

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**ENERGY TAX CREDIT AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jeremy A. Peterson**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill modifies tax credits for residential and commercial energy systems that utilize solar power.

**Highlighted Provisions:**

This bill:

- ▶ reduces tax credits for residential and commercial energy systems that utilize solar power over time;
- ▶ repeals tax credits for residential and commercial energy systems that utilize solar power on January 1, 2021;
- ▶ requires the governor's energy advisor to make a report; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**59-7-614**, as last amended by Laws of Utah 2015, Chapters 30, 133 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 133

**59-10-1014**, as last amended by Laws of Utah 2015, Chapter 133



28 [59-10-1106](#), as last amended by Laws of Utah 2015, Chapter 133  
29 [63I-2-259](#), as last amended by Laws of Utah 2015, Chapter 139  
30 [63M-4-203](#), as last amended by Laws of Utah 2015, Chapter 378

---

---

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

33 Section 1. Section [59-7-614](#) is amended to read:

34 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**  
35 **Rulemaking authority -- Revenue and Taxation Interim Committee study.**

36 (1) As used in this section:

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

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

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

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

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

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

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

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

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

49 (B) a biomass system;

50 (C) a direct use geothermal system;

51 (D) a geothermal electricity system;

52 (E) a geothermal heat pump system;

53 (F) a hydroenergy system;

54 (G) a passive solar system; or

55 (H) a wind system;

56 (ii) located in the state; and

57 (iii) used:

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

59 (B) as a commercial enterprise.

60 (d) "Commercial enterprise" means an entity, the purpose of which is to produce  
61 electrical, mechanical, or thermal energy for sale from a commercial energy 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 wind  
66 system, each individual energy generating device is considered to be a commercial unit; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

95 (A) an interest charge; or

96 (B) a maintenance expense.

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

99 (i) an active solar system;

100 (ii) a biomass system;

101 (iii) a direct use geothermal system;

102 (iv) a geothermal heat pump system;

103 (v) a hydroenergy system;

104 (vi) a passive solar system; or

105 (vii) a wind system.

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

108 (A) is located in the state; and

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

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

111 (A) Section 59-2-404;

112 (B) Section 59-2-405;

113 (C) Section 59-2-405.1;

114 (D) Section 59-2-405.2; or

115 (E) Section 59-2-405.3.

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

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

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

120 (2) A taxpayer may claim an energy system tax credit as provided in this section

121 against a tax due under this chapter for a taxable year.

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

125 (i) the taxpayer:

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

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

130 (ii) the residential energy system is completed and placed in service on or after January  
131 1, 2007; and

132 (iii) the taxpayer obtains a written certification from the office in accordance with  
133 Subsection (7).

134 (b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 25% of the  
135 reasonable costs of each residential energy system installed with respect to each residential unit  
136 the taxpayer owns or uses.

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

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

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

143 (v) (A) [The] Except as provided in Subsections (3)(b)(v)(B) through (D), the total  
144 amount of tax credit a taxpayer may claim under this Subsection (3) may not exceed \$2,000 per  
145 residential unit.

146 (B) If the residential energy system utilizes only an active solar system or a passive  
147 solar system, or both, to supply energy to the residential unit, the tax credit claimed under this  
148 Subsection (3) may not exceed \$1,500 for a taxable year beginning on or after January 1, 2018,  
149 and ending on December 31, 2018.

150 (C) If the residential energy system utilizes only an active solar system or a passive  
151 solar system, or both, to supply energy to the residential unit, the tax credit claimed under this

152 Subsection (3) may not exceed \$1,000 for a taxable year beginning on or after January 1, 2019,  
153 and ending on December 31, 2019.

154 (D) If the residential energy system utilizes only an active solar system or a passive  
155 solar system, or both, to supply energy to the residential unit, the tax credit claimed under this  
156 Subsection (3) may not exceed \$500 for a taxable year beginning on or after January 1, 2020,  
157 and ending on December 31, 2020.

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

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

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

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

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

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

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

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

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

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

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

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

181 (v) the taxpayer obtains a written certification from the office in accordance with  
182 Subsection (7).

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

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

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

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

189 (v) (A) [The] Except as provided in Subsections (4)(b)(v)(B) through (E), the total  
190 amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed \$50,000  
191 per commercial unit.

192 (B) If the commercial energy system utilizes only an active solar system or a passive  
193 solar system, or both, to supply energy to the commercial unit, the tax credit claimed under this  
194 Subsection (4) may not exceed \$40,000 for a taxable year beginning on or after January 1,  
195 2017, and ending on December 31, 2017.

