

Representative Kay J. Christofferson proposes the following substitute bill:

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 a 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 State Tax Commission to create a webpage that links to each state agency's list of tax credit claimants;
- ▶ requires the Revenue and Taxation Interim Committee to evaluate whether performance metrics or reporting requirements for the tax credit would improve the committee's evaluation of the benefits to the taxpayer and the state from the tax credit and, if so, prepare legislation recommending specific performance metrics or reporting requirements;
- ▶ modifies reporting and study requirements related to repealed income tax credits;
- ▶ 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



26 Cultural and Community Engagement's annual report;

27 ▶ modifies the corporate and individual recycling market development zone tax

28 credits:

29 • to eliminate the expenditures credit; and

30 • to limit the machinery and equipment credit to taxpayers who do not qualify for

31 a sales and use tax exemption on the purchase of machinery and equipment;

32 ▶ modifies the corporate and individual research activities tax credits by requiring the

33 Governor's Office of Economic Opportunity to issue a tax credit certificate;

34 ▶ clarifies the production capacity requirements for solar equipment to be eligible for
35 the renewable energy systems tax credits;

36 ▶ requires the Governor's Office of Economic Opportunity to report in the annual
37 report the amount of new state revenue generated from motion picture projects

38 within the state;

39 ▶ repeals the following individual income tax credits:

40 • qualifying solar projects; and

41 • investment in life sciences establishments;

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

43 ▶ repeals the corporate and individual alternative energy development tax credits;

44 ▶ repeals the Alternative Energy Development Tax Credit Act;

45 ▶ schedules the repeal of the corporate and individual renewable energy systems and
46 hydrogen production tax credits; and

47 ▶ makes technical and conforming changes.

48 **Money Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 This bill provides a special effective date.

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **59-7-159**, as last amended by Laws of Utah 2022, Chapters 264, 274

55 **59-7-610**, as last amended by Laws of Utah 2021, Chapter 367

56 **59-7-612**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

- 57 [59-7-614](#), as last amended by Laws of Utah 2022, Chapter 274
- 58 [59-7-626](#), as enacted by Laws of Utah 2021, Chapter 374
- 59 [59-10-137](#), as last amended by Laws of Utah 2022, Chapter 264
- 60 [59-10-1002.2](#), as last amended by Laws of Utah 2022, Chapter 12
- 61 [59-10-1007](#), as last amended by Laws of Utah 2021, Chapter 367
- 62 [59-10-1012](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 63 [59-10-1014](#), as last amended by Laws of Utah 2021, Chapter 280
- 64 [59-10-1106](#), as last amended by Laws of Utah 2021, Chapters 280, 374
- 65 [59-10-1113](#), as last amended by Laws of Utah 2022, Chapter 274
- 66 [63I-2-259](#), as last amended by Laws of Utah 2022, Chapter 264
- 67 [63N-8-105](#), as last amended by Laws of Utah 2021, Chapter 282
- 68 [79-6-401](#), as last amended by Laws of Utah 2022, Chapter 322

69 ENACTS:

- 70 [59-1-214](#), Utah Code Annotated 1953
- 71 [63N-20-101](#), Utah Code Annotated 1953
- 72 [63N-20-102](#), Utah Code Annotated 1953
- 73 [63N-20-103](#), Utah Code Annotated 1953

74 REPEALS AND REENACTS:

- 75 [59-7-609](#), as enacted by Laws of Utah 1995, Chapter 42
- 76 [59-10-1006](#), as renumbered and amended by Laws of Utah 2006, Chapter 223

77 REPEALS:

- 78 [59-7-614.7](#), as last amended by Laws of Utah 2021, Chapter 280
- 79 [59-10-1024](#), as last amended by Laws of Utah 2021, Chapter 280
- 80 [59-10-1025](#), as last amended by Laws of Utah 2019, Chapter 465
- 81 [59-10-1029](#), as last amended by Laws of Utah 2021, Chapter 280
- 82 [63N-2-801](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 83 [63N-2-802](#), as last amended by Laws of Utah 2016, Chapter 354
- 84 [63N-2-803](#), as last amended by Laws of Utah 2016, Chapter 354
- 85 [63N-2-804](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 86 [63N-2-805](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 87 [63N-2-806](#), as last amended by Laws of Utah 2016, Chapter 354

- 88 [63N-2-807](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 89 [63N-2-808](#), as last amended by Laws of Utah 2021, Chapter 282
- 90 [63N-2-809](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 91 [63N-2-810](#), as last amended by Laws of Utah 2022, Chapter 362
- 92 [63N-2-811](#), as last amended by Laws of Utah 2021, Chapter 382
- 93 [79-6-501](#), as renumbered and amended by Laws of Utah 2021, Chapter 280
- 94 [79-6-502](#), as renumbered and amended by Laws of Utah 2021, Chapter 280
- 95 [79-6-503](#), as last amended by Laws of Utah 2021, Chapter 64 and renumbered and
- 96 amended by Laws of Utah 2021, Chapter 280
- 97 [79-6-504](#), as renumbered and amended by Laws of Utah 2021, Chapter 280
- 98 [79-6-505](#), as last amended by Laws of Utah 2022, Chapter 68

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

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

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

(1) As used in this section:

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

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

(ii) is eligible to claim a tax credit in the amount for which a tax credit certificate is issued.

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

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

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

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

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

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

119 certificate:

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

121 (b) the amount of tax credit listed on the certificate.

122 (3) The Office of Energy Development is not required to comply with Subsection (2)

123 for a tax credit described in:

124 (a) Subsection 59-7-614(3); or

125 (b) Section 59-10-1014.

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

127 links to each state agency's webpage containing the information described in Subsection (2).

128 Section 2. Section **59-7-159** is amended to read:

129 **59-7-159. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

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

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

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

149 (C) the extent to which the state benefits from the tax credit; [~~and~~]

150 (v) evaluate whether performance metrics or reporting requirements for the tax credit
151 would improve the committee's evaluation of the benefits to the taxpayer and the state from the
152 tax credit; and

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

155 (c) The committee shall prepare legislation for consideration by the Legislature at the
156 next general session recommending specific performance metrics or reporting requirements for
157 any tax credit that the committee determines meets the requirement described in Subsection
158 (2)(b)(v).

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

- 162 (i) Section 59-7-601;
- 163 (ii) Section 59-7-607;
- 164 (iii) Section 59-7-612;
- 165 (iv) Section 59-7-614.1; and
- 166 (v) Section 59-7-614.5.

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

- 170 (i) Section 59-7-609;
- 171 (ii) Section 59-7-614.2;
- 172 (iii) Section 59-7-614.10; and
- 173 (iv) Section 59-7-619.

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

- 177 (i) Section 59-7-610; and
- 178 (ii) Section 59-7-614[~~;~~and].
- 179 [~~(iii) Section 59-7-614.7.~~]

180 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall

181 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
182 2017.

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

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

186 **59-7-609. Historic preservation credit.**

187 (1) As used in this section:

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

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

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

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

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

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

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

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

199 (A) the taxpayer's personal labor;

200 (B) cost of acquisition of the property;

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

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

203 Subsection (3)(a)(i);

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

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

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

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

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

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

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

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

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

221 (ii) determines that the rehabilitation project conforms with the approved rehabilitation
222 work; and

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

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

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

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

233 (i) the name of the taxpayer;
234 (ii) the identifying information of the taxpayer; and
235 (iii) the amount of tax credit that the taxpayer is eligible to claim.

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

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

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

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

244 **59-7-610. Recycling market development zones tax credits.**

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

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

247 and

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

249 (2) Subject to other provisions of this section, a qualifying taxpayer ~~[that is a business~~
250 ~~operating in a recycling market development zone as defined in Section [19-13-102](#)]~~ may claim

251 ~~[the following nonrefundable tax credits:]~~

252 ~~[(a)]~~ a nonrefundable tax credit equal to the product of the percentage listed in
253 Subsection [59-7-104](#)(2) and the purchase price paid for machinery and equipment used directly
254 in:

255 ~~[(i)]~~ (a) commercial composting; or

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

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

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

263 ~~[(ii) \$2,000:]~~

264 ~~[(2)]~~ (3) (a) To claim a tax credit described in Subsection ~~[(1)]~~ (2), the qualifying
265 taxpayer shall receive from the Department of Environmental Quality a written certification, on
266 a form approved by the commission, that includes:

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

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

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

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

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

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

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

278 ~~[(F)]~~ (vii) the amount of the qualifying taxpayer's tax credit~~[-and].~~
279 ~~[(iii) for a claim of the tax credit described in Subsection (1)(b):]~~
280 ~~[(A) the type of net expenditure that the taxpayer made to a third party;]~~
281 ~~[(B) the date that the taxpayer made the payment to a third party;]~~
282 ~~[(C) the amount that the taxpayer paid to each third party;]~~
283 ~~[(D) the total amount that the taxpayer paid to all third parties;]~~
284 ~~[(E) a statement that the net expenditures support the establishment and operation of~~
285 ~~recycling or composting technology in the state; and]~~
286 ~~[(F) the amount of the taxpayer's tax credit.]~~

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

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

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

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

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

297 ~~[(3)]~~ (4) A qualifying taxpayer may not claim a tax credit ~~[under Subsection (1)(a),~~
298 ~~Subsection (1)(b), or both]~~ that exceeds 40% of the qualifying taxpayer's state income tax
299 liability as the tax liability is calculated:

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

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

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

305 ~~[(4)]~~ (5) The commission shall make rules governing what information a qualifying
 306 taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

307 ~~[(5)]~~ (6) Except as provided in Subsections ~~[(6) through]~~ (7) and (8), a qualifying
 308 taxpayer may carry forward, to the next three taxable years, the amount of a tax credit
 309 ~~[described in Subsection (1)(a) that the]~~ that the qualifying taxpayer does not use for the
 310 taxable year.

