

ALTERNATIVE FUEL INCENTIVES AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

12 This bill modifies and enacts incentives related to alternative fuels.

Highlighted Provisions:

14 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:

19 None

Other Special Clauses:

21 This bill provides a special effective date.

Utah Code Sections Affected:

23 AMENDS:

24 **59-7-614**, as last amended by Laws of Utah 2019, Chapter 247

25 **59-10-1106**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

26 ENACTS:

27 **59-7-626**, Utah Code Annotated 1953

28 **59-10-1113**, Utah Code Annotated 1953

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

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

31 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**

32 **Rulemaking authority.**

33 (1) As used in this section:

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

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

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

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

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

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

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

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

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

46 (B) a biomass system;

47 (C) a direct use geothermal system;

48 (D) a geothermal electricity system;

49 (E) a geothermal heat pump system;

50 (F) a hydroenergy system;

51 (G) a passive solar system; or

52 (H) a wind system;

53 (ii) located in the state; and

54 (iii) used:

56 (A) to supply energy to a commercial unit; or
57 (B) as a commercial enterprise.

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

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

60 or

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

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

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

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

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

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

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

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

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

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

77 (i) "Geothermal heat pump system" means a system of apparatus and equipment that;

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

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

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

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

84 energy; and

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

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

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

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

92 [t] (l) "Office" means the Office of Energy Development created in Section
93 **63M-4-401.**

94 [t] (m) (i) "Passive solar system" means a direct thermal system that utilizes the
95 structure of a building and [its] the structure's operable components to provide for collection,
96 storage, and distribution of heating or cooling during the appropriate times of the year by
97 utilizing the climate resources available at the site.

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

100 [t] (n) "Photovoltaic system" means an active solar system that generates electricity
101 from sunlight.

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

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

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

107 (p) "Renewable energy source" means the same as that term is defined in Section
108 **54-17-601.**

109 [t] (q) "Residential energy system" means the following used to supply energy to or
110 for a residential unit:

111 (i) an active solar system;

- 112 (ii) a biomass system;

113 (iii) a direct use geothermal system;

114 (iv) a geothermal heat pump system;

115 (v) a hydroenergy system;

116 (vi) a passive solar system; or

117 (vii) a wind system.

118 [¶] (r) (i) "Residential unit" means a house, condominium, apartment, or similar
119 dwelling unit that:

120 (A) is located in the state; and

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

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

123 (A) Section 59-2-405;

124 (B) Section 59-2-405.1;

125 (C) Section 59-2-405.2;

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

127 (E) Section 72-10-110.5.

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

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

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

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

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

137 (i) the taxpayer:

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

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

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

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

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

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

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

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

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

161 (i) for a system installed on or after January 1, 2018, but on or before December 31,
162 2020, \$1,600;

163 (ii) for a system installed on or after January 1, 2021, but on or before December 31,
164 2021, \$1,200;

165 (iii) for a system installed on or after January 1, 2022, but on or before December 31,
166 2022, \$800;

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

168 2023, \$400; and

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

170 (e) If a taxpayer sells a residential unit to another person before the taxpayer claims the

171 tax credit under this Subsection (3):

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

173 (ii) (A) if the other person files a return under this chapter, the other person may claim

174 the tax credit under this section as if the other person had met the requirements of this section

175 to claim the tax credit; or

176 (B) if the other person files a return under Chapter 10, Individual Income Tax Act, the

177 other person may claim the tax credit under Section [59-10-1014](#) as if the other person had met

178 the requirements of Section [59-10-1014](#) to claim the tax credit.

179 (4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a

180 refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

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

182 (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a

183 total of 660 or more kilowatts of electricity; or

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

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

186 system;

187 (iii) (A) the commercial energy system supplies all or part of the energy required by

188 commercial units owned or used by the taxpayer; or

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

190 system as a commercial enterprise;

191 ~~[(iv) the commercial energy system is completed and placed in service on or after~~

192 ~~January 1, 2007, and]~~

193 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7)

194 for hydrogen production using electricity for which the taxpayer claims a tax credit under this

195 Subsection (4); and

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

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

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

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

203 (iv) A tax credit under this Subsection (4) may not be carried forward or carried back.]

