

HB0407S01 compared with HB0407

~~{deleted text}~~ shows text that was in HB0407 but was deleted in HB0407S01.

inserted text shows text that was not in HB0407 but was inserted into HB0407S01.

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Representative Kay J. Christofferson proposes the following substitute bill:

INCENTIVES AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to tax credits.

Highlighted Provisions:

This bill:

- ▶ requires each state agency that issues a tax credit certificate for ~~{an income}~~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 ~~{Office of Energy Development to provide the State Tax Commission with an electronic link to a webpage where the Office of Energy Development lists the names of the claimants and amounts of a severance tax credit claimed;~~

~~→ requires the }~~State Tax Commission to create a webpage that links to each state

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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▶ modifies reporting and study requirements related to repealed income tax credits;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 Cultural and Community Engagement's annual report;

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

- to eliminate the expenditures credit; and

- to limit the machinery and equipment credit to taxpayers who do not qualify for a sales and use tax exemption on the purchase of machinery and equipment;

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

- ~~an independent certified public accountant to verify a taxpayer's eligibility and calculate the amount of tax credit a taxpayer may claim; and~~

- ~~the Governor's Office of Economic Opportunity to issue a tax credit certificate;~~

~~removes solar and wind equipment from eligibility for a renewable energy system tax credit that is based on the amount of electricity produced;~~

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

~~provides that the corporate and individual alternative energy development tax credits do not automatically expire for lack of use before the 2027 tax year;~~

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

▶ repeals the following individual income tax credits:

- qualifying solar projects; and

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- investment in life sciences establishments;
- ▶ repeals the Technology and Life Science Economic Development Act;
- ▶ repeals the corporate and individual alternative energy development tax credits;
- ▶ repeals the Alternative Energy Development Tax Credit Act;
- ▶ schedules the repeal of the corporate and individual renewable energy systems ~~tax credits;~~
- ~~modifies reporting and study requirements related to repealed income~~ and hydrogen production tax credits; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

~~This bill provides retrospective operation.~~

Utah Code Sections Affected:

AMENDS:

~~59-5-102~~ 59-7-159, as last amended by Laws of Utah ~~2021~~ 2022, ~~Chapter 280~~ Chapters 264, 274

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

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

59-7-614, as last amended by Laws of Utah 2022, Chapter 274

~~59-7-614.7, as last amended by Laws of Utah 2021, Chapter 280~~

59-7-626, as enacted by Laws of Utah 2021, Chapter 374

59-10-137, as last amended by Laws of Utah 2022, Chapter 264

59-10-1002.2, as last amended by Laws of Utah 2022, Chapter 12

59-10-1007, as last amended by Laws of Utah 2021, Chapter 367

59-10-1012, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

59-10-1014, as last amended by Laws of Utah 2021, Chapter 280

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

~~59-10-1106~~, as last amended by Laws of Utah 2021, Chapters 280, 374

59-10-1113, as last amended by Laws of Utah 2022, Chapter 274

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63I-2-259, as last amended by Laws of Utah 2022, Chapter 264

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

79-6-401, as last amended by Laws of Utah 2022, Chapter 322

ENACTS:

59-1-214, Utah Code Annotated 1953

63N-20-101, Utah Code Annotated 1953

63N-20-102, Utah Code Annotated 1953

63N-20-103, Utah Code Annotated 1953

REPEALS AND REENACTS:

59-7-609, as enacted by Laws of Utah 1995, Chapter 42

59-10-1006, as renumbered and amended by Laws of Utah 2006, Chapter 223

REPEALS:

59-7-614.7, as last amended by Laws of Utah 2021, Chapter 280

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

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

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

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

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

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

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

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

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

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

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

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

63N-2-810, as last amended by Laws of Utah 2022, Chapter 362

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

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

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

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

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

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) ~~claims the~~ 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 certificate:

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

(b) the amount of tax credit ~~each recipient claims~~ listed on the certificate.

(3) The Office of Energy Development is not required to comply with ~~f~~ Subsection

(2) for a tax credit described in:

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

(b) Section 59-10-1014.

