repealed.
- 1307 (e) If the [~~Revenue and Taxation Interim Committee reviews the tax credits provided~~
- 1308 ~~for in this section~~] committee conducts a review under this Subsection (7), the committee shall
- 1309 issue a report of the Revenue and Taxation Interim Committee's findings.

1310 Section 14. Section **59-10-1014** is amended to read:

1311 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**

1312 **Certification -- Rulemaking authority.**

1313 (1) As used in this section:

1314 (a) (i) "Active solar system" means a system of equipment that is capable of:

1315 (A) collecting and converting incident solar radiation into thermal, mechanical, or

1316 electrical energy; and

1317 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate

1318 apparatus to storage or to the point of use.

1319 (ii) "Active solar system" includes water heating, space heating or cooling, and

1320 electrical or mechanical energy generation.

1321 (b) "Biomass system" means a system of apparatus and equipment for use in:

1322 (i) converting material into biomass energy, as defined in Section [59-12-102](#); and

1323 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

1324 (c) "Direct use geothermal system" means a system of apparatus and equipment that

1325 enables the direct use of geothermal energy to meet energy needs, including heating a building,

1326 an industrial process, and aquaculture.

1327 (d) "Geothermal electricity" means energy that is:

1328 (i) contained in heat that continuously flows outward from the earth; and

1329 (ii) used as a sole source of energy to produce electricity.

- 1330 (e) "Geothermal energy" means energy generated by heat that is contained in the earth.
- 1331 (f) "Geothermal heat pump system" means a system of apparatus and equipment that:
- 1332 (i) enables the use of thermal properties contained in the earth at temperatures well
- 1333 below 100 degrees Fahrenheit; and
- 1334 (ii) helps meet heating and cooling needs of a structure.
- 1335 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable
- 1336 of:
- 1337 (i) intercepting and converting kinetic water energy into electrical or mechanical
- 1338 energy; and
- 1339 (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- 1340 (h) "Office" means the Office of Energy Development created in Section [79-6-401](#).
- 1341 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
- 1342 a building and its operable components to provide for collection, storage, and distribution of
- 1343 heating or cooling during the appropriate times of the year by utilizing the climate resources
- 1344 available at the site.
- 1345 (ii) "Passive solar system" includes those portions and components of a building that
- 1346 are expressly designed and required for the collection, storage, and distribution of solar energy.
- 1347 (j) "Photovoltaic system" means an active solar system that generates electricity from
- 1348 sunlight.
- 1349 (k) (i) "Principal recovery portion" means the portion of a lease payment that
- 1350 constitutes the cost a person incurs in acquiring a residential energy system.
- 1351 (ii) "Principal recovery portion" does not include:
- 1352 (A) an interest charge; or
- 1353 (B) a maintenance expense.
- 1354 (l) "Residential energy system" means the following used to supply energy to or for a
- 1355 residential unit:
- 1356 (i) an active solar system;
- 1357 (ii) a biomass system;
- 1358 (iii) a direct use geothermal system;
- 1359 (iv) a geothermal heat pump system;
- 1360 (v) a hydroenergy system;