311 ~~[(6)]~~ (7) A qualifying taxpayer may not claim or carry forward a tax credit ~~[described~~
 312 ~~in Subsection (1)(a) in]~~ under this section for a taxable year during which the qualifying
 313 taxpayer claims or carries forward a tax credit under Section [63N-2-213](#).

314 ~~[(7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable~~
 315 ~~year during which the taxpayer claims or carries forward a tax credit under Section~~
 316 ~~[63N-2-213](#).]~~

317 (8) A qualifying taxpayer may not claim or carry forward a tax credit under this section
 318 for a taxable year during which the qualifying taxpayer claims the targeted business income tax
 319 credit under Section [59-7-624](#).

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

321 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
 322 **forward -- Commission to report modification or repeal of certain federal provisions --**
 323 **Revenue and Taxation Interim Committee study.**

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

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

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

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

331 (iv) "Qualified research expenses" means the same as that term is defined in Section
 332 41(b), Internal Revenue Code, except that the term includes only:

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

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

335 (v) "Qualifying taxpayer" means a taxpayer that receives a tax credit certificate in

336 accordance with Section 63N-20-102.

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

340 (2) (a) A qualifying taxpayer [~~meeting the requirements of this section~~] may claim the
341 following nonrefundable tax credits calculated in accordance with Section 63N-20-103:

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

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

348 (iii) [~~a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the~~
349 current taxable year] an additional research tax credit for the taxpayer's qualified research
350 expenses during the taxable year.

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

353 (c) Subject to Subsection [~~(5)~~] (4), a qualifying taxpayer may claim a tax credit under:

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

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

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

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

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

362 [~~(2)~~] (3) For purposes of claiming a tax credit under this section, a unitary group as
363 defined in Section 59-7-101 is considered to be one taxpayer.

364 [~~(3)~~ Except as specifically provided for in this section:]

365 [~~(a)~~ the tax credits authorized under Subsection (1) shall be calculated as provided in
366 Section 41, Internal Revenue Code; and]

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

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

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

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

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

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

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

382 ~~[(B) may not revoke an election to be treated as a start-up company under Subsection~~
383 ~~(4)(a)(iii)(A);]~~

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

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

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

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

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

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

394 ~~[(5)]~~ (4) (a) If the amount of a tax credit claimed by a qualifying taxpayer under
395 Subsection ~~[(1)(a)(i)]~~ (2)(a)(i) or (ii) exceeds the qualifying taxpayer's tax liability under this
396 chapter for a taxable year, the ~~[amount of the tax credit exceeding the tax liability]~~ qualifying
397 taxpayer:

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

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

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

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

409 ~~[(7)]~~ (5) If a provision of Section 41, Internal Revenue Code, is modified or repealed,
410 the commission shall provide an electronic report of the modification or repeal to the ~~[Revenue~~
411 ~~and Taxation Interim Committee]~~ committee within 60 days after the day on which the
412 modification or repeal becomes effective.

413 ~~[(8)]~~ (6) (a) The ~~[Revenue and Taxation Interim Committee]~~ committee shall review
414 the tax credits provided for in this section on or before October 1 of the year after the year in
415 which the commission reports under Subsection ~~[(7)]~~ (5) a modification or repeal of a
416 provision of Section 41, Internal Revenue Code.

417 (b) The review described in Subsection ~~[(8)(a)]~~ (6)(a) is in addition to the review
418 required by Section [59-7-159](#).

419 (c) Notwithstanding Subsection ~~[(8)(a)]~~ (6)(a), the ~~[Revenue and Taxation Interim~~
420 ~~Committee]~~ committee is not required to review the tax credits provided for in this section if
421 the only modification to a provision of Section 41, Internal Revenue Code, is the extension of
422 the termination date provided for in Section 41(h), Internal Revenue Code.

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

- 425 (i) the cost of the tax credits provided for in this section;
426 (ii) the purpose and effectiveness of the tax credits provided for in this section;
427 (iii) whether the tax credits provided for in this section benefit the state; and
428 (iv) whether the tax credits provided for in this section should be:

- 429 (A) continued;
- 430 (B) modified; or
- 431 (C) repealed.

432 (e) If the [~~Revenue and Taxation Interim Committee reviews the tax credits provided~~
433 ~~for in this section~~] committee conducts a review under this Subsection (6), the committee shall
434 issue a report of the [~~Revenue and Taxation Interim Committee's~~] committee's findings.

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

436 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**
437 **Rulemaking authority.**

438 (1) As used in this section:

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

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

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

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

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

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

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

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

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

451 (B) a biomass system;

452 (C) a direct use geothermal system;

453 (D) a geothermal electricity system;

454 (E) a geothermal heat pump system;

455 (F) a hydroenergy system;

456 (G) a passive solar system; or

457 (H) a wind system;

458 (ii) located in the state; and

459 (iii) used:

- 460 (A) to supply energy to a commercial unit; or
461 (B) as a commercial enterprise.
462 (d) "Commercial enterprise" means an entity, the purpose of which is to produce:
463 (i) electrical, mechanical, or thermal energy for sale from a commercial energy system;
464 or
465 (ii) hydrogen for sale from a hydrogen production system.
466 (e) (i) "Commercial unit" means a building or structure that an entity uses to transact
467 business.
468 (ii) Notwithstanding Subsection (1)(e)(i):
469 (A) with respect to an active solar system used for agricultural water pumping or a
470 wind system, each individual energy generating device is considered to be a commercial unit;
471 or
472 (B) if an energy system is the building or structure that an entity uses to transact
473 business, a commercial unit is the complete energy system itself.
474 (f) "Direct use geothermal system" means a system of apparatus and equipment that
475 enables the direct use of geothermal energy to meet energy needs, including heating a building,
476 an industrial process, and aquaculture.
477 (g) "Geothermal electricity" means energy that is:
478 (i) contained in heat that continuously flows outward from the earth; and
479 (ii) used as a sole source of energy to produce electricity.
480 (h) "Geothermal energy" means energy generated by heat that is contained in the earth.
481 (i) "Geothermal heat pump system" means a system of apparatus and equipment that:
482 (i) enables the use of thermal properties contained in the earth at temperatures well
483 below 100 degrees Fahrenheit; and
484 (ii) helps meet heating and cooling needs of a structure.
485 (j) "Hydroenergy system" means a system of apparatus and equipment that is capable
486 of:
487 (i) intercepting and converting kinetic water energy into electrical or mechanical
488 energy; and
489 (ii) transferring this form of energy by separate apparatus to the point of use or storage.
490 (k) "Hydrogen production system" means a system of apparatus and equipment, located

491 in this state, that uses:

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

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

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

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

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

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

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

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

508 (A) an interest charge; or

509 (B) a maintenance expense.

510 (p) "Renewable energy source" means the same as that term is defined in Section
511 54-17-601.

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

514 (i) an active solar system;

515 (ii) a biomass system;

516 (iii) a direct use geothermal system;

517 (iv) a geothermal heat pump system;

518 (v) a hydroenergy system;

519 (vi) a passive solar system; or

520 (vii) a wind system.

521 (r) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling

522 unit that:

523 (A) is located in the state; and

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

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

526 (A) Section 59-2-405;

527 (B) Section 59-2-405.1;

528 (C) Section 59-2-405.2;

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

530 (E) Section 72-10-110.5.

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

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

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

534 or storage.

535 (2) [A] For a taxable year beginning before January 1, 2034, a taxpayer may claim an
536 energy system tax credit as provided in this section against a tax due under this chapter [~~for a~~
537 ~~taxable year~~].

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

541 (i) the taxpayer:

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

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

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

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

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

552 (iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in

553 which the residential energy system is completed and placed in service.

