

**Representative Melissa G. Ballard** proposes the following substitute bill:

**ALTERNATIVE FUEL INCENTIVES AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melissa G. Ballard**

Senate Sponsor: David P. Hinkins

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**LONG TITLE**

**General Description:**

This bill modifies and enacts incentives related to alternative fuels.

**Highlighted Provisions:**

This bill:

- ▶ enacts refundable corporate and individual income tax credits for systems that produce hydrogen from renewable and nonrenewable sources; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

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

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

ENACTS:

**59-7-626**, Utah Code Annotated 1953

**59-10-1113**, Utah Code Annotated 1953



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

Section 1. Section **59-7-614** is amended to read:

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

(1) As used in this section:

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

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

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

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

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

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

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

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

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(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;

57 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

80 (i) intercepting and converting kinetic water energy into electrical or mechanical  
81 energy; and

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

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

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

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

89 [~~(k)~~] (l) "Office" means the Office of Energy Development created in Section  
90 [63M-4-401](#).

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

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

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

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

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

(A) an interest charge; or

(B) a maintenance expense.

104 (p) "Renewable energy source" means the same as that term is defined in Section  
105 [54-17-601](#).

106 [~~(o)~~] (q) "Residential energy system" means the following used to supply energy to or  
107 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.

115 [~~(p)~~] (r) (i) "Residential unit" means a house, condominium, apartment, or similar  
116 dwelling unit that:

(A) is located in the state; and

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

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

120 (A) Section 59-2-405;

121 (B) Section 59-2-405.1;

122 (C) Section 59-2-405.2;

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

124 (E) Section 72-10-110.5.

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

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

127 (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,  
128 or storage.

129 (2) A taxpayer may claim an energy system tax credit as provided in this section  
130 against a tax due under this chapter for a taxable year.

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

134 (i) the taxpayer:

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

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

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

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

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

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

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

149 (iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax

150 liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the  
151 tax credit exceeding the liability [~~may be carried forward~~] for a period that does not exceed the  
152 next four taxable years.

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

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

158 (i) for a system installed on or after January 1, 2018, but on or before December 31,  
159 2020, \$1,600;

160 (ii) for a system installed on or after January 1, 2021, but on or before December 31,  
161 2021, \$1,200;

162 (iii) for a system installed on or after January 1, 2022, but on or before December 31,  
163 2022, \$800;

164 (iv) for a system installed on or after January 1, 2023, but on or before December 31,  
165 2023, \$400; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

229 (A) 0.35 cents; and

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

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

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

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

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

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

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



243 commercial units owned or used by the taxpayer; or

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

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

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

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

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

255 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

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

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

278 (A) \$0.12; and

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

280 (ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than  
281 5,600 metric tons of hydrogen per taxable year.

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

285 [~~7~~] (8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer  
286 shall obtain a written certification from the office.

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

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

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

291 (A) has been completely installed;

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

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

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

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

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

304 (d) A taxpayer that obtains a written certification from the office shall retain the

305 certification for the same time period a person is required to keep books and records under  
306 Section [59-1-1406](#).

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

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

310 (ii) for each taxpayer:

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

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

313 ~~[(8)]~~ (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
314 Act, the commission may make rules to address the certification of a tax credit under this  
315 section.

316 ~~[(9)]~~ (10) A tax credit under this section is in addition to any tax credits provided under  
317 the laws or rules and regulations of the United States.

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

319 **59-7-626. Refundable tax credit for nonrenewable hydrogen production system.**

320 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

340 (A) \$0.12; and

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

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

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

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

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

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

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

353 (A) has been completely installed; and

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

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

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

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

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

366 (ii) for each taxpayer:

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

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

374           **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**  
 375 **Certification -- Rulemaking authority.**

376           (1) As used in this section:

- 377           (a) "Active solar system" means the same as that term is defined in Section
- 378 [59-10-1014](#).
- 379           (b) "Biomass system" means the same as that term is defined in Section [59-10-1014](#).
- 380           (c) "Commercial energy system" means the same as that term is defined in Section
- 381 [59-7-614](#).
- 382           (d) "Commercial enterprise" means the same as that term is defined in Section
- 383 [59-7-614](#).
- 384           (e) [(†)] "Commercial unit" means the same as that term is defined in Section [59-7-614](#).
- 385           [(ii) ~~Notwithstanding Subsection (1)(c)(i):~~
- 386           ~~[(A) with respect to an active solar system used for agricultural water pumping or a~~
- 387 ~~wind system, each individual energy generating device is considered to be a commercial unit;~~
- 388 ~~or]~~
- 389           ~~[(B) if an energy system is the building or structure that a claimant, estate, or trust uses~~
- 390 ~~to transact business, a commercial unit is the complete energy system itself.]~~
- 391           (f) "Direct use geothermal system" means the same as that term is defined in Section
- 392 [59-10-1014](#).
- 393           (g) "Geothermal electricity" means the same as that term is defined in Section
- 394 [59-10-1014](#).
- 395           (h) "Geothermal energy" means the same as that term is defined in Section [59-10-1014](#).
- 396           (i) "Geothermal heat pump system" means the same as that term is defined in Section
- 397 [59-10-1014](#).

398 (j) "Hydroenergy system" means the same as that term is defined in Section  
399 [59-10-1014](#).

400 (k) "Hydrogen production system" means the same as that term is defined in Section  
401 [59-7-614](#).

402 ~~[(k)]~~ (l) "Office" means the Office of Energy Development created in Section  
403 [63M-4-401](#).

404 ~~[(h)]~~ (m) "Passive solar system" means the same as that term is defined in Section  
405 [59-10-1014](#).

406 ~~[(m)]~~ (n) "Principal recovery portion" means the same as that term is defined in Section  
407 [59-10-1014](#).

408 ~~[(n)]~~ (o) "Wind system" means the same as that term is defined in Section [59-10-1014](#).

409 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in  
410 this section against a tax due under this chapter for a taxable year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

467 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

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

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

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



491 accordance with Subsection ~~[(6)]~~ (7).

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

494 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

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

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

518 (A) \$0.12; and

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

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

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

525 ~~[(6)]~~ (7) (a) Before a claimant, estate, or trust may claim a tax credit under this section,  
526 the claimant, estate, or trust shall obtain a written certification from the office.

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

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

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

534 (A) has been completely installed;

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

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

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

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

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

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

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

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

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

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

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

555 ~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
556 Act, the commission may make rules to address the certification of a tax credit under this  
557 section.

558 ~~[(8)]~~ (9) A tax credit under this section is in addition to any tax credits provided under  
559 the laws or rules and regulations of the United States.

560 ~~[(9)]~~ (10) A purchaser of one or more solar units that claims a tax credit under Section  
561 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this  
562 section for that purchase.

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

564 **59-10-1113. Refundable tax credit for nonrenewable hydrogen production system.**

565 (1) As used in this section:

566 (a) "Commercial enterprise" means the same as that term is defined in Section  
567 [59-7-626](#).

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

569 (c) "Hydrogen production system" means the same as that term is defined in Section  
570 [59-7-626](#).

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

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

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

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

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

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

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

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

584 to the product of:

585 (A) \$0.12; and

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

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

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

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

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

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

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

600 (A) has been completely installed;

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

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

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

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

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

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

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

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

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

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

620 Section 5. **Effective date.**

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