- 1361 (vi) a passive solar system; or
1362 (vii) a wind system.
- 1363 (m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
1364 unit that:
- 1365 (A) is located in the state; and
1366 (B) serves as a dwelling for a person, group of persons, or a family.
- 1367 (ii) "Residential unit" does not include property subject to a fee under:
- 1368 (A) Section 59-2-405;
1369 (B) Section 59-2-405.1;
1370 (C) Section 59-2-405.2;
1371 (D) Section 59-2-405.3; or
1372 (E) Section 72-10-110.5.
- 1373 (n) "Wind system" means a system of apparatus and equipment that is capable of:
- 1374 (i) intercepting and converting wind energy into mechanical or electrical energy; and
1375 (ii) transferring these forms of energy by a separate apparatus to the point of use or
1376 storage.
- 1377 (2) [A] For a taxable year beginning before January 1, 2034, a claimant, estate, or trust
1378 may claim an energy system tax credit as provided in this section against a tax due under this
1379 chapter [~~for a taxable year~~].
- 1380 (3) [~~For a taxable year beginning on or after January 1, 2007, a~~] A claimant, estate, or
1381 trust may claim a nonrefundable tax credit under this section with respect to a residential unit
1382 the claimant, estate, or trust owns or uses if:
- 1383 (a) the claimant, estate, or trust:
- 1384 (i) purchases and completes a residential energy system to supply all or part of the
1385 energy required for the residential unit; or
1386 (ii) participates in the financing of a residential energy system to supply all or part of
1387 the energy required for the residential unit;
- 1388 (b) the residential energy system is installed on or after January 1, 2007; and
1389 (c) the claimant, estate, or trust obtains a written certification from the office in
1390 accordance with Subsection (5).
- 1391 (4) (a) For a residential energy system, other than a photovoltaic system, the tax credit

1392 described in this section is equal to the lesser of:

1393 (i) 25% of the reasonable costs, including installation costs, of each residential energy
1394 system installed with respect to each residential unit the claimant, estate, or trust owns or uses;
1395 and

1396 (ii) \$2,000.

1397 (b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic
1398 system, the tax credit described in this section is equal to the lesser of:

1399 (i) 25% of the reasonable costs, including installation costs, of each system installed
1400 with respect to each residential unit the claimant, estate, or trust owns or uses; or

1401 (ii) (A) for a system installed on or after January 1, 2007, but on or before December
1402 31, 2017, \$2,000;

1403 (B) for a system installed on or after January 1, 2018, but on or before December 31,
1404 2020, \$1,600;

1405 (C) for a system installed on or after January 1, 2021, but on or before December 31,
1406 2021, \$1,200;

1407 (D) for a system installed on or after January 1, 2022, but on or before December 31,
1408 2022, \$800;

1409 (E) for a system installed on or after January 1, 2023, but on or before December 31,
1410 2023, \$400; and

1411 (F) for a system installed on or after January 1, 2024, \$0.

1412 (c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or
1413 trust may claim and list that amount on the written certification that the office issues under
1414 Subsection (5).

1415 (ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the
1416 written certification that the office issues under Subsection (5).

1417 (d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the
1418 taxable year in which the residential energy system is installed.

1419 (e) If the amount of a tax credit listed on the written certification exceeds a claimant's,
1420 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust
1421 may carry forward the amount of the tax credit exceeding the liability for a period that does not
1422 exceed the next four taxable years.

1423 (f) A claimant, estate, or trust may claim a tax credit with respect to additional
1424 residential energy systems or parts of residential energy systems for a subsequent taxable year
1425 if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per
1426 residential unit.

1427 (g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a
1428 residential energy system installed on a residential unit may claim a tax credit under Subsection
1429 (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax
1430 credit.

1431 (ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential
1432 energy system may claim as a tax credit under Subsection (3) only the principal recovery
1433 portion of the lease payments.

1434 (iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a
1435 residential energy system may claim a tax credit under Subsection (3) for a period that does not
1436 exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

1437 (h) If a claimant, estate, or trust sells a residential unit to another person before the
1438 claimant, estate, or trust claims the tax credit under Subsection (3):

1439 (i) the claimant, estate, or trust may assign the tax credit to the other person; and

1440 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and
1441 Income Taxes, the other person may claim the tax credit as if the other person had met the
1442 requirements of Section 59-7-614 to claim the tax credit; or

1443 (B) if the other person files a return under this chapter, the other person may claim the
1444 tax credit under this section as if the other person had met the requirements of this section to
1445 claim the tax credit.

1446 (5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1447 claimant, estate, or trust shall obtain a written certification from the office.