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

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

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

562 (i) for a system installed on or after January 1, 2018, but on or before December 31,
563 2020, \$1,600;

564 (ii) for a system installed on or after January 1, 2021, but on or before December 31,
565 2021, \$1,200;

566 (iii) for a system installed on or after January 1, 2022, but on or before December 31,
567 2022, \$800;

568 (iv) for a system installed on or after January 1, 2023, but on or before December 31,
569 2023, \$400; and

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

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

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

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

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

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

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

583 (A) wind, geothermal electricity, [~~solar~~], or biomass equipment capable of producing a

584 total of 660 or more kilowatts of electricity; or
585 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;
586 (ii) the taxpayer purchases or participates in the financing of the commercial energy
587 system;
588 (iii) (A) the commercial energy system supplies all or part of the energy required by
589 commercial units owned or used by the taxpayer; or
590 (B) the taxpayer sells all or part of the energy produced by the commercial energy
591 system as a commercial enterprise;
592 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7)
593 for hydrogen production using electricity for which the taxpayer claims a tax credit under this
594 Subsection (4); and
595 (v) the taxpayer obtains a written certification from the office in accordance with
596 Subsection (8).
597 (b) (i) Subject to Subsections (4)(b)(ii) through (iv), the tax credit is equal to 10% of
598 the reasonable costs of the commercial energy system.
599 (ii) A tax credit under this Subsection (4) may include installation costs.
600 (iii) A taxpayer is eligible to claim a tax credit under this Subsection (4) for the taxable
601 year in which the commercial energy system is completed and placed in service.
602 (iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may
603 not exceed \$50,000 per commercial unit.
604 (c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a
605 commercial energy system installed on a commercial unit may claim a tax credit under this
606 Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax
607 credit.
608 (ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this
609 Subsection (4) only the principal recovery portion of the lease payments.
610 (iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this
611 Subsection (4) for a period that does not exceed seven taxable years after the day on which the
612 lease begins, as stated in the lease agreement.
613 (5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a
614 refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

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

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

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

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

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

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

628 (A) 0.35 cents; and

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

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

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

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

638 (i) the taxpayer owns a commercial energy system that uses solar equipment capable of
639 producing a total of [~~660~~] 2,000 or more kilowatts of electricity;

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

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

644 (iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed
645 and will not claim a tax credit under Subsection (7) for hydrogen production using electricity

646 for which a taxpayer claims a tax credit under this Subsection (6); and

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

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

651 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

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

673 (A) \$0.12; and

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

675 (ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than
676 5,600 metric tons of hydrogen per taxable year.

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

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

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

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

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

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

686 (A) has been completely installed;

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

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

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

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

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

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

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

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

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

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

704 (ii) for each taxpayer:

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

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

707 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

708 commission may make rules to address the certification of a tax credit under this section.

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

711 Section 7. Section **59-7-626** is amended to read:

712 **59-7-626. Refundable tax credit for nonrenewable hydrogen production system.**

713 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

734 (A) \$0.12; and

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

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

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

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

741 (3) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall
742 obtain a written certification from the office.

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

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

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

747 (A) has been completely installed; and

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

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

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

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

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

760 (ii) for each taxpayer:

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

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

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

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

767 Section 8. Section **59-10-137** is amended to read:

768 **59-10-137. Review of credits allowed under this chapter.**

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

770 Committee.

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

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

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

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

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

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

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

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

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

788 (C) the extent to which the state benefits from the tax credit; [~~and~~]

789 (v) evaluate whether performance metrics or reporting requirements for the tax credit
790 would improve the committee's evaluation of the benefits to the claimant, estate, or trust and
791 the state from the tax credit; and

792 [~~(v)~~] (vi) undertake other review efforts as determined by the committee chairs or as
793 otherwise required by law.

794 (c) The committee shall prepare legislation for consideration by the Legislature at the
795 next general session recommending specific performance metrics or reporting requirements for
796 any tax credit that the committee determines meets the requirement described in Subsection
797 (2)(b)(v).

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

- 801 (i) Section 59-10-1004;
- 802 (ii) Section 59-10-1010;
- 803 (iii) Section 59-10-1015;
- 804 [~~(iv)~~ Section ~~59-10-1025~~];
- 805 [~~(v)~~ (iv) Section 59-10-1027;
- 806 [~~(vi)~~ (v) Section 59-10-1031;
- 807 [~~(vii)~~ (vi) Section 59-10-1032;
- 808 [~~(viii)~~ (vii) Section 59-10-1035;
- 809 [~~(ix)~~ (viii) Section 59-10-1104;
- 810 [~~(x)~~ (ix) Section 59-10-1105; and
- 811 [~~(xi)~~ (x) Section 59-10-1108.

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

- 815 (i) Section 59-10-1005;
- 816 (ii) Section 59-10-1006;
- 817 (iii) Section 59-10-1012;
- 818 (iv) Section 59-10-1022;
- 819 (v) Section 59-10-1023;
- 820 (vi) Section 59-10-1028;
- 821 (vii) Section 59-10-1034;
- 822 (viii) Section 59-10-1037; and
- 823 (ix) Section 59-10-1107.

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

- 827 (i) Section 59-10-1007;
- 828 (ii) Section 59-10-1014;
- 829 (iii) Section 59-10-1017;
- 830 (iv) Section 59-10-1018;
- 831 (v) Section 59-10-1019;

832 [~~(vi) Section 59-10-1024;~~]

833 [~~(vii) Section 59-10-1029;~~]

834 [~~(viii)~~ (vi) Section 59-10-1036;

835 [~~(ix)~~ (vii) Section 59-10-1106; and

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

837 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
838 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
839 2017.

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

842 Section 9. Section 59-10-1002.2 is amended to read:

843 **59-10-1002.2. Apportionment of tax credits.**

844 (1) A nonresident individual or a part-year resident individual that claims a tax credit
845 in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023[;
846 ~~59-10-1024~~], 59-10-1028, 59-10-1042, 59-10-1043, or 59-10-1044 may only claim an
847 apportioned amount of the tax credit equal to:

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

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

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

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

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

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

856 (2) A nonresident estate or trust that claims a tax credit in accordance with Section
857 59-10-1017, 59-10-1020, 59-10-1022[~~59-10-1024~~], or 59-10-1028 may only claim an
858 apportioned amount of the tax credit equal to the product of:

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

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

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

863 **59-10-1006. Historic preservation tax credit.**864 (1) As used in this section:865 (a) "Certified historic building" means a building that:866 (i) is listed on the National Register of Historic Places within three years of taking the
867 credit under this section; or868 (ii) (A) is located in a National Register Historic District; and869 (B) has been designated by the office as being of significance to the district.870 (b) "Office" means the State Historic Preservation Office.871 (c) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
872 the rehabilitation and restoration of the physical elements of the building.873 (ii) "Qualified rehabilitation expenditures" includes the historic decorative elements
874 and the upgrading of the structural, mechanical, electrical, and plumbing systems.875 (iii) "Qualified rehabilitation expenditures" does not include expenditures related to:876 (A) the claimant's, estate's, or trust's personal labor;877 (B) cost of acquisition of the property;878 (C) any expenditure attributable to the enlargement of an existing building;879 (D) rehabilitation of a certified historic building without the approval required in880 Subsection (3)(a)(i);881 (E) an expenditure attributable to landscaping or other site features, outbuildings,
882 garages, and related features; or883 (F) demolition and removal costs for an existing building on a property site.884 (d) "Residential" means a building used for residential use, either owner occupied or
885 income producing.886 (2) A claimant, estate, or trust may claim a nonrefundable tax credit in an amount equal
887 to 20% of qualified rehabilitation expenditures if:888 (a) the qualified rehabilitation expenditures cost more than \$10,000;889 (b) the qualified rehabilitation expenditures are incurred in connection with a
890 residential certified historic building; and891 (c) the claimant, estate, or trust has a written tax credit certificate issued in accordance
892 with Subsection (3).893 (3) (a) The office shall issue a tax credit certificate if the office:

894 (i) approves all rehabilitation work for which a claimant, estate, or trust may claim a
895 tax credit as meeting the Secretary of the Interior's Standards for Rehabilitation before
896 completion of the rehabilitation project so that the office can provide corrective comments to
897 the claimant, estate, or trust to preserve the historic qualities of the building;

898 (ii) determines that the rehabilitation project conforms with the approved rehabilitation
899 work; and

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

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

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

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

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

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

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

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

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

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

920 Section 11. Section **59-10-1007** is amended to read:

921 **59-10-1007. Recycling market development zones tax credits.**

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

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

924 and

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

926 (2) Subject to other provisions of this section, a qualifying claimant, estate, or trust [in
927 a recycling market development zone as defined in Section 19-13-102 may claim the following
928 nonrefundable tax credits:]

929 [(a)] may claim a nonrefundable tax credit equal to the product of the percentage listed
930 in Subsection 59-10-104(2) and the purchase price paid for machinery and equipment used
931 directly in:

932 [(†)] (a) commercial composting; or

933 [(†)] (b) manufacturing facilities or plant units that[:(A) manufacture, process,
934 compound, or produce recycled items of tangible personal property for sale; or (B)] reduce or
935 reuse postconsumer waste material[; and].