(4) The commission shall create a single webpage on the commission's website that links to each state agency's webpage containing the information described in Subsection (2)~~f~~

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~~and Subsection 59-5-102(7)(g).~~

Section 2. Section ~~{59-5-102}~~; 59-7-159 is amended to read:

~~{ 59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual exemption -- Tax credits -- Tax rate reduction.~~

~~—— (1) As used in this section:~~

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

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

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

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

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

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

~~—— (e) "Taxable volume" means:~~

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

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

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

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

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

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

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

~~—— (i) produced; and~~

~~—— (ii) (A) saved;~~

~~—— (B) sold; or~~

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

~~—— (g) "Total volume" means:~~

~~—— (i) for oil, the number of barrels:~~

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~~—— (A) produced; and~~

~~—— (B) (I) saved;~~

~~—— (H) sold; or~~

~~—— (III) transported from the field where the oil was produced; and~~

~~—— (ii) for natural gas, the number of MCFs:~~

~~—— (A) produced; and~~

~~—— (B) (I) saved;~~

~~—— (H) sold; or~~

~~—— (III) transported from the field where the natural gas was produced.~~

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

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

~~—— (i) produced; and~~

~~—— (ii) (A) saved;~~

~~—— (B) sold; or~~

~~—— (C) transported from the field where the substance was produced.~~

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

~~—— (i) an interest of:~~

~~—— (A) the United States in oil or gas or in the proceeds of the production of oil or gas;~~

~~—— (B) the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; and~~

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

~~—— (ii) the value of:~~

~~—— (A) oil or gas produced from stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;~~

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

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

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

~~—— (i) dividing the taxable value by the taxable volume;~~

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

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

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

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

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

~~—— (i) dividing the taxable value by the taxable volume;~~

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

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

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

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

~~—— (c) The severance tax on natural gas liquids shall be calculated by multiplying the taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c):~~

~~—— (4) Subject to Subsection (9):~~

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

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

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

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

~~—— (i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per~~

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MCF for gas; and

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

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

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

~~—— (a) the shipment constitutes a sale; and~~

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

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

~~—— (i) sold;~~

~~—— (ii) transported; or~~

~~—— (iii) delivered.~~

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

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

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

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

~~—— (ii) \$30,000.~~

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

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

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

~~—— (iii) An independent certified public accountant shall:~~

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- ~~—— (A) review the summary from the taxpayer; and~~
- ~~—— (B) provide a report on the accuracy and validity of the amount of expenses of a well recompletion or workover that the taxpayer included in the summary, in accordance with the agreed upon procedures.~~
- ~~—— (iv) The taxpayer shall submit the taxpayer's summary and the independent certified public accountant's report to the division to verify that the expenses certified by the independent certified public accountant are well recompletion or workover expenses.~~
- ~~—— (v) The division shall return to the taxpayer:~~
 - ~~—— (A) the taxpayer's summary;~~
 - ~~—— (B) the report by the independent certified public accountant; and~~
 - ~~—— (C) a report by the division that includes the amount of approved well recompletion or workover expenses.~~
- ~~—— (vi) The taxpayer shall apply to the office for a tax credit certificate to receive a written certification, on a form approved by the commission, that includes:~~
 - ~~—— (A) the amount of the taxpayer's payments of expenses of a well recompletion or workover during the calendar year; and~~
 - ~~—— (B) the amount of the taxpayer's tax credit.~~
- ~~—— (vii) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.~~
- ~~—— (e) The office shall submit to the commission an electronic list that includes:~~
 - ~~—— (i) the name and identifying information of each taxpayer to which the office issues a tax credit certificate; and~~
 - ~~—— (ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.~~
- ~~—— (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:~~
 - ~~—— (i) the office may make rules to govern the application process for receiving a tax credit certificate under this Subsection (7); and~~
 - ~~—— (ii) the division shall make rules to establish the agreed upon procedures described in Subsection (7)(d)(iii).~~
- ~~—— (g) The office shall provide the commission with a link to a webpage where the office discloses:~~