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

206 (c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a

207 commercial energy system installed on a commercial unit may claim a tax credit under this
208 Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax
209 credit.

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

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

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

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

223 (iii) the commercial energy system is completed and placed in service on or after

224 ~~January 1, 2007; and]~~

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

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

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

232 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

252 [iv) the commercial energy system is completed and placed in service on or after
253 January 1, 2015; and]

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

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

258 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

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

279 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7)

280 is equal to the product of:

281 (A) \$0.12; and

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

283 (ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than

284 5,600 metric tons of hydrogen per taxable year.

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

288 [(7)] (8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer
289 shall obtain a written certification from the office.

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

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

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

294 (A) has been completely installed;

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

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

297 energy system [or], the commercial energy system, or the hydrogen production system uses the
298 state's renewable and nonrenewable energy resources in an appropriate and economic manner.

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

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

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

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

308 certification for the same time period a person is required to keep books and records under
309 Section **59-1-1406**.

310 (e) The office shall submit to the commission an electronic list that includes:
311 (i) the name and identifying information of each taxpayer to which the office issues a
312 written certification; and
313 (ii) for each taxpayer:
314 (A) the amount of the tax credit listed on the written certification; and
315 (B) the date the renewable energy system was installed.

316 [~~(8)~~] **(9)** In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
317 Act, the commission may make rules to address the certification of a tax credit under this
318 section.

319 [~~(9)~~] **(10)** A tax credit under this section is in addition to any tax credits provided under
320 the laws or rules and regulations of the United States.

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

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

(1) As used in this section:

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

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

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

330 (d) "Office" means the Office of Energy Development created in Section **63M-4-401**.

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

(i) the taxpayer owns a hydrogen production system;

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

335 (iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own

336 use in commercial units, the hydrogen produced from the hydrogen production system;
337 (iv) the taxpayer has not claimed and will not claim a tax credit under Section 59-7-614
338 for electricity used to meet the requirements of this section; and
339 (v) the taxpayer obtains a written certification from the office in accordance with
340 Subsection (3).
341 (b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal
342 to the product of:
343 (A) \$0.12; and
344 (B) the number of kilograms of hydrogen produced during the taxable year.
345 (ii) A taxpayer may not receive a tax credit under this section for more than 5,600
346 metric tons of hydrogen per taxable year.
347 (iii) A taxpayer is eligible to claim a tax credit under this section for production
348 occurring during a period of 48 months beginning with the month in which the hydrogen
349 production system is placed in commercial service.
350 (3) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall
351 obtain a written certification from the office.
352 (b) The office shall issue a taxpayer a written certification if the office determines that:
353 (i) the taxpayer meets the requirements of this section to receive a tax credit; and
354 (ii) the hydrogen production system with respect to which the taxpayer seeks to claim a
355 tax credit:
356 (A) has been completely installed; and
357 (B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen
358 production system uses the state's nonrenewable energy resources in an appropriate and
359 economic manner.
360 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
361 office may make rules for determining whether a hydrogen production system meets the
362 requirements of Subsection (3)(b)(ii).
363 (d) A taxpayer that obtains a written certification from the office shall retain the

364 certification for the same time period a person is required to keep books and records under
365 Section 59-1-1406.

366 (e) The office shall submit to the commission an electronic list that includes:
367 (i) the name and identifying information of each taxpayer to which the office issues a
368 written certification; and

369 (ii) for each taxpayer:
370 (A) the amount of the tax credit listed on the written certification; and
371 (B) the date the hydrogen production system was installed.

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

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

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

377 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**

378 **Certification -- Rulemaking authority.**

379 (1) As used in this section:
380 (a) "Active solar system" means the same as that term is defined in Section
381 **59-10-1014.**
382 (b) "Biomass system" means the same as that term is defined in Section **59-10-1014.**
383 (c) "Commercial energy system" means the same as that term is defined in Section
384 **59-7-614.**
385 (d) "Commercial enterprise" means the same as that term is defined in Section
386 **59-7-614.**

387 (e) [(i)] "Commercial unit" means the same as that term is defined in Section **59-7-614.**
388 [(ii) Notwithstanding Subsection (1)(e)(i):]
389 [(A) with respect to an active solar system used for agricultural water pumping or a
390 wind system, each individual energy generating device is considered to be a commercial unit;
391 or]

392 [B) if an energy system is the building or structure that a claimant, estate, or trust uses
393 to transact business, a commercial unit is the complete energy system itself.]