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

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

940 [(ii) \$2,000.]

941 [(2)] (3) (a) To claim a tax credit described in Subsection [(†)] (2), the qualifying
942 claimant, estate, or trust shall receive from the Department of Environmental Quality a written
943 certification, on a form approved by the commission, that includes:

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

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

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

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

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

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

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

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

957 ~~[(F) a statement that the machinery and equipment are integral to the composting or~~

958 ~~recycling process; and]~~

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

960 ~~[(A) the type of net expenditure that the claimant, estate, or trust made to a third party;]~~

961 ~~[(B) the date that the claimant, estate, or trust made the payment to a third party;]~~

962 ~~[(C) the amount that the claimant, estate, or trust paid to each third party;]~~

963 ~~[(D) the total amount that the claimant, estate, or trust paid to all third parties;]~~

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

966 ~~[(F) the amount of the claimant's, estate's, or trust's tax credit.]~~

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

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

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

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

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

979 ~~[(3)]~~ (4) A qualifying claimant, estate, or trust may not claim a tax credit ~~[under~~
980 ~~Subsection (1)(a), Subsection (1)(b), or both]~~ that exceeds 40% of the qualifying claimant's,
981 estate's, or trust's state income tax liability as the tax liability is calculated:

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

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

986 (c) before the qualifying claimant, estate, or trust claims a tax credit authorized by this

987 section.

988 ~~[(4)]~~ (5) The commission shall make rules governing what information a qualifying
 989 claimant, estate, or trust shall file with the commission to verify the entitlement to and amount
 990 of a tax credit.

991 ~~[(5)]~~ (6) Except as provided in Subsections ~~[(6) through]~~ (7) and (8), a qualifying
 992 claimant, estate, or trust may carry forward, to the next three taxable years, the amount of a tax
 993 credit ~~[described in Subsection (1)(a)]~~ that the qualifying claimant, estate, or trust does not use
 994 for the taxable year.

995 ~~[(6)]~~ (7) A qualifying claimant, estate, or trust may not claim or carry forward a tax
 996 credit ~~[described in Subsection (1)(a) in]~~ under this section for a taxable year during which the
 997 qualifying claimant, estate, or trust claims or carries forward a tax credit under Section
 998 [63N-2-213](#).

999 ~~[(7) A claimant, estate, or trust may not claim a tax credit described in Subsection~~
 1000 ~~(1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a~~
 1001 ~~tax credit under Section [63N-2-213](#).]~~

1002 (8) A qualifying claimant, estate, or trust may not claim or carry forward a tax credit
 1003 under this section for a taxable year during which the qualifying claimant, estate, or trust
 1004 claims the targeted business income tax credit under Section [59-10-1112](#).

1005 Section 12. Section **59-10-1012** is amended to read:

1006 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**
 1007 **forward -- Commission to report modification or repeal of certain federal provisions --**
 1008 **Revenue and Taxation Interim Committee study.**

1009 (1) (a) As used in this section:

1010 (i) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal
 1011 Revenue Code, except that the term includes only basic research conducted in this state.

1012 (ii) "Committee" means the Revenue and Taxation Interim Committee.

1013 (iii) "Qualified research" means the same as that term is defined in Section 41(d),
 1014 Internal Revenue Code, except that the term includes only qualified research conducted in this
 1015 state.

1016 (iv) "Qualified research expenses" means the same as that term is defined in Section
 1017 41(b), Internal Revenue Code, except that the term includes only:

1018 (A) in-house research expenses incurred in this state; and

1019 (B) contract research expenses incurred in this state.

1020 (v) "Qualifying claimant" means a claimant, an estate, or a trust that receives a tax
1021 credit certificate in accordance with Section 63N-20-102.

1022 (b) Except as provided in Subsection (1)(a), a term used in this section that is defined
1023 in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41,
1024 Internal Revenue Code.

1025 (2) (a) A qualifying claimant~~[, estate, or trust meeting the requirements of this section]~~
1026 may claim the following nonrefundable tax credits calculated in accordance with Section
1027 63N-20-103:

1028 (i) a research tax credit ~~[of 5% of the claimant's, estate's, or trust's qualified research~~
1029 ~~expenses for the current taxable year that exceed the base amount provided for under~~
1030 Subsection (3)] for the qualifying claimant's research expenses during the taxable year;

1031 (ii) a tax credit for a payment to a qualified organization during the taxable year for
1032 basic research as provided in Section 41(e), Internal Revenue Code ~~[of 5% for the current~~
1033 ~~taxable year that exceed the base amount provided for under Subsection (3)]; and~~

1034 (iii) [a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research
1035 expenses for the current taxable year] an additional research tax credit for the qualifying
1036 claimant's qualified research expenses during the taxable year.

1037 (b) The amount of each tax credit that the qualifying claimant is eligible to claim under
1038 Subsection (2)(a)(i), (ii), or (iii) is the amount listed on the tax credit certificate.

1039 ~~[(b)]~~ (c) Subject to Subsection ~~[(4)]~~ (3), a qualifying claimant~~[, estate, or trust]~~ may
1040 claim a tax credit under:

1041 (i) Subsection ~~[(1)(a)(i) or (1)(a)(iii)]~~ (2)(a)(i) or (2)(a)(iii), for the taxable year for
1042 which the qualifying claimant~~[, estate, or trust]~~ incurs the qualified research expenses; or

1043 (ii) Subsection ~~[(1)(a)(ii)]~~ (2)(a)(ii), for the taxable year for which the qualifying
1044 claimant~~[, estate, or trust]~~ makes the payment to the qualified organization.

1045 ~~[(c)]~~ (d) The tax credits provided for in this section:

1046 (i) do not include the alternative incremental credit provided for in Section 41(c)(4),
1047 Internal Revenue Code~~[,]; and~~

1048 (ii) do not terminate if a credit terminates under Section 41, Internal Revenue Code.

1049 ~~[(2) Except as specifically provided for in this section:]~~
1050 ~~[(a) the tax credits authorized under Subsection (1) shall be calculated as provided in~~
1051 ~~Section 41, Internal Revenue Code; and]~~
1052 ~~[(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating~~
1053 ~~the tax credits authorized under Subsection (1).]~~
1054 ~~[(3) For purposes of this section:]~~
1055 ~~[(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),~~
1056 ~~Internal Revenue Code, except that:]~~
1057 ~~[(i) the base amount does not include the calculation of the alternative incremental~~
1058 ~~credit provided for in Section 41(c)(4), Internal Revenue Code;]~~
1059 ~~[(ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts~~
1060 ~~attributable to sources within this state as provided in Section 59-10-118; and]~~
1061 ~~[(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating~~
1062 ~~the base amount, a claimant, estate, or trust:]~~
1063 ~~[(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B),~~
1064 ~~Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the~~
1065 ~~requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and]~~
1066 ~~[(B) may not revoke an election to be treated as a start-up company under Subsection~~
1067 ~~(3)(a)(iii)(A);]~~
1068 ~~[(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except~~
1069 ~~that the term includes only basic research conducted in this state;]~~
1070 ~~[(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except~~
1071 ~~that the term includes only qualified research conducted in this state;]~~
1072 ~~[(d) "qualified research expenses" is as defined and calculated in Section 41(b),~~
1073 ~~Internal Revenue Code, except that the term includes only:]~~
1074 ~~[(i) in-house research expenses incurred in this state; and]~~
1075 ~~[(ii) contract research expenses incurred in this state; and]~~
1076 ~~[(e) a tax credit provided for in this section is not terminated if a credit terminates~~
1077 ~~under Section 41, Internal Revenue Code.]~~
1078 ~~[(4)]~~ (3) (a) If the amount of a tax credit claimed by a qualifying claimant~~[-estate, or~~
1079 ~~trust]~~ under Subsection ~~[(1)(a)(i)]~~ (2)(a)(i) or (ii) exceeds the qualifying claimant's~~[-estate's, or~~

1080 trust's] tax liability under this chapter for a taxable year, the [~~amount of the tax credit exceeding~~
1081 ~~the tax liability~~] qualifying claimant:

1082 (i) may [~~be carried forward~~] carry forward the amount of the tax credit that exceeds the
1083 qualifying claimant's tax liability for a period that does not exceed the next 14 taxable years;
1084 and

1085 (ii) may not [~~be carried back~~] carry back the amount of the tax credit that exceeds the
1086 qualifying claimant's tax liability to a taxable year preceding the current taxable year.

1087 (b) A qualifying claimant[~~, estate, or trust~~] may not carry forward or carry back the tax
1088 credit allowed by Subsection [~~(1)(a)(iii)~~] (2)(a)(iii).