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- ~~—— (i) the names of each recipient of a tax credit certificate; and~~
- ~~—— (ii) the amount of tax credit each recipient claims.~~
- ~~—— (8) (a) Subject to the other provisions of this Subsection (8), a taxpayer may claim a tax credit against a severance tax owing on natural gas under this section if:~~
 - ~~—— (i) the taxpayer is required to pay a severance tax on natural gas under this section;~~
 - ~~—— (ii) the taxpayer owns or operates a plant in the state that converts natural gas to hydrogen fuel; and~~
 - ~~—— (iii) all of the natural gas for which the taxpayer owes a severance tax under this section is used for the production in the state of hydrogen fuel for use in zero-emission motor vehicles.~~
- ~~—— (b) The taxpayer may claim a tax credit equal to the lesser of:~~
 - ~~—— (i) the amount of tax that the taxpayer owes under this section; and~~
 - ~~—— (ii) \$5,000,000.~~
- ~~—— (c) (i) To claim a tax credit under this Subsection (8), a taxpayer shall follow the procedures and requirements of this Subsection (8)(c).~~
 - ~~—— (ii) The taxpayer shall request that the division verify that the taxpayer owns or operates a plant in this state:~~
 - ~~—— (A) that converts natural gas to hydrogen fuel; and~~
 - ~~—— (B) at which all natural gas is converted to hydrogen fuel for use in zero-emission motor vehicles.~~
- ~~—— (d) The division shall submit to the commission an electronic list that includes the name and identifying information of each taxpayer for which the division completed the verification described in Subsection (8)(c).~~
- ~~—— (9) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.~~
- ~~—— (10) The taxes imposed by this section are:~~
 - ~~—— (a) in addition to all other taxes provided by law; and~~
 - ~~—— (b) delinquent, unless otherwise deferred, on June 1 following the calendar year when the oil or gas is:~~
 - ~~—— (i) produced; and~~
 - ~~—— (ii) (A) saved;~~

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~~—— (B) sold; or~~

~~—— (C) transported from the field.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(v)}~~ and

(v) 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

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

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

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

- (i) Section 59-7-601;
- (ii) Section 59-7-607;
- (iii) Section 59-7-612;
- (iv) Section 59-7-614.1; and
- (v) Section 59-7-614.5.

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

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

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

- (i) Section 59-7-610; and

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(ii) Section 59-7-614~~;~~and.

~~(iii) Section 59-7-614.7.~~

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

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

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

59-7-609. Historic preservation credit.

(1) As used in this section:

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

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

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

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

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

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

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

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

(A) the taxpayer's personal labor;

(B) cost of acquisition of the property;

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

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

Subsection (3)(a)(i);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the name of the taxpayer;

(ii) the identifying information of the taxpayer; and

(iii) the amount of tax credit that the taxpayer is eligible to claim.

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

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

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commission, in consultation with the office, shall make rules to implement this section.

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

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

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

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

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

and

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

(2) Subject to other provisions of this section, a qualifying taxpayer [that is a business operating in a recycling market development zone as defined in Section 19-13-102] may claim [the following nonrefundable tax credits: ~~(+)~~]

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

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

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

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

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

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

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

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

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

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

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purchased;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~_____~~ (B) describes the qualified research expenses or payments for basic research that are

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~~included in the calculation of a tax credit under this section; and~~

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

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

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

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

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

~~(~~fv~~v)~~ "Qualifying taxpayer" means a taxpayer that ~~obtains an independent verification and~~ receives a tax credit certificate in accordance with Section 63N-20-102.

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

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

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

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

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

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

~~(c) Subject to Subsection [~~(5)~~ ~~(~~6~~4)~~], a qualifying taxpayer may claim a tax credit under:~~

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

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

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

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

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

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

~~(3) { (4) } Except as specifically provided for in this section:]~~

~~{ (a) { } } the tax credits authorized under Subsection { (1) { (2) } shall be calculated as provided in Section 41, Internal Revenue Code { }, and { }~~

~~{ (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1); }~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(5)] (6)(4) (a) If the amount of a tax credit claimed by a qualifying taxpayer under Subsection [(1)(a)(i)] (2)(a)(i) or (ii) exceeds the qualifying taxpayer's tax liability under this chapter for a taxable year, the [amount of the tax credit exceeding the tax liability] qualifying taxpayer:~~

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

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

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

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

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

~~[(8)] (6) (a) The [Revenue and Taxation Interim Committee] committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection [(7)] (5) a modification or repeal of a~~

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provision of Section 41, Internal Revenue Code.