1448 (b) The office shall issue a claimant, estate, or trust a written certification if the office
1449 determines that:

1450 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1451 credit; and

1452 (ii) the office determines that the residential energy system with respect to which the
1453 claimant, estate, or trust seeks to claim a tax credit:

1454 (A) has been completely installed;
1455 (B) is a viable system for saving or producing energy from renewable resources; and
1456 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
1457 energy system uses the state's renewable and nonrenewable energy resources in an appropriate
1458 and economic manner.

1459 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1460 office may make rules:

1461 (i) for determining whether a residential energy system meets the requirements of
1462 Subsection (5)(b)(ii); and

1463 (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or
1464 trust may receive under Subsection (4), establishing the reasonable costs of a residential energy
1465 system, as an amount per unit of energy production.

1466 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1467 retain the certification for the same time period a person is required to keep books and records
1468 under Section 59-1-1406.

1469 (e) The office shall submit to the commission an electronic list that includes:

1470 (i) the name and identifying information of each claimant, estate, or trust to which the
1471 office issues a written certification; and

1472 (ii) for each claimant, estate, or trust:

1473 (A) the amount of the tax credit listed on the written certification; and

1474 (B) the date the renewable energy system was installed.

1475 (6) A tax credit under this section is in addition to any tax credits provided under the
1476 laws or rules and regulations of the United States.

1477 ~~[(7) A purchaser of one or more solar units that claims a tax credit under Section~~
1478 ~~59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this~~
1479 ~~section for that purchase.]~~

1480 Section 15. Section 59-10-1029 is amended to read:

1481 **59-10-1029. Nonrefundable alternative energy development tax credit.**

1482 (1) As used in this section:

1483 (a) "Alternative energy entity" means the same as that term is defined in Section
1484 79-6-502.

1485 (b) "Alternative energy project" means the same as that term is defined in Section
1486 79-6-502.

1487 (c) "Office" means the Office of Energy Development created in Section 79-6-401.

1488 (2) Subject to the other provisions of this section, an alternative energy entity may
1489 claim a nonrefundable tax credit for alternative energy development as provided in this section.

1490 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1491 tax credit certificate that the office issues under Title 79, Chapter 6, Part 5, Alternative Energy
1492 Development Tax Credit Act, to the alternative energy entity for the taxable year.

1493 (4) An alternative energy entity may carry forward a tax credit under this section for a
1494 period that does not exceed the next seven taxable years if:

1495 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1496 taxable year; and

1497 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
1498 under this chapter for that taxable year.

1499 (5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim
1500 Committee shall study the tax credit allowed by this section and make recommendations
1501 concerning whether the tax credit should be continued, modified, or repealed.

1502 (b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by
1503 this Subsection (5), the office shall provide the following information, if available to the office,
1504 to the Office of the Legislative Fiscal Analyst by electronic means:

1505 (A) the amount of tax credit that the office grants to each alternative energy entity for
1506 each taxable year;

1507 (B) the new state revenues generated by each alternative energy project;

1508 (C) the information contained in the office's latest report under Section 79-6-505; and

1509 (D) any other information that the Office of the Legislative Fiscal Analyst requests.

1510 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
1511 redact information that identifies a recipient of a tax credit under this section.

1512 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
1513 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
1514 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
1515 provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative

1516 energy entities that receive the tax credit under this section.

1517 (c) As part of the study required by this Subsection (5), the Office of the Legislative
1518 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
1519 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
1520 office under Subsection (5)(b).

1521 (d) The Revenue and Taxation Interim Committee shall ensure that the
1522 recommendations described in Subsection (5)(a) include an evaluation of:

- 1523 (i) the cost of the tax credit to the state;
- 1524 (ii) the purpose and effectiveness of the tax credit; and
- 1525 (iii) the extent to which the state benefits from the tax credit.

1526 (6) Notwithstanding Section 59-7-903, the commission may not remove the tax credit
1527 described in this section from the tax return for a taxable year beginning before January 1,
1528 2027.