1089 [~~(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1090 ~~the commission may make rules for purposes of this section prescribing a certification process~~
1091 ~~for qualified organizations to ensure that amounts paid to the qualified organizations are for~~
1092 ~~basic research conducted in this state.]~~

1093 [~~(6)~~] (4) If a provision of Section 41, Internal Revenue Code, is modified or repealed,
1094 the commission shall report the modification or repeal by electronic means to the [~~Revenue and~~
1095 ~~Taxation Interim Committee~~] committee within 60 days after the day on which the
1096 modification or repeal becomes effective.

1097 [~~(7)~~] (5) (a) The [~~Revenue and Taxation Interim Committee~~] committee shall review
1098 the tax credits provided for in this section on or before October 1 of the year after the year in
1099 which the commission reports under Subsection [~~(6)~~] (4) a modification or repeal of a
1100 provision of Section 41, Internal Revenue Code.

1101 (b) The review described in Subsection [~~(7)(a)~~] (5)(a) is in addition to the review
1102 required by Section [59-10-137](#).

1103 (c) Notwithstanding Subsection [~~(7)(a)~~] (5)(a), the [~~Revenue and Taxation Interim~~
1104 ~~Committee~~] committee is not required to review the tax credits provided for in this section if
1105 the only modification to a provision of Section 41, Internal Revenue Code, is the extension of
1106 the termination date provided for in Section 41(h), Internal Revenue Code.

1107 (d) The [~~Revenue and Taxation Interim Committee~~] committee shall address in a
1108 review under this section:

1109 (i) the cost of the tax credits provided for in this section;

1110 (ii) the purpose and effectiveness of the tax credits provided for in this section;

- 1111 (iii) whether the tax credits provided for in this section benefit the state; and
- 1112 (iv) whether the tax credits provided for in this section should be:
- 1113 (A) continued;
- 1114 (B) modified; or
- 1115 (C) repealed.
- 1116 (e) If the ~~[Revenue and Taxation Interim Committee reviews the tax credits provided~~
- 1117 ~~for in this section]~~ committee conducts a review under this Subsection (5), the committee shall
- 1118 issue a report of the Revenue and Taxation Interim Committee's findings.

1119 Section 13. Section **59-10-1014** is amended to read:

1120 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**
1121 **Certification -- Rulemaking authority.**

1122 (1) As used in this section:

1123 (a) (i) "Active solar system" means a system of equipment that is capable of:

1124 (A) collecting and converting incident solar radiation into thermal, mechanical, or
1125 electrical energy; and

1126 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
1127 apparatus to storage or to the point of use.

1128 (ii) "Active solar system" includes water heating, space heating or cooling, and
1129 electrical or mechanical energy generation.

1130 (b) "Biomass system" means a system of apparatus and equipment for use in:

1131 (i) converting material into biomass energy, as defined in Section [59-12-102](#); and

1132 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

1133 (c) "Direct use geothermal system" means a system of apparatus and equipment that
1134 enables the direct use of geothermal energy to meet energy needs, including heating a building,
1135 an industrial process, and aquaculture.

1136 (d) "Geothermal electricity" means energy that is:

1137 (i) contained in heat that continuously flows outward from the earth; and

1138 (ii) used as a sole source of energy to produce electricity.

1139 (e) "Geothermal energy" means energy generated by heat that is contained in the earth.

1140 (f) "Geothermal heat pump system" means a system of apparatus and equipment that:

1141 (i) enables the use of thermal properties contained in the earth at temperatures well

1142 below 100 degrees Fahrenheit; and

1143 (ii) helps meet heating and cooling needs of a structure.

1144 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable
1145 of:

1146 (i) intercepting and converting kinetic water energy into electrical or mechanical
1147 energy; and

1148 (ii) transferring this form of energy by separate apparatus to the point of use or storage.

1149 (h) "Office" means the Office of Energy Development created in Section 79-6-401.

1150 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
1151 a building and its operable components to provide for collection, storage, and distribution of
1152 heating or cooling during the appropriate times of the year by utilizing the climate resources
1153 available at the site.

1154 (ii) "Passive solar system" includes those portions and components of a building that
1155 are expressly designed and required for the collection, storage, and distribution of solar energy.

1156 (j) "Photovoltaic system" means an active solar system that generates electricity from
1157 sunlight.

1158 (k) (i) "Principal recovery portion" means the portion of a lease payment that
1159 constitutes the cost a person incurs in acquiring a residential energy system.

1160 (ii) "Principal recovery portion" does not include:

1161 (A) an interest charge; or

1162 (B) a maintenance expense.

1163 (l) "Residential energy system" means the following used to supply energy to or for a
1164 residential unit:

1165 (i) an active solar system;

1166 (ii) a biomass system;

1167 (iii) a direct use geothermal system;

1168 (iv) a geothermal heat pump system;

1169 (v) a hydroenergy system;

1170 (vi) a passive solar system; or

1171 (vii) a wind system.

1172 (m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling

1173 unit that:

1174 (A) is located in the state; and

1175 (B) serves as a dwelling for a person, group of persons, or a family.

1176 (ii) "Residential unit" does not include property subject to a fee under:

1177 (A) Section 59-2-405;

1178 (B) Section 59-2-405.1;

1179 (C) Section 59-2-405.2;

1180 (D) Section 59-2-405.3; or

1181 (E) Section 72-10-110.5.

1182 (n) "Wind system" means a system of apparatus and equipment that is capable of:

1183 (i) intercepting and converting wind energy into mechanical or electrical energy; and

1184 (ii) transferring these forms of energy by a separate apparatus to the point of use or

1185 storage.

1186 (2) ~~[A]~~ For a taxable year beginning before January 1, 2034, a claimant, estate, or trust

1187 may claim an energy system tax credit as provided in this section against a tax due under this

1188 chapter ~~[for a taxable year]~~.

1189 (3) ~~[For a taxable year beginning on or after January 1, 2007, a]~~ A claimant, estate, or

1190 trust may claim a nonrefundable tax credit under this section with respect to a residential unit

1191 the claimant, estate, or trust owns or uses if:

1192 (a) the claimant, estate, or trust:

1193 (i) purchases and completes a residential energy system to supply all or part of the

1194 energy required for the residential unit; or

1195 (ii) participates in the financing of a residential energy system to supply all or part of

1196 the energy required for the residential unit;

1197 (b) the residential energy system is installed on or after January 1, 2007; and

1198 (c) the claimant, estate, or trust obtains a written certification from the office in

1199 accordance with Subsection (5).

1200 (4) (a) For a residential energy system, other than a photovoltaic system, the tax credit

1201 described in this section is equal to the lesser of:

1202 (i) 25% of the reasonable costs, including installation costs, of each residential energy

1203 system installed with respect to each residential unit the claimant, estate, or trust owns or uses;

1204 and
1205 (ii) \$2,000.
1206 (b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic
1207 system, the tax credit described in this section is equal to the lesser of:
1208 (i) 25% of the reasonable costs, including installation costs, of each system installed
1209 with respect to each residential unit the claimant, estate, or trust owns or uses; or
1210 (ii) (A) for a system installed on or after January 1, 2007, but on or before December
1211 31, 2017, \$2,000;
1212 (B) for a system installed on or after January 1, 2018, but on or before December 31,
1213 2020, \$1,600;
1214 (C) for a system installed on or after January 1, 2021, but on or before December 31,
1215 2021, \$1,200;
1216 (D) for a system installed on or after January 1, 2022, but on or before December 31,
1217 2022, \$800;
1218 (E) for a system installed on or after January 1, 2023, but on or before December 31,
1219 2023, \$400; and
1220 (F) for a system installed on or after January 1, 2024, \$0.
1221 (c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or
1222 trust may claim and list that amount on the written certification that the office issues under
1223 Subsection (5).
1224 (ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the
1225 written certification that the office issues under Subsection (5).
1226 (d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the
1227 taxable year in which the residential energy system is installed.
1228 (e) If the amount of a tax credit listed on the written certification exceeds a claimant's,
1229 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust
1230 may carry forward the amount of the tax credit exceeding the liability for a period that does not
1231 exceed the next four taxable years.
1232 (f) A claimant, estate, or trust may claim a tax credit with respect to additional
1233 residential energy systems or parts of residential energy systems for a subsequent taxable year
1234 if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per

1235 residential unit.

1236 (g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a
1237 residential energy system installed on a residential unit may claim a tax credit under Subsection
1238 (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax
1239 credit.

1240 (ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential
1241 energy system may claim as a tax credit under Subsection (3) only the principal recovery
1242 portion of the lease payments.