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

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

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

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

(e) If the ~~[Revenue and Taxation Interim Committee reviews the tax credits provided for in this section]~~ committee conducts a review under this Subsection ~~(~~[(8)6]~~)~~, the committee shall issue a report of the ~~[Revenue and Taxation Interim Committee's]~~ committee's findings.

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

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

Rulemaking authority.

(1) As used in this section:

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

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

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

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

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

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- (i) converting material into biomass energy, as defined in Section 59-12-102; and
- (ii) transporting the biomass energy by separate apparatus to the point of use or storage.
- (c) "Commercial energy system" means a system that is:
 - (i) (A) an active solar system;
 - (B) a biomass system;
 - (C) a direct use geothermal system;
 - (D) a geothermal electricity system;
 - (E) a geothermal heat pump system;
 - (F) a hydroenergy system;
 - (G) a passive solar system; or
 - (H) a wind system;
 - (ii) located in the state; and
 - (iii) used:
 - (A) to supply energy to a commercial unit; or
 - (B) as a commercial enterprise.
 - (d) "Commercial enterprise" means an entity, the purpose of which is to produce:
 - (i) electrical, mechanical, or thermal energy for sale from a commercial energy system;

or

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

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

business.

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

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

or

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

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

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

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- (i) contained in heat that continuously flows outward from the earth; and
- (ii) used as a sole source of energy to produce electricity.
- (h) "Geothermal energy" means energy generated by heat that is contained in the earth.
- (i) "Geothermal heat pump system" means a system of apparatus and equipment that:
 - (i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and
 - (ii) helps meet heating and cooling needs of a structure.
- (j) "Hydroenergy system" means a system of apparatus and equipment that is capable of:
 - (i) intercepting and converting kinetic water energy into electrical or mechanical energy; and
 - (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- (k) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:
 - (i) electricity from a renewable energy source to create hydrogen gas from water, regardless of whether the renewable energy source is at a separate facility or the same facility as the system of apparatus and equipment; or
 - (ii) uses renewable natural gas to produce hydrogen gas.
- (l) "Office" means the Office of Energy Development created in Section 79-6-401.
- (m) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and the structure's operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.
 - (ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.
- (n) "Photovoltaic system" means an active solar system that generates electricity from sunlight.
- (o) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.
 - (ii) "Principal recovery portion" does not include:
 - (A) an interest charge; or

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(B) a maintenance expense.

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

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

- (i) an active solar system;
- (ii) a biomass system;
- (iii) a direct use geothermal system;
- (iv) a geothermal heat pump system;
- (v) a hydroenergy system;
- (vi) a passive solar system; or
- (vii) a wind system.

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

- (A) is located in the state; and
- (B) serves as a dwelling for a person, group of persons, or a family.
- (ii) "Residential unit" does not include property subject to a fee under:
 - (A) Section 59-2-405;
 - (B) Section 59-2-405.1;
 - (C) Section 59-2-405.2;
 - (D) Section 59-2-405.3; or
 - (E) Section 72-10-110.5.

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

- (i) intercepting and converting wind energy into mechanical or electrical energy; and
- (ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

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

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer

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owns or uses if:

(i) the taxpayer:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the commercial energy system does not use:

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

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

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

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

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

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

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

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

(ii) A tax credit under this Subsection (4) may include installation costs.