1529 Section 16. Section 59-10-1106 is amended to read:

1530 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**
1531 **Certification -- Rulemaking authority.**

1532 (1) As used in this section:

- 1533 (a) "Active solar system" means the same as that term is defined in Section
1534 59-10-1014.
- 1535 (b) "Biomass system" means the same as that term is defined in Section 59-10-1014.
- 1536 (c) "Commercial energy system" means the same as that term is defined in Section
1537 59-7-614.
- 1538 (d) "Commercial enterprise" means the same as that term is defined in Section
1539 59-7-614.
- 1540 (e) "Commercial unit" means the same as that term is defined in Section 59-7-614.
- 1541 (f) "Direct use geothermal system" means the same as that term is defined in Section
1542 59-10-1014.
- 1543 (g) "Geothermal electricity" means the same as that term is defined in Section
1544 59-10-1014.
- 1545 (h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.
- 1546 (i) "Geothermal heat pump system" means the same as that term is defined in Section

1547 59-10-1014.

1548 (j) "Hydroenergy system" means the same as that term is defined in Section

1549 59-10-1014.

1550 (k) "Hydrogen production system" means the same as that term is defined in Section

1551 59-7-614.

1552 (l) "Office" means the Office of Energy Development created in Section 79-6-401.

1553 (m) "Passive solar system" means the same as that term is defined in Section

1554 59-10-1014.

1555 (n) "Principal recovery portion" means the same as that term is defined in Section

1556 59-10-1014.

1557 (o) "Wind system" means the same as that term is defined in Section 59-10-1014.

1558 (2) [A] For a taxable year beginning before January 1, 2034, a claimant, estate, or trust
1559 may claim an energy system tax credit as provided in this section against a tax due under this
1560 chapter [~~for a taxable year~~].

1561 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust
1562 may claim a refundable tax credit under this Subsection (3) with respect to a commercial
1563 energy system if:

1564 (i) the commercial energy system does not use:

1565 (A) wind, geothermal electricity[~~solar~~], or biomass equipment capable of producing a
1566 total of 660 or more kilowatts of electricity; or

1567 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

1568 (ii) the claimant, estate, or trust purchases or participates in the financing of the
1569 commercial energy system;

1570 (iii) (A) the commercial energy system supplies all or part of the energy required by
1571 commercial units owned or used by the claimant, estate, or trust; or

1572 (B) the claimant, estate, or trust sells all or part of the energy produced by the
1573 commercial energy system as a commercial enterprise;

1574 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1575 Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust
1576 claims a tax credit under this Subsection (3); and

1577 (v) the claimant, estate, or trust obtains a written certification from the office in

1578 accordance with Subsection (7).

1579 (b) (i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to 10% of
1580 the reasonable costs of the commercial energy system.

1581 (ii) A tax credit under this Subsection (3) may include installation costs.

1582 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3)
1583 for the taxable year in which the commercial energy system is completed and placed in service.

1584 (iv) The total amount of tax credit a claimant, estate, or trust may claim under this
1585 Subsection (3) may not exceed \$50,000 per commercial unit.

1586 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a
1587 lessee of a commercial energy system installed on a commercial unit may claim a tax credit
1588 under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably
1589 elects not to claim the tax credit.

1590 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax
1591 credit under this Subsection (3) only the principal recovery portion of the lease payments.

1592 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit
1593 under this Subsection (3) for a period that does not exceed seven taxable years after the day on
1594 which the lease begins, as stated in the lease agreement.

1595 (4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust
1596 may claim a refundable tax credit under this Subsection (4) with respect to a commercial
1597 energy system if:

1598 (i) (A) the commercial energy system uses [~~wind,~~] geothermal electricity[;] or biomass
1599 equipment capable of producing a total of 660 or more kilowatts of electricity;

1600 (B) the commercial energy system uses wind equipment capable of producing a total of
1601 660 or more kilowatts of electricity and the production begins before January 1, 2024;

1602 (ii) (A) the commercial energy system supplies all or part of the energy required by
1603 commercial units owned or used by the claimant, estate, or trust; or

1604 (B) the claimant, estate, or trust sells all or part of the energy produced by the
1605 commercial energy system as a commercial enterprise;

1606 (iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1607 Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust
1608 claims a tax credit under this Subsection (4); and

1609 (iv) the claimant, estate, or trust obtains a written certification from the office in
1610 accordance with Subsection (7).