1243 (iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a
1244 residential energy system may claim a tax credit under Subsection (3) for a period that does not
1245 exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

1246 (h) If a claimant, estate, or trust sells a residential unit to another person before the
1247 claimant, estate, or trust claims the tax credit under Subsection (3):

1248 (i) the claimant, estate, or trust may assign the tax credit to the other person; and

1249 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and
1250 Income Taxes, the other person may claim the tax credit as if the other person had met the
1251 requirements of Section 59-7-614 to claim the tax credit; or

1252 (B) if the other person files a return under this chapter, the other person may claim the
1253 tax credit under this section as if the other person had met the requirements of this section to
1254 claim the tax credit.

1255 (5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1256 claimant, estate, or trust shall obtain a written certification from the office.

1257 (b) The office shall issue a claimant, estate, or trust a written certification if the office
1258 determines that:

1259 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1260 credit; and

1261 (ii) the office determines that the residential energy system with respect to which the
1262 claimant, estate, or trust seeks to claim a tax credit:

1263 (A) has been completely installed;

1264 (B) is a viable system for saving or producing energy from renewable resources; and

1265 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential

1266 energy system uses the state's renewable and nonrenewable energy resources in an appropriate
1267 and economic manner.

1268 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1269 office may make rules:

1270 (i) for determining whether a residential energy system meets the requirements of
1271 Subsection (5)(b)(ii); and

1272 (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or
1273 trust may receive under Subsection (4), establishing the reasonable costs of a residential energy
1274 system, as an amount per unit of energy production.

1275 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1276 retain the certification for the same time period a person is required to keep books and records
1277 under Section 59-1-1406.

1278 (e) The office shall submit to the commission an electronic list that includes:

1279 (i) the name and identifying information of each claimant, estate, or trust to which the
1280 office issues a written certification; and

1281 (ii) for each claimant, estate, or trust:

1282 (A) the amount of the tax credit listed on the written certification; and

1283 (B) the date the renewable energy system was installed.

1284 (6) A tax credit under this section is in addition to any tax credits provided under the
1285 laws or rules and regulations of the United States.

1286 ~~[(7) A purchaser of one or more solar units that claims a tax credit under Section~~
1287 ~~59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this~~
1288 ~~section for that purchase.]~~

1289 Section 14. Section 59-10-1106 is amended to read:

1290 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**
1291 **Certification -- Rulemaking authority.**

1292 (1) As used in this section:

1293 (a) "Active solar system" means the same as that term is defined in Section
1294 59-10-1014.

1295 (b) "Biomass system" means the same as that term is defined in Section 59-10-1014.

1296 (c) "Commercial energy system" means the same as that term is defined in Section

- 1297 59-7-614.
- 1298 (d) "Commercial enterprise" means the same as that term is defined in Section
- 1299 59-7-614.
- 1300 (e) "Commercial unit" means the same as that term is defined in Section 59-7-614.
- 1301 (f) "Direct use geothermal system" means the same as that term is defined in Section
- 1302 59-10-1014.
- 1303 (g) "Geothermal electricity" means the same as that term is defined in Section
- 1304 59-10-1014.
- 1305 (h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.
- 1306 (i) "Geothermal heat pump system" means the same as that term is defined in Section
- 1307 59-10-1014.
- 1308 (j) "Hydroenergy system" means the same as that term is defined in Section
- 1309 59-10-1014.
- 1310 (k) "Hydrogen production system" means the same as that term is defined in Section
- 1311 59-7-614.
- 1312 (l) "Office" means the Office of Energy Development created in Section 79-6-401.
- 1313 (m) "Passive solar system" means the same as that term is defined in Section
- 1314 59-10-1014.
- 1315 (n) "Principal recovery portion" means the same as that term is defined in Section
- 1316 59-10-1014.
- 1317 (o) "Wind system" means the same as that term is defined in Section 59-10-1014.
- 1318 (2) [A] For a taxable year beginning before January 1, 2034, a claimant, estate, or trust
- 1319 may claim an energy system tax credit as provided in this section against a tax due under this
- 1320 chapter [for a taxable year].
- 1321 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust
- 1322 may claim a refundable tax credit under this Subsection (3) with respect to a commercial
- 1323 energy system if:
- 1324 (i) the commercial energy system does not use:
- 1325 (A) wind, geothermal electricity[~~-, solar~~], or biomass equipment capable of producing a
- 1326 total of 660 or more kilowatts of electricity; or
- 1327 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

1328 (ii) the claimant, estate, or trust purchases or participates in the financing of the
1329 commercial energy system;

1330 (iii) (A) the commercial energy system supplies all or part of the energy required by
1331 commercial units owned or used by the claimant, estate, or trust; or

1332 (B) the claimant, estate, or trust sells all or part of the energy produced by the
1333 commercial energy system as a commercial enterprise;

1334 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1335 Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust
1336 claims a tax credit under this Subsection (3); and

1337 (v) the claimant, estate, or trust obtains a written certification from the office in
1338 accordance with Subsection (7).

1339 (b) (i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to 10% of
1340 the reasonable costs of the commercial energy system.

1341 (ii) A tax credit under this Subsection (3) may include installation costs.

1342 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3)
1343 for the taxable year in which the commercial energy system is completed and placed in service.

1344 (iv) The total amount of tax credit a claimant, estate, or trust may claim under this
1345 Subsection (3) may not exceed \$50,000 per commercial unit.

1346 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a
1347 lessee of a commercial energy system installed on a commercial unit may claim a tax credit
1348 under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably
1349 elects not to claim the tax credit.

1350 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax
1351 credit under this Subsection (3) only the principal recovery portion of the lease payments.

1352 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit
1353 under this Subsection (3) for a period that does not exceed seven taxable years after the day on
1354 which the lease begins, as stated in the lease agreement.

1355 (4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust
1356 may claim a refundable tax credit under this Subsection (4) with respect to a commercial
1357 energy system if:

1358 (i) the commercial energy system uses wind, geothermal electricity, or biomass

1359 equipment capable of producing a total of 660 or more kilowatts of electricity;

1360 (ii) (A) the commercial energy system supplies all or part of the energy required by

1361 commercial units owned or used by the claimant, estate, or trust; or

1362 (B) the claimant, estate, or trust sells all or part of the energy produced by the

1363 commercial energy system as a commercial enterprise;

1364 (iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under

1365 Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust

1366 claims a tax credit under this Subsection (4); and

1367 (iv) the claimant, estate, or trust obtains a written certification from the office in

1368 accordance with Subsection (7).

1369 (b) (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to

1370 the product of:

1371 (A) 0.35 cents; and

1372 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

1373 (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4)

1374 for production occurring during a period of 48 months beginning with the month in which the

1375 commercial energy system is placed in commercial service.

1376 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed

1377 on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or

1378 trust confirms that the lessor irrevocably elects not to claim the tax credit.

1379 (5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust

1380 may claim a refundable tax credit as provided in this Subsection (5) if:

1381 (i) the claimant, estate, or trust owns a commercial energy system that uses solar

1382 equipment capable of producing a total of [~~660~~] 2,000 or more kilowatts of electricity;

1383 (ii) (A) the commercial energy system supplies all or part of the energy required by

1384 commercial units owned or used by the claimant, estate, or trust; or

1385 (B) the claimant, estate, or trust sells all or part of the energy produced by the

1386 commercial energy system as a commercial enterprise;

1387 (iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

1388 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under

1389 Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax

1390 credit under this Subsection (5); and

1391 (v) the claimant, estate, or trust obtains a written certification from the office in
1392 accordance with Subsection (7).

1393 (b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to
1394 the product of:

1395 (A) 0.35 cents; and

1396 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

1397 (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5)
1398 for production occurring during a period of 48 months beginning with the month in which the
1399 commercial energy system is placed in commercial service.

1400 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
1401 on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or
1402 trust confirms that the lessor irrevocably elects not to claim the tax credit.

1403 (6) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this
1404 Subsection (6) if:

1405 (i) the claimant, estate, or trust owns a hydrogen production system;

1406 (ii) the hydrogen production system is completed and placed in service on or after
1407 January 1, 2022;

1408 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the
1409 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the
1410 hydrogen production system;

1411 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1412 Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6);
1413 and

1414 (v) the claimant, estate, or trust obtains a written certification from the office in
1415 accordance with Subsection (7).

1416 (b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6)
1417 is equal to the product of:

1418 (A) \$0.12; and

1419 (B) the number of kilograms of hydrogen produced during the taxable year.

1420 (ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for

1421 more than 5,600 metric tons of hydrogen per taxable year.

1422 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6)
1423 for production occurring during a period of 48 months beginning with the month in which the
1424 hydrogen production system is placed in commercial service.

1425 (7) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1426 claimant, estate, or trust shall obtain a written certification from the office.

1427 (b) The office shall issue a claimant, estate, or trust a written certification if the office
1428 determines that:

1429 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1430 credit; and

1431 (ii) the commercial energy system or the hydrogen production system with respect to
1432 which the claimant, estate, or trust seeks to claim a tax credit:

1433 (A) has been completely installed;

1434 (B) is a viable system for saving or producing energy from renewable resources; and

1435 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial
1436 energy system or the hydrogen production system uses the state's renewable and nonrenewable
1437 resources in an appropriate and economic manner.