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

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

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

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

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

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

(i) ~~(A)~~ the commercial energy system uses ~~(i)~~ wind, ~~(ii)~~ geothermal electricity ~~(i)~~, ~~(ii)~~ or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; ~~(or)~~ ~~(B) the commercial energy system uses wind equipment capable of producing a total of 660 or more kilowatts of electricity and the production begins before January 1, 2024;~~

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

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

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

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

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

(A) 0.35 cents; and

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

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) for production

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

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

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

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

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

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

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

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

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

(A) 0.35 cents; and

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

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

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

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

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(i) the taxpayer owns a hydrogen production system;

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

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

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

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

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

(A) \$0.12; and

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

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

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

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

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

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

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

(A) has been completely installed;

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

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

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

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office may make rules:

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

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

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

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

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

(ii) for each taxpayer:

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

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

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

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

Section 7. Section ~~{59-7-614.7}~~ 59-7-626 is amended to read:

~~{~~ ~~59-7-614.7. Nonrefundable alternative energy development tax credit.~~

~~_____ (1) As used in this section:~~

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

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

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

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

~~_____ (3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 5, Alternative Energy~~

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~~Development Tax Credit Act, to the alternative energy entity for the taxable year:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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- ~~— (i) the cost of the tax credit to the state;~~
- ~~— (ii) the purpose and effectiveness of the tax credit; and~~
- ~~— (iii) the extent to which the state benefits from the tax credit.~~
- ~~— (6) Notwithstanding Section 59-7-903, the commission may not remove the tax credit described in this section from the tax return for a taxable year beginning before January 1, 2027.~~

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

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

- (1) As used in this section:
 - (a) "Commercial enterprise" means an entity, the purpose of which is to produce hydrogen for sale from a hydrogen production system.
 - (b) "Commercial unit" means a building or structure that an entity uses to transact business.
 - (c) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that produces hydrogen from nonrenewable sources.
 - (d) "Office" means the Office of Energy Development created in Section 79-6-401.
- (2) (a) [A] For a taxable year beginning before January 1, 2034, a taxpayer may claim a refundable credit under this section if:
 - (i) the taxpayer owns a hydrogen production system;
 - (ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;
 - (iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;
 - (iv) the taxpayer has not claimed and will not claim a tax credit under Section 59-7-614 for electricity used to meet the requirements of this section; and
 - (v) the taxpayer obtains a written certification from the office in accordance with Subsection (3).
- (b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal to the product of:
 - (A) \$0.12; and
 - (B) the number of kilograms of hydrogen produced during the taxable year.

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

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

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

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

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

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

(A) has been completely installed; and

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

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

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

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

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

(ii) for each taxpayer:

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

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

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

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

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Section ~~{9}~~8. Section 59-10-137 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

~~(v)~~ and

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

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

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

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(2)(b)(v).

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

- (i) Section 59-10-1004;
- (ii) Section 59-10-1010;
- (iii) Section 59-10-1015;
- ~~[(iv) Section 59-10-1025;]~~
- ~~[(v)]~~ (iv) Section 59-10-1027;
- ~~[(vi)]~~ (v) Section 59-10-1031;
- ~~[(vii)]~~ (vi) Section 59-10-1032;
- ~~[(viii)]~~ (vii) Section 59-10-1035;
- ~~[(ix)]~~ (viii) Section 59-10-1104;
- ~~[(x)]~~ (ix) Section 59-10-1105; and
- ~~[(xi)]~~ (x) Section 59-10-1108.

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

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

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

- (i) Section 59-10-1007;

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- (ii) Section 59-10-1014;
- (iii) Section 59-10-1017;
- (iv) Section 59-10-1018;
- (v) Section 59-10-1019;
- ~~[(vi) Section 59-10-1024;]~~
- ~~[(vii) ~~{(vi)}~~ Section 59-10-1029;]~~
- ~~[(viii) ~~{(vii)}~~vi] Section 59-10-1036;~~
- ~~[(ix) ~~{(viii)}~~vii] Section 59-10-1106; and~~
- ~~[(x) ~~{(ix)}~~viii] Section 59-10-1111.~~

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

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

Section ~~{10}9~~. Section **59-10-1002.2** is amended to read:

59-10-1002.2. Apportionment of tax credits.