394 (f) "Direct use geothermal system" means the same as that term is defined in Section
395 59-10-1014.

396 (g) "Geothermal electricity" means the same as that term is defined in Section
397 59-10-1014.

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

399 (i) "Geothermal heat pump system" means the same as that term is defined in Section
400 59-10-1014.

401 (j) "Hydroenergy system" means the same as that term is defined in Section
402 59-10-1014.

403 (k) "Hydrogen production system" means the same as that term is defined in Section
404 59-7-614.

405 [k) (l) "Office" means the Office of Energy Development created in Section
406 63M-4-401.

407 [t) (m) "Passive solar system" means the same as that term is defined in Section
408 59-10-1014.

409 [t) (n) "Principal recovery portion" means the same as that term is defined in Section
410 59-10-1014.

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

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

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

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

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

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

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

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

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

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

(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 [~~(6)~~] (7).

(b) (i) Subject to Subsections (3)(b)(ii) through [~~(v)~~] (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 [~~may claim~~] 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) A tax credit under this Subsection (3) may not be carried forward or carried back.~~]

[~~(v)~~] (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

448 credit under this Subsection (3) only the principal recovery portion of the lease payments.

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

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

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

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

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

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

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

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

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

470 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

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

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

493 (v) the claimant, estate, or trust obtains a written certification from the office in
494 accordance with Subsection [46] (7).

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

497 (A) 0.35 cents; and

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

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

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

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

504 on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or
505 trust confirms that the lessor irrevocably elects not to claim the tax credit.

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

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

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

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

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

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

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

521 (A) \$0.12; and

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

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

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

528 [(6)] (7) (a) Before a claimant, estate, or trust may claim a tax credit under this section,
529 the claimant, estate, or trust shall obtain a written certification from the office.

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

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

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

537 (A) has been completely installed;

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

539 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial

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

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

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

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

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

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

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

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

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

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

[77] [88] 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

560 section.

561 [8] (9) A tax credit under this section is in addition to any tax credits provided under
562 the laws or rules and regulations of the United States.

563 [9] (10) A purchaser of one or more solar units that claims a tax credit under Section
564 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this
565 section for that purchase.

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

567 **59-10-1113. Refundable tax credit for nonrenewable hydrogen production system.**

568 (1) As used in this section:

569 (a) "Commercial enterprise" means the same as that term is defined in Section
570 59-7-626.

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

572 (c) "Hydrogen production system" means the same as that term is defined in Section
573 59-7-626.

574 (d) "Office" means the Office of Energy Development created in Section 63M-4-401.

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

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

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

578 January 1, 2022;

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

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

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

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

588 (A) \$0.12; and

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

590 (ii) A claimant, estate, or trust may not receive a tax credit under this section for more

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

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

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

594 hydrogen production system is placed in commercial service.

595 (3) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the

596 claimant, estate, or trust shall obtain a written certification from the office.

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

598 determines that:

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

600 credit; and

601 (ii) the hydrogen production system with respect to which the claimant, estate, or trust

602 seeks to claim a tax credit:

603 (A) has been completely installed;

604 (B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen

605 production system uses the state's nonrenewable energy resources in an appropriate and

606 economic manner.

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

608 office may make rules for determining whether a hydrogen production system meets the

609 requirements of this Subsection (3)(b)(ii).

610 (d) A claimant, estate, or trust that obtains a written certification from the office shall

611 retain the certification for the same time period a person is required to keep books and records

612 under Section 59-1-1406.

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

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

615 office issues a written certification; and

616 (ii) for each claimant, estate, or trust:
617 (A) the amount of the tax credit listed on the written certification; and
618 (B) the date the hydrogen production system was installed.
619 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
620 commission may make rules to address the certification of a tax credit under this section.
621 (5) A tax credit under this section is in addition to any tax credits provided under the
622 laws or rules and regulations of the United States.

623 **Section 5. Effective date.**

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