1438 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1439 office may make rules:

1440 (i) for determining whether a commercial energy system or a hydrogen production
1441 system meets the requirements of Subsection (7)(b)(ii); and

1442 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs
1443 of a commercial energy system, as an amount per unit of energy production.

1444 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1445 retain the certification for the same time period a person is required to keep books and records
1446 under Section [59-1-1406](#).

1447 (e) The office shall submit to the commission an electronic list that includes:

1448 (i) the name and identifying information of each claimant, estate, or trust to which the
1449 office issues a written certification; and

1450 (ii) for each claimant, estate, or trust:

1451 (A) the amount of the tax credit listed on the written certification; and

1452 (B) the date the commercial energy system or the hydrogen production system was
1453 installed.

1454 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1455 commission may make rules to address the certification of a tax credit under this section.

1456 (9) A tax credit under this section is in addition to any tax credits provided under the
1457 laws or rules and regulations of the United States.

1458 ~~[(10) A purchaser of one or more solar units that claims a tax credit under Section~~
1459 ~~59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this~~
1460 ~~section for that purchase.]~~

1461 Section 15. Section **59-10-1113** is amended to read:

1462 **59-10-1113. Refundable tax credit for nonrenewable hydrogen production**
1463 **system.**

1464 (1) As used in this section:

1465 (a) "Commercial enterprise" means the same as that term is defined in Section
1466 [59-7-626](#).

1467 (b) "Commercial unit" means the same as that term is defined in Section [59-7-626](#).

1468 (c) "Hydrogen production system" means the same as that term is defined in Section
1469 [59-7-626](#).

1470 (d) "Office" means the Office of Energy Development created in Section [79-6-401](#).

1471 (2) (a) ~~[A]~~ For a taxable year beginning before January 1, 2034, a claimant, estate, or
1472 trust may claim a refundable credit under this section if:

1473 (i) the claimant, estate, or trust owns a hydrogen production system;

1474 (ii) the hydrogen production system is completed and placed in service on or after
1475 January 1, 2022;

1476 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the
1477 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the
1478 hydrogen production system;

1479 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1480 Section [59-10-1106](#) for electricity used to meet the requirements of this section; and

1481 (v) the taxpayer obtains a written certification from the office in accordance with
1482 Subsection (3).

1483 (b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal
1484 to the product of:

1485 (A) \$0.12; and

1486 (B) the number of kilograms of hydrogen produced during the taxable year.

1487 (ii) A claimant, estate, or trust may not receive a tax credit under this section for more
1488 than 5,600 metric tons of hydrogen per taxable year.

1489 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this section for
1490 production occurring during a period of 48 months beginning with the month in which the
1491 hydrogen production system is placed in commercial service.

1492 (3) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1493 claimant, estate, or trust shall obtain a written certification from the office.

1494 (b) The office shall issue a claimant, estate, or trust a written certification if the office
1495 determines that:

1496 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1497 credit; and

1498 (ii) the hydrogen production system with respect to which the claimant, estate, or trust
1499 seeks to claim a tax credit:

1500 (A) has been completely installed; and

1501 (B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen
1502 production system uses the state's nonrenewable energy resources in an appropriate and
1503 economic manner.

1504 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1505 office may make rules for determining whether a hydrogen production system meets the
1506 requirements of Subsection (3)(b)(ii).

1507 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1508 retain the certification for the same time period a person is required to keep books and records
1509 under Section [59-1-1406](#).

1510 (e) The office shall submit to the commission an electronic list that includes:

1511 (i) the name and identifying information of each claimant, estate, or trust to which the
1512 office issues a written certification; and

1513 (ii) for each claimant, estate, or trust:

- 1514 (A) the amount of the tax credit listed on the written certification; and
- 1515 (B) the date the hydrogen production system was installed.
- 1516 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1517 commission may make rules to address the certification of a tax credit under this section.
- 1518 (5) A tax credit under this section is in addition to any tax credits provided under the
- 1519 laws or rules and regulations of the United States.

1520 Section 16. Section **63I-2-259** is amended to read:

1521 **63I-2-259. Repeal dates: Title 59.**

1522 [~~(1) In Section [59-2-926](#), the language that states "applicable" and "or [53F-2-301.5](#)" is~~

1523 ~~repealed July 1, 2023.~~]

1524 (1) Subsection [59-7-159\(3\)\(c\)\(ii\)](#), referencing Section [59-7-614](#), is repealed December

1525 31, 2034.

1526 (2) Subsection [59-7-610\(8\)](#), relating to claiming a tax credit in the same taxable year as

1527 the targeted business income tax credit, is repealed December 31, 2024.

1528 (3) Section [59-7-614](#) is repealed December 31, 2034.

1529 (4) Subsection [59-7-614.10\(5\)](#), relating to claiming a tax credit in the same taxable

1530 year as the targeted business income tax credit, is repealed December 31, 2024.

1531 [~~(4)~~] (5) Section [59-7-624](#) is repealed December 31, 2024.

1532 (6) Section [59-7-626](#) is repealed December 31, 2034.

1533 (7) Subsection [59-10-137\(3\)\(c\)\(ii\)](#), referencing Section [59-10-1014](#), is repealed

1534 December 31, 2034.

1535 (8) Subsection [59-10-137\(3\)\(c\)\(viii\)](#), referencing Section [59-10-1106](#), is repealed

1536 December 31, 2034.

1537 [~~(5)~~] (9) Subsection [59-10-210\(2\)\(b\)\(vi\)](#) is repealed December 31, 2024.

1538 [~~(6)~~] (10) Subsection [59-10-1007\(8\)](#), relating to claiming a tax credit in the same

1539 taxable year as the targeted business income tax credit, is repealed December 31, 2024.

1540 (11) Section [59-10-1014](#) is repealed December 31, 2034.

1541 [~~(7)~~] (12) Subsection [59-10-1037\(5\)](#), relating to claiming a tax credit in the same

1542 taxable year as the targeted business income tax credit, is repealed December 31, 2024.

1543 (13) Section [59-10-1106](#) is repealed December 31, 2034.

1544 [~~(8)~~] (14) Section [59-10-1112](#) is repealed December 31, 2024.

1545 (15) Section 59-10-1113 is repealed December 31, 2034.

1546 Section 17. Section **63N-8-105** is amended to read:

1547 **63N-8-105. Annual report.**

1548 The office shall include the following information in the annual written report described
1549 in Section 63N-1a-306:

1550 (1) the office's success in attracting within-the-state production of television series,
1551 made-for-television movies, and motion pictures, including feature films and independent
1552 films;

1553 (2) the amount of incentive commitments made by the office under this part and the
1554 period of time over which the incentives will be paid; and

1555 (3) the economic impact on the state related to:

1556 (a) dollars left in the state; [~~and~~]

1557 (b) new state revenues generated by a motion picture company or a digital media
1558 company for each state-approved production; and

1559 [~~(b)~~] (c) providing motion picture incentives under this part.

1560 Section 18. Section **63N-20-101** is enacted to read:

1561 **CHAPTER 20. RESEARCH EXPENSES TAX CREDIT**

1562 **63N-20-101. Definitions.**

1563 (1) As used in this chapter:

1564 (a) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal
1565 Revenue Code, except that the term includes only basic research conducted in this state.

1566 (b) "Qualified research" means the same as that term is defined in Section 41(d),
1567 Internal Revenue Code, except that the term includes only qualified research conducted in this
1568 state.

1569 (c) "Qualified research expenses" means the same as that term is defined in Section
1570 41(b), Internal Revenue Code, except that the term includes only:

1571 (i) in-house research expenses incurred in this state; and

1572 (ii) contract research expenses incurred in this state.

1573 (2) Except as provided in Subsection (1)(a), a term used in this section that is defined
1574 in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41,
1575 Internal Revenue Code.

1576 Section 19. Section **63N-20-102** is enacted to read:

1577 **63N-20-102. Tax credit certificate.**

1578 (1) To claim a nonrefundable tax credit under Section [59-7-612](#) or [59-10-1012](#), a
1579 person shall first receive a tax credit certificate in accordance with this section.

1580 (2) To receive a tax credit certificate, the person shall submit to the office an
1581 application that includes:

1582 (a) receipts and other information needed to calculate the person's qualified research
1583 expenses, payments to a qualified organization for basic research, and base amount;

1584 (b) a description of the qualified research expenses or payments for basic research;

1585 (c) a statement indicating whether the person files an income tax return under Title 59,
1586 Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income
1587 Tax Act;

1588 (d) a statement from the person submitting the application describing the benefits the
1589 state receives from the research expenses or payments; and

1590 (e) any other information that the office requests to calculate the person's eligibility or
1591 amount of tax credit.