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

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

- (i) the state income tax percentage for the nonresident individual; and
- (ii) the amount of the tax credit that the nonresident individual would have been

allowed to claim but for the apportionment requirements of this section; or

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

- (i) the state income tax percentage for the part-year resident individual; and
- (ii) the amount of the tax credit that the part-year resident individual would have been

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

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

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- (a) the state income tax percentage for the nonresident estate or trust; and
- (b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section ~~444~~10. Section **59-10-1006** is repealed and reenacted to read:

59-10-1006. Historic preservation tax credit.

(1) As used in this section:

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

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

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

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

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

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

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

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

(A) the claimant's, estate's, or trust's personal labor;

(B) cost of acquisition of the property;

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

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

Subsection (3)(a)(i);

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

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

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

(2) A claimant, estate, or trust may claim a nonrefundable tax credit in an amount equal to 20% of qualified rehabilitation expenditures if:

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

(b) the qualified rehabilitation expenditures are incurred in connection with a

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residential certified historic building; and

(c) the claimant, estate, or trust has a written tax credit certificate issued in accordance with Subsection (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{12}~~11. Section **59-10-1007** is amended to read:

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

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

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

and

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

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

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

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

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

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

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

[(ii) \$2,000.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) for the taxable year in which the qualifying claimant, estate, or trust made the

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purchases ~~[or payments]~~;

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

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

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

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

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

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

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

Section ~~{13}~~ 12. Section **59-10-1012** is amended to read:

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

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

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

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

~~{~~ (iii) "Independent verification" means a report from an independent certified public

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accountant that:

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

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

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

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

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

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

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

~~(fvi)y~~ "Qualifying claimant" means a claimant, an estate, or a trust that ~~obtains an independent verification and~~ receives a tax credit certificate in accordance with Section 63N-20-102.

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

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

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

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

~~(iii) [a tax credit equal to 7.5% of the {qualifying} claimant's {}, estate's, or trust's {}]~~

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qualified research expenses for the current taxable year] an additional research tax credit for the qualifying claimant's qualified research expenses during the taxable year.

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

~~[(b)]~~ (c) Subject to Subsection ~~[(4)]~~ (5)(3), a qualifying claimant~~[, estate, or trust]~~ may claim a tax credit under:

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

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

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

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

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

~~[(2) { (3) } Except as specifically provided for in this section:]~~

~~[(3) (a) { }] the tax credits authorized under Subsection { (1) { (2) } shall be calculated as provided in Section 41, Internal Revenue Code { }; and } { }~~

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

~~[(3) { (4) } { } For purposes of this section: { }]~~

(a) ~~{ The }~~ base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:]

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

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

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

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

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

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

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

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

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

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

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

~~[(4) (5)(3) (a) If the amount of a tax credit claimed by a qualifying claimant ~~[, estate, or trust]~~ under Subsection ~~[(1)(a)(i)]~~ (2)(a)(i) or (ii) exceeds the qualifying claimant's ~~[, estate's, or trust's]~~ tax liability under this chapter for a taxable year, the ~~[amount of the tax credit exceeding the tax liability]~~ qualifying claimant:~~

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

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

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

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

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

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

(b) The review described in Subsection ~~[(7)(a)]~~1(5)(a) is in addition to the review required by Section 59-10-137.

(c) Notwithstanding Subsection ~~[(7)(a)]~~1(5)(a), the ~~[Revenue and Taxation Interim Committee]~~ committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

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

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

(e) If the ~~[Revenue and Taxation Interim Committee reviews the tax credits provided for in this section]~~ committee conducts a review under this Subsection ~~(7)(5)~~1(5), the committee shall issue a report of the Revenue and Taxation Interim Committee's findings.