1611 (b) (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to
1612 the product of:

1613 (A) 0.35 cents; and

1614 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

1615 (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4)
1616 for production occurring during a period of 48 months beginning with the month in which the
1617 commercial energy system is placed in commercial service.

1618 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
1619 on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or
1620 trust confirms that the lessor irrevocably elects not to claim the tax credit.

1621 (5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust
1622 may claim a refundable tax credit as provided in this Subsection (5) if:

1623 (i) the claimant, estate, or trust owns a commercial energy system that uses solar
1624 equipment capable of producing a total of [~~660~~] 2,000 or more kilowatts of electricity and
1625 production begins before January 1, 2024;

1626 (ii) (A) the commercial energy system supplies all or part of the energy required by
1627 commercial units owned or used by the claimant, estate, or trust; or

1628 (B) the claimant, estate, or trust sells all or part of the energy produced by the
1629 commercial energy system as a commercial enterprise;

1630 (iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

1631 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1632 Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax
1633 credit under this Subsection (5); and

1634 (v) the claimant, estate, or trust obtains a written certification from the office in
1635 accordance with Subsection (7).

1636 (b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to
1637 the product of:

1638 (A) 0.35 cents; and

1639 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

1640 (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5)
1641 for production occurring during a period of 48 months beginning with the month in which the
1642 commercial energy system is placed in commercial service.

1643 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
1644 on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or
1645 trust confirms that the lessor irrevocably elects not to claim the tax credit.

1646 (6) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this
1647 Subsection (6) if:

1648 (i) the claimant, estate, or trust owns a hydrogen production system;

1649 (ii) the hydrogen production system is completed and placed in service on or after
1650 January 1, 2022;

1651 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the
1652 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the
1653 hydrogen production system;

1654 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1655 Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6);
1656 and

1657 (v) the claimant, estate, or trust obtains a written certification from the office in
1658 accordance with Subsection (7).

1659 (b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6)
1660 is equal to the product of:

1661 (A) \$0.12; and

1662 (B) the number of kilograms of hydrogen produced during the taxable year.

1663 (ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for
1664 more than 5,600 metric tons of hydrogen per taxable year.

1665 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6)
1666 for production occurring during a period of 48 months beginning with the month in which the
1667 hydrogen production system is placed in commercial service.

1668 (7) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1669 claimant, estate, or trust shall obtain a written certification from the office.

1670 (b) The office shall issue a claimant, estate, or trust a written certification if the office

1671 determines that:

1672 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1673 credit; and

1674 (ii) the commercial energy system or the hydrogen production system with respect to
1675 which the claimant, estate, or trust seeks to claim a tax credit:

1676 (A) has been completely installed;

1677 (B) is a viable system for saving or producing energy from renewable resources; and

1678 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial
1679 energy system or the hydrogen production system uses the state's renewable and nonrenewable
1680 resources in an appropriate and economic manner.

1681 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1682 office may make rules:

1683 (i) for determining whether a commercial energy system or a hydrogen production
1684 system meets the requirements of Subsection (7)(b)(ii); and

1685 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs
1686 of a commercial energy system, as an amount per unit of energy production.

1687 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1688 retain the certification for the same time period a person is required to keep books and records
1689 under Section [59-1-1406](#).

1690 (e) The office shall submit to the commission an electronic list that includes:

1691 (i) the name and identifying information of each claimant, estate, or trust to which the
1692 office issues a written certification; and

1693 (ii) for each claimant, estate, or trust:

1694 (A) the amount of the tax credit listed on the written certification; and

1695 (B) the date the commercial energy system or the hydrogen production system was
1696 installed.

1697 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1698 commission may make rules to address the certification of a tax credit under this section.

1699 (9) A tax credit under this section is in addition to any tax credits provided under the
1700 laws or rules and regulations of the United States.