1592 (3) If, after review of the application, the office determines that the person has
1593 qualified research expenses or payments to a qualified organization for basic research, the
1594 office shall:

1595 (a) calculate in accordance with Section [63N-20-103](#), the amount of each tax credit that
1596 the person is eligible to claim; and

1597 (b) issue a tax credit certificate to the person that states the amount of each tax credit
1598 that the person may claim.

1599 (4) A person that receives a tax credit certificate under this section shall retain the tax
1600 credit certificate for the same time period a person is required to keep books and records under
1601 Section [59-1-1406](#).

1602 (5) (a) The office shall provide the State Tax Commission with an electronic report that
1603 includes for each person to which the office issued a tax credit certificate under this section for
1604 a taxable year:

1605 (i) the name and identifying information of the person; and

1606 (ii) the amount of each tax credit that the person is eligible to claim.

1607 (b) The office shall provide the report described in Subsection (5)(a) on or before
1608 January 31 of the year following the year the office issues the tax credit certificates.

1609 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1610 office shall make rules governing the administration of the tax credit certificate issuance
1611 process.

1612 Section 20. Section **63N-20-103** is enacted to read:

1613 **63N-20-103. Amount of tax credit.**

1614 (1) Except as specifically provided in this section, the tax credits authorized under
1615 Section [63N-20-102](#) shall be calculated as provided in Section 41, Internal Revenue Code.

1616 (2) (a) The research tax credit described in Subsection [59-7-612\(2\)\(a\)\(i\)](#) or
1617 [59-10-1012\(2\)\(a\)\(i\)](#) is equal to 5% of the person's qualified research expenses incurred during
1618 the current taxable year that exceed the base amount calculated in accordance with Subsection
1619 (2).

1620 (b) The tax credit described in Subsection [59-7-612\(2\)\(a\)\(ii\)](#) or [59-10-1012\(2\)\(a\)\(ii\)](#) is
1621 equal to 5% of the payment to a qualified organization for basic research incurred during the
1622 current taxable year that exceeds the base amount calculated in accordance with Subsection (2).

1623 (c) The additional research tax credit described in Subsection [59-7-612\(2\)\(a\)\(iii\)](#) or
1624 [59-10-1012\(2\)\(a\)\(iii\)](#) is equal to 7.5% of the person's qualified research expenses for the
1625 current taxable year.

1626 (3) The office shall calculate the base amount as provided in Section 41(c), Internal
1627 Revenue Code, except that:

1628 (a) the base amount does not include the calculation of the alternative incremental
1629 credit provided for in Section 41(c)(4), Internal Revenue Code;

1630 (b) (i) for a person that files a tax return under Title 59, Chapter 7, Corporate Franchise
1631 and Income Taxes, a person's gross receipts include only those gross receipts attributable to
1632 sources within this state as provided in Title 59, Chapter 7, Part 3, Allocation and
1633 Apportionment of Income - Utah UDITPA Provisions; and

1634 (ii) for a person that files a tax return under Title 59, Chapter 10, Individual Income
1635 Tax Act, the taxpayer's gross receipts include only those gross receipts attributable to sources
1636 within this state as provided in Section [59-10-118](#); and

1637 (c) notwithstanding Section 41(c), Internal Revenue Code, a person:

1638 (i) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
1639 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
1640 and

1641 (ii) may not revoke an election to be treated as a start-up company under Subsection
1642 (3)(c)(i).

1643 (4) For purposes of claiming a tax credit under this section, a unitary group as defined
1644 in Section 59-7-101 is considered to be one taxpayer.

1645 Section 21. Section **79-6-401** is amended to read:

1646 **79-6-401. Office of Energy Development -- Creation -- Director -- Purpose --**
1647 **Rulemaking regarding confidential information -- Fees -- Transition for employees.**

1648 (1) There is created an Office of Energy Development in the Department of Natural
1649 Resources.

1650 (2) (a) The energy advisor shall serve as the director of the office or, on or before June
1651 30, 2029, appoint a director of the office.

1652 (b) The director:

1653 (i) shall, if the energy advisor appoints a director under Subsection (2)(a), report to the
1654 energy advisor; and

1655 (ii) may appoint staff as funding within existing budgets allows.

1656 (c) The office may consolidate energy staff and functions existing in the state energy
1657 program.

1658 (3) The purposes of the office are to:

1659 (a) serve as the primary resource for advancing energy and mineral development in the
1660 state;

1661 (b) implement:

1662 (i) the state energy policy under Section 79-6-301; and

1663 (ii) the governor's energy and mineral development goals and objectives;

1664 (c) advance energy education, outreach, and research, including the creation of
1665 elementary, higher education, and technical college energy education programs;

1666 (d) promote energy and mineral development workforce initiatives; and

1667 (e) support collaborative research initiatives targeted at Utah-specific energy and
1668 mineral development.

1669 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal
1670 Funds Procedures Act, the office may:

1671 (a) seek federal grants or loans;

1672 (b) seek to participate in federal programs; and

1673 (c) in accordance with applicable federal program guidelines, administer federally
1674 funded state energy programs.

1675 (5) The office shall perform the duties required by Sections [11-42a-106](#), [59-5-102](#),
1676 [[59-7-614.7](#), [59-10-1029](#)], [63C-26-202](#), [~~Part 5, Alternative Energy Development Tax Credit~~
1677 ~~Act;~~] and Part 6, High Cost Infrastructure Development Tax Credit Act.

1678 (6) (a) For purposes of administering this section, the office may make rules, by
1679 following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as
1680 confidential, and not as a public record, information that the office receives from any source.

1681 (b) The office shall maintain information the office receives from any source at the
1682 level of confidentiality assigned by the source.

1683 (7) The office may charge application, filing, and processing fees in amounts
1684 determined by the office in accordance with Section [63J-1-504](#) as dedicated credits for
1685 performing office duties described in this part.

1686 (8) (a) An employee of the office is an at-will employee.

1687 (b) For an employee of the office on July 1, 2021, the employee shall have the same
1688 salary and benefit options the employee had when the office was part of the office of the
1689 governor.

1690 Section 22. **Repealer.**

1691 This bill repeals:

1692 Section [59-7-614.7](#), **Nonrefundable alternative energy development tax credit.**

1693 Section [59-10-1024](#), **Nonrefundable tax credit for qualifying solar projects.**

1694 Section [59-10-1025](#), **Nonrefundable tax credit for investment in certain life science**
1695 **establishments.**

1696 Section [59-10-1029](#), **Nonrefundable alternative energy development tax credit.**

1697 Section [63N-2-801](#), **Title.**

1698 Section [63N-2-802](#), **Definitions.**

1699 Section [63N-2-803](#), **Tax credits issued by office.**

1700 Section [63N-2-804](#), Person may not claim or pass through a tax credit without tax
1701 credit certificate.

1702 Section [63N-2-805](#), Application process.

1703 Section [63N-2-806](#), Criteria for tax credits.

1704 Section [63N-2-807](#), Rulemaking authority.

1705 Section [63N-2-808](#), Agreements between office and tax credit applicant and life
1706 science establishment -- Tax credit certificate.

1707 Section [63N-2-809](#), Issuance of tax credit certificates.

1708 Section [63N-2-810](#), Reports on tax credit certificates.

1709 Section [63N-2-811](#), Reports of tax credits.

1710 Section [79-6-501](#), Title.

1711 Section [79-6-502](#), Definitions.

1712 Section [79-6-503](#), Tax credits.

1713 Section [79-6-504](#), Qualifications for tax credit -- Procedure.

1714 Section [79-6-505](#), Report to the Legislature.

1715 Section 23. Effective date.

1716 (1) Except as provided in Subsections (2) and (3), this bill takes effect on January 1,
1717 2024.

1718 (2) The actions affecting the following sections take effect on May 3, 2023:

1719 (a) Section [59-7-159](#); and

1720 (b) Section [59-10-137](#).

1721 (3) The actions affecting the following sections take effect for a taxable year beginning
1722 on or after January 1, 2024:

1723 (a) Section [59-7-609](#);

1724 (b) Section [59-7-610](#);

1725 (c) Section [59-7-612](#);

1726 (d) Section [59-7-614](#);

1727 (e) Section [59-7-614.7](#);

1728 (f) Section [59-7-626](#);

1729 (g) Section [59-10-1002.2](#);

1730 (h) Section [59-10-1006](#);

- 1731 (i) Section 59-10-1007;
- 1732 (j) Section 59-10-1012;
- 1733 (k) Section 59-10-1014;
- 1734 (l) Section 59-10-1024;
- 1735 (m) Section 59-10-1025;
- 1736 (n) Section 59-10-1029;
- 1737 (o) Section 59-10-1106; and
- 1738 (p) Section 59-10-1113.