Section ~~{14}~~13. Section **59-10-1014** is amended to read:

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

- (1) As used in this section:
 - (a) (i) "Active solar system" means a system of equipment that is capable of:
 - (A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and
 - (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

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- (ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.
- (b) "Biomass system" means a system of apparatus and equipment for use in:
 - (i) converting material into biomass energy, as defined in Section 59-12-102; and
 - (ii) transporting the biomass energy by separate apparatus to the point of use or storage.
- (c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.
- (d) "Geothermal electricity" means energy that is:
 - (i) contained in heat that continuously flows outward from the earth; and
 - (ii) used as a sole source of energy to produce electricity.
- (e) "Geothermal energy" means energy generated by heat that is contained in the earth.
- (f) "Geothermal heat pump system" means a system of apparatus and equipment that:
 - (i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and
 - (ii) helps meet heating and cooling needs of a structure.
- (g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:
 - (i) intercepting and converting kinetic water energy into electrical or mechanical energy; and
 - (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- (h) "Office" means the Office of Energy Development created in Section 79-6-401.
- (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.
 - (ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.
- (j) "Photovoltaic system" means an active solar system that generates electricity from sunlight.
- (k) (i) "Principal recovery portion" means the portion of a lease payment that

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constitutes the cost a person incurs in acquiring a residential energy system.

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

- (A) an interest charge; or
- (B) a maintenance expense.

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

- (i) an active solar system;
- (ii) a biomass system;
- (iii) a direct use geothermal system;
- (iv) a geothermal heat pump system;
- (v) a hydroenergy system;
- (vi) a passive solar system; or
- (vii) a wind system.

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

- (A) is located in the state; and
 - (B) serves as a dwelling for a person, group of persons, or a family.
- (ii) "Residential unit" does not include property subject to a fee under:
- (A) Section 59-2-405;
 - (B) Section 59-2-405.1;
 - (C) Section 59-2-405.2;
 - (D) Section 59-2-405.3; or
 - (E) Section 72-10-110.5.

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

- (i) intercepting and converting wind energy into mechanical or electrical energy; and
- (ii) transferring these forms of energy by a separate apparatus to the point of use or

storage.

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

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

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trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

(a) the claimant, estate, or trust:

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

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

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

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

(4) (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

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

(ii) \$2,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) has been completely installed;

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{15}~~14. Section ~~{59-10-1029}~~59-10-1106 is amended to read:

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

~~_____~~ (1) As used in this section:

~~_____~~ (a) "Alternative energy entity" means the same as that term is defined in Section ~~79-6-502~~:

~~_____~~ (b) "Alternative energy project" means the same as that term is defined in Section ~~79-6-502~~:

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

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

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

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

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

~~_____~~ (b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

(k) "Hydrogen production system" means the same as that term is defined in Section 59-7-614.

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

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

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

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

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

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

(i) the commercial energy system does not use:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) 0.35 cents; and

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

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

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

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

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

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

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

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commercial energy system as a commercial enterprise;

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

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

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

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

(A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6)

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is equal to the product of:

(A) \$0.12; and

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

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

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

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

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

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

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

(A) has been completely installed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{17}~~15. Section **59-10-1113** is amended to read:

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

(A) \$0.12; and

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

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

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

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

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

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

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

(A) has been completely installed; and

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

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

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

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

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

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

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

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

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

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

Section ~~{18}~~16. Section **63I-2-259** is amended to read:

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

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

(1) Subsection 59-7-159(3)(c)(ii), referencing Section 59-7-614, is repealed December 31, ~~{2024}~~2034.

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

(3) Section 59-7-614 is repealed December 31, 2034.

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

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

(6) Section 59-7-626 is repealed December 31, 2034.

(7) Subsection 59-10-137(3)(c)(ii), referencing Section 59-10-1014, is repealed December 31, ~~{2024}~~2034.

(8) Subsection 59-10-137(3)(c)(viii), referencing Section 59-10-1106, is repealed December 31, ~~{2024}~~2034.

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

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

(11) Section 59-10-1014 is repealed December 31, ~~{2024}~~2034.

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

(13) Section 59-10-1106 is repealed December 31, 2034.

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

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

Section ~~{19}~~ 17. Section **63N-8-105** is amended to read:

63N-8-105. Annual report.

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

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

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

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

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

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

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

Section ~~{20}~~ 18. Section **63N-20-101** is enacted to read:

CHAPTER 20. RESEARCH EXPENSES TAX CREDIT

63N-20-101. Definitions.

(1) As used in this chapter:

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

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

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

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

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(ii) contract research expenses incurred in this state.