1701 ~~[(10) A purchaser of one or more solar units that claims a tax credit under Section~~

1702 ~~59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this~~
1703 ~~section for that purchase.]~~

1704 Section 17. Section **59-10-1113** is amended to read:

1705 **59-10-1113. Refundable tax credit for nonrenewable hydrogen production**
1706 **system.**

1707 (1) As used in this section:

1708 (a) "Commercial enterprise" means the same as that term is defined in Section
1709 ~~59-7-626.~~

1710 (b) "Commercial unit" means the same as that term is defined in Section ~~59-7-626.~~

1711 (c) "Hydrogen production system" means the same as that term is defined in Section
1712 ~~59-7-626.~~

1713 (d) "Office" means the Office of Energy Development created in Section ~~79-6-401.~~

1714 (2) (a) [A] For a taxable year beginning before January 1, 2034, a claimant, estate, or
1715 trust may claim a refundable credit under this section if:

1716 (i) the claimant, estate, or trust owns a hydrogen production system;

1717 (ii) the hydrogen production system is completed and placed in service on or after
1718 January 1, 2022;

1719 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the
1720 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the
1721 hydrogen production system;

1722 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1723 Section ~~59-10-1106~~ for electricity used to meet the requirements of this section; and

1724 (v) the taxpayer obtains a written certification from the office in accordance with
1725 Subsection (3).

1726 (b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal
1727 to the product of:

1728 (A) \$0.12; and

1729 (B) the number of kilograms of hydrogen produced during the taxable year.

1730 (ii) A claimant, estate, or trust may not receive a tax credit under this section for more
1731 than 5,600 metric tons of hydrogen per taxable year.

1732 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this section for

1733 production occurring during a period of 48 months beginning with the month in which the
1734 hydrogen production system is placed in commercial service.

1735 (3) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1736 claimant, estate, or trust shall obtain a written certification from the office.

1737 (b) The office shall issue a claimant, estate, or trust a written certification if the office
1738 determines that:

1739 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1740 credit; and

1741 (ii) the hydrogen production system with respect to which the claimant, estate, or trust
1742 seeks to claim a tax credit:

1743 (A) has been completely installed; and

1744 (B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen
1745 production system uses the state's nonrenewable energy resources in an appropriate and
1746 economic manner.

1747 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1748 office may make rules for determining whether a hydrogen production system meets the
1749 requirements of Subsection (3)(b)(ii).

1750 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1751 retain the certification for the same time period a person is required to keep books and records
1752 under Section [59-1-1406](#).

1753 (e) The office shall submit to the commission an electronic list that includes:

1754 (i) the name and identifying information of each claimant, estate, or trust to which the
1755 office issues a written certification; and

1756 (ii) for each claimant, estate, or trust:

1757 (A) the amount of the tax credit listed on the written certification; and

1758 (B) the date the hydrogen production system was installed.

1759 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1760 commission may make rules to address the certification of a tax credit under this section.

1761 (5) A tax credit under this section is in addition to any tax credits provided under the
1762 laws or rules and regulations of the United States.

1763 Section 18. Section **63I-2-259** is amended to read:

1764 **63I-2-259. Repeal dates: Title 59.**

1765 [~~(1)~~ In Section [59-2-926](#), the language that states "applicable" and "or [53F-2-301.5](#)" is
1766 repealed July 1, 2023.]

1767 (1) Subsection [59-7-159\(3\)\(c\)\(ii\)](#), referencing Section [59-7-614](#), is repealed December
1768 31, 2024.

1769 (2) Subsection [59-7-610\(8\)](#), relating to claiming a tax credit in the same taxable year as
1770 the targeted business income tax credit, is repealed December 31, 2024.

1771 (3) Section [59-7-614](#) is repealed December 31, 2034.

1772 (4) Subsection [59-7-614.10\(5\)](#), relating to claiming a tax credit in the same taxable
1773 year as the targeted business income tax credit, is repealed December 31, 2024.

1774 [~~(4)~~] (5) Section [59-7-624](#) is repealed December 31, 2024.

1775 (6) Section [59-7-626](#) is repealed December 31, 2034.

1776 (7) Subsection [59-10-137\(3\)\(c\)\(ii\)](#), referencing Section [59-10-1014](#), is repealed
1777 December 31, 2024.

1778 (8) Subsection [59-10-137\(3\)\(c\)\(viii\)](#), referencing Section [59-10-1106](#), is repealed
1779 December 31, 2024.

1780 [~~(5)~~] (9) Subsection [59-10-210\(2\)\(b\)\(vi\)](#) is repealed December 31, 2024.

1781 [~~(6)~~] (10) Subsection [59-10-1007\(8\)](#), relating to claiming a tax credit in the same
1782 taxable year as the targeted business income tax credit, is repealed December 31, 2024.

1783 (11) Section [59-10-1014](#) is repealed December 31, 2024.

1784 [~~(7)~~] (12) Subsection [59-10-1037\(5\)](#), relating to claiming a tax credit in the same
1785 taxable year as the targeted business income tax credit, is repealed December 31, 2024.

1786 (13) Section [59-10-1106](#) is repealed December 31, 2034.

1787 [~~(8)~~] (14) Section [59-10-1112](#) is repealed December 31, 2024.

1788 (15) Section [59-10-1113](#) is repealed December 31, 2034.

1789 Section 19. Section **63N-8-105** is amended to read:

1790 **63N-8-105. Annual report.**

1791 The office shall include the following information in the annual written report described
1792 in Section [63N-1a-306](#):

1793 (1) the office's success in attracting within-the-state production of television series,
1794 made-for-television movies, and motion pictures, including feature films and independent

1795 films;

1796 (2) the amount of incentive commitments made by the office under this part and the
1797 period of time over which the incentives will be paid; and

1798 (3) the economic impact on the state related to:

1799 (a) dollars left in the state; ~~and~~

1800 (b) new state revenues generated by a motion picture company or a digital media
1801 company for each state-approved production; and

1802 ~~[(b)]~~ (c) providing motion picture incentives under this part.

1803 Section 20. Section **63N-20-101** is enacted to read:

1804 **CHAPTER 20. RESEARCH EXPENSES TAX CREDIT**

1805 **63N-20-101. Definitions.**

1806 (1) As used in this chapter:

1807 (a) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal
1808 Revenue Code, except that the term includes only basic research conducted in this state.

1809 (b) "Qualified research" means the same as that term is defined in Section 41(d),
1810 Internal Revenue Code, except that the term includes only qualified research conducted in this
1811 state.

1812 (c) "Qualified research expenses" means the same as that term is defined in Section
1813 41(b), Internal Revenue Code, except that the term includes only:

1814 (i) in-house research expenses incurred in this state; and

1815 (ii) contract research expenses incurred in this state.

1816 (2) Except as provided in Subsection (1)(a), a term used in this section that is defined
1817 in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41,
1818 Internal Revenue Code.

1819 Section 21. Section **63N-20-102** is enacted to read:

1820 **63N-20-102. Tax credit certificate.**

1821 (1) To claim a nonrefundable tax credit under Section [59-7-612](#) or [59-10-1012](#), a
1822 person shall first receive a tax credit certificate in accordance with this section.

1823 (2) To receive a tax credit certificate, the person shall submit to the office an
1824 application that includes:

1825 (a) a report, in a format approved by the office, from an independent certified public