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

Section ~~{21}~~19. Section **63N-20-102** is enacted to read:

63N-20-102. Tax credit certificate.

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

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

(a) ~~{a report, in a format approved by the office, from an independent certified public accountant that verifies for the taxable year:~~

~~(i) {receipts and other information needed to calculate the person's qualified research expenses};~~

~~(ii) the person's}; payments to a qualified organization for basic research};~~

~~(iii) the person's base amount calculated in accordance with Section 59-7-612 or 59-10-1012;~~

~~(iv) , and base amount;~~

~~(b) a description of the qualified research expenses or payments for basic research}; and~~

~~(v) the amount of each tax credit calculated in accordance with Section 59-7-612 or 59-10-1012 that the person may claim; and~~

~~(b);~~

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

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

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

(3) If, after review of the application, the office determines that the person has}

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~~verified~~ qualified research expenses or payments to a qualified organization for basic research, the office shall ~~issue a tax credit certificate to the person that states~~:

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

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

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

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

~~(i) the name of the person;~~

~~(iii)~~ (i) the name and identifying information of the person; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The director:

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

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energy advisor; and

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

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

(3) The purposes of the office are to:

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

(b) implement:

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

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

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

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

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

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

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

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

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

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

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

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for

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performing office duties described in this part.

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

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

Section 22. **Repealer.**

This bill repeals:

Section 59-7-614.7, Nonrefundable alternative energy development tax credit.

Section 59-10-1024, Nonrefundable tax credit for qualifying solar projects.

Section 59-10-1025, Nonrefundable tax credit for investment in certain life science establishments.

Section 59-10-1029, Nonrefundable alternative energy development tax credit.

Section 63N-2-801, Title.

Section 63N-2-802, Definitions.

Section 63N-2-803, Tax credits issued by office.

Section 63N-2-804, Person may not claim or pass through a tax credit without tax credit certificate.

Section 63N-2-805, Application process.

Section 63N-2-806, Criteria for tax credits.

Section 63N-2-807, Rulemaking authority.

Section 63N-2-808, Agreements between office and tax credit applicant and life science establishment -- Tax credit certificate.

Section 63N-2-809, Issuance of tax credit certificates.

Section 63N-2-810, Reports on tax credit certificates.

Section 63N-2-811, Reports of tax credits.

Section 79-6-501, Title.

Section 79-6-502, Definitions.

Section 79-6-503, Tax credits.

Section 79-6-504, Qualifications for tax credit -- Procedure.

Section 79-6-505, Report to the Legislature.

Section 23. **Effective date.**

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

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

(a) Section ~~59-1-214~~ ~~59-7-159~~; and

(b) Section ~~59-5-102~~;

~~(c) Section 59-7-614; and~~

~~(d) Section 59-10-1106; ~~59-10-137~~.~~

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

(a) Section 59-7-609;

(b) Section 59-7-610;

(c) Section 59-7-612;

(d) Section 59-7-614~~7~~;

(e) Section ~~59-7-626~~ ~~59-7-614.7~~;

(f) Section ~~59-10-1002.2~~ ~~59-7-626~~;

(g) Section ~~59-10-1006~~ ~~59-10-1002.2~~;

(h) Section ~~59-10-1007~~ ~~59-10-1006~~;

(i) Section ~~59-10-1012~~ ~~59-10-1007~~;

(j) Section ~~59-10-1014~~ ~~59-10-1012~~;

(k) Section ~~59-10-1024~~ ~~59-10-1014~~;

(l) Section ~~59-10-1025~~ ~~59-10-1024~~;

(m) Section ~~59-10-1029~~ ~~59-10-1025~~; ~~and~~;

(n) Section ~~59-10-1113~~;

~~Section 24. Retrospective operation:~~

~~(1) The following sections have retrospective operation for a taxable year beginning on or after January 1, 2023: ~~59-10-1029~~;~~

~~(~~a~~) Section ~~59-7-614~~ ~~59-10-1106~~; and~~

~~(~~b~~) Section ~~59-10-1106~~ ~~59-10-1113~~.~~