- 1826 accountant that verifies for the taxable year:
- 1827 (i) the person's qualified research expenses;
- 1828 (ii) the person's payments to a qualified organization for basic research;
- 1829 (iii) the person's base amount calculated in accordance with Section [59-7-612](#) or
- 1830 [59-10-1012](#);
- 1831 (iv) a description of the qualified research expenses or payments for basic research; and
- 1832 (v) the amount of each tax credit calculated in accordance with Section [59-7-612](#) or
- 1833 [59-10-1012](#) that the person may claim; and
- 1834 (b) a statement from the person submitting the application describing the benefits the
- 1835 state receives from the research expenses or payments.
- 1836 (3) If, after review of the application, the office determines that the person has verified
- 1837 qualified research expenses or payments to a qualified organization for basic research, the
- 1838 office shall issue a tax credit certificate to the person that states:
- 1839 (a) each tax credit that the person is eligible to claim; and
- 1840 (b) the amount of each tax credit that the person may claim.
- 1841 (4) A person that receives a tax credit certificate under this section shall retain the tax
- 1842 credit certificate for the same time period a person is required to keep books and records under
- 1843 Section [59-1-1406](#).
- 1844 (5) (a) The office shall provide the State Tax Commission with an electronic report that
- 1845 includes for each person to which the office issued a tax credit certificate under this section for
- 1846 a taxable year:
- 1847 (i) the name of the person;
- 1848 (ii) the identifying information of the person; and
- 1849 (iii) the amount of each tax credit that the person is eligible to claim.
- 1850 (b) The office shall provide the report described in Subsection (5)(a) on or before
- 1851 January 31 of the year following the year the office issues the tax credit certificates.
- 1852 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1853 office shall make rules governing the administration of the tax credit certificate issuance
- 1854 process.
- 1855 **Section 22. Repealer.**
- 1856 This bill repeals:

- 1857 Section [59-10-1024](#), **Nonrefundable tax credit for qualifying solar projects.**
- 1858 Section [59-10-1025](#), **Nonrefundable tax credit for investment in certain life science**
- 1859 **establishments.**
- 1860 Section [63N-2-801](#), **Title.**
- 1861 Section [63N-2-802](#), **Definitions.**
- 1862 Section [63N-2-803](#), **Tax credits issued by office.**
- 1863 Section [63N-2-804](#), **Person may not claim or pass through a tax credit without tax**
- 1864 **credit certificate.**
- 1865 Section [63N-2-805](#), **Application process.**
- 1866 Section [63N-2-806](#), **Criteria for tax credits.**
- 1867 Section [63N-2-807](#), **Rulemaking authority.**
- 1868 Section [63N-2-808](#), **Agreements between office and tax credit applicant and life**
- 1869 **science establishment -- Tax credit certificate.**
- 1870 Section [63N-2-809](#), **Issuance of tax credit certificates.**
- 1871 Section [63N-2-810](#), **Reports on tax credit certificates.**
- 1872 Section [63N-2-811](#), **Reports of tax credits.**
- 1873 Section 23. **Effective date.**
- 1874 (1) Except as provided in Subsections (2) and (3), this bill takes effect on January 1,
- 1875 2024.
- 1876 (2) The changes to the following sections take effect on May 3, 2023:
- 1877 (a) Section [59-1-214](#);
- 1878 (b) Section [59-5-102](#);
- 1879 (c) Section [59-7-614](#); and
- 1880 (d) Section [59-10-1106](#).
- 1881 (3) The changes to the following sections take effect for a taxable year beginning on
- 1882 after January 1, 2024:
- 1883 (a) Section [59-7-609](#);
- 1884 (b) Section [59-7-610](#);
- 1885 (c) Section [59-7-612](#);
- 1886 (d) Section [59-7-614.7](#);
- 1887 (e) Section [59-7-626](#);

1888 (f) Section 59-10-1002.2;

1889 (g) Section 59-10-1006;

1890 (h) Section 59-10-1007;

1891 (i) Section 59-10-1012;

1892 (j) Section 59-10-1014;

1893 (k) Section 59-10-1024;

1894 (l) Section 59-10-1025;

1895 (m) Section 59-10-1029; and

1896 (n) Section 59-10-1113.

1897 Section 24. **Retrospective operation.**

1898 (1) The following sections have retrospective operation for a taxable year beginning on
1899 or after January 1, 2023:

1900 (a) Section 59-7-614; and

1901 (b) Section 59-10-1106.