196 (C) If the commercial energy system utilizes only an active solar system or a passive  
197 solar system, or both, to supply energy to the commercial unit, the tax credit claimed under this  
198 Subsection (4) may not exceed \$30,000 for a taxable year beginning on or after January 1,  
199 2018, and ending on December 31, 2018.

200 (D) If the commercial energy system utilizes only an active solar system or a passive  
201 solar system, or both, to supply energy to the commercial unit, the tax credit claimed under this  
202 Subsection (4) may not exceed \$20,000 for a taxable year beginning on or after January 1,  
203 2019, and ending on December 31, 2019.

204 (E) If the commercial energy system utilizes only an active solar system or a passive  
205 solar system, or both, to supply energy to the commercial unit, the tax credit claimed under this  
206 Subsection (4) may not exceed \$10,000 for a taxable year beginning on or after January 1,  
207 2020, and ending on December 31, 2020.

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

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

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

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

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

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

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

225 (iii) the commercial energy system is completed and placed in service on or after  
226 January 1, 2007; and

227 (iv) the taxpayer obtains a written certification from the office in accordance with  
228 Subsection (7).

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

231 (A) 0.35 cents; and

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

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

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

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

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

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

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



245 commercial units owned or used by the taxpayer; or

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

248 (iii) the taxpayer does not claim a tax credit under Subsection (4);

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

251 (v) the taxpayer obtains a written certification from the office in accordance with  
252 Subsection (7).

253 (b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6)  
254 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 tax credit under this Subsection (6) may be claimed for production occurring  
258 during a period of 48 months beginning with the month in which the commercial energy  
259 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) Before a taxpayer may claim a tax credit under this section, the taxpayer shall  
265 obtain a written certification from the office.

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

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

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

270 (A) has been completely installed;

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

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

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

276 office may make rules:

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

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

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

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

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

289 (10) (a) On or before October 1, 2017, and every five years after 2017, the Revenue  
290 and Taxation Interim Committee shall review each tax credit provided by this section and  
291 report its recommendations to the Legislative Management Committee concerning whether the  
292 tax credit should be continued, modified, or repealed.

293 (b) The Revenue and Taxation Interim Committee's report under Subsection (10)(a)  
294 shall include information concerning the cost of the tax credit, the purpose and effectiveness of  
295 the tax credit, and the state's benefit from the tax credit.

296 Section 2. Section 59-10-1014 is amended to read:

297 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**  
298 **Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

299 (1) As used in this section:

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

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

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

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

- 307 (b) "Biomass system" means a system of apparatus and equipment for use in:
- 308 (i) converting material into biomass energy, as defined in Section 59-12-102; and
- 309 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.
- 310 (c) "Direct use geothermal system" means a system of apparatus and equipment that
- 311 enables the direct use of geothermal energy to meet energy needs, including heating a building,
- 312 an industrial process, and aquaculture.
- 313 (d) "Geothermal electricity" means energy that is:
- 314 (i) contained in heat that continuously flows outward from the earth; and
- 315 (ii) used as a sole source of energy to produce electricity.
- 316 (e) "Geothermal energy" means energy generated by heat that is contained in the earth.
- 317 (f) "Geothermal heat pump system" means a system of apparatus and equipment that:
- 318 (i) enables the use of thermal properties contained in the earth at temperatures well
- 319 below 100 degrees Fahrenheit; and
- 320 (ii) helps meet heating and cooling needs of a structure.
- 321 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable
- 322 of:
- 323 (i) intercepting and converting kinetic water energy into electrical or mechanical
- 324 energy; and
- 325 (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- 326 (h) "Office" means the Office of Energy Development created in Section 63M-4-401.
- 327 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
- 328 a building and its operable components to provide for collection, storage, and distribution of
- 329 heating or cooling during the appropriate times of the year by utilizing the climate resources
- 330 available at the site.
- 331 (ii) "Passive solar system" includes those portions and components of a building that
- 332 are expressly designed and required for the collection, storage, and distribution of solar energy.
- 333 (j) (i) "Principal recovery portion" means the portion of a lease payment that
- 334 constitutes the cost a person incurs in acquiring a residential energy system.
- 335 (ii) "Principal recovery portion" does not include:
- 336 (A) an interest charge; or
- 337 (B) a maintenance expense.

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

- 340 (i) an active solar system;
- 341 (ii) a biomass system;
- 342 (iii) a direct use geothermal system;
- 343 (iv) a geothermal heat pump system;
- 344 (v) a hydroenergy system;
- 345 (vi) a passive solar system; or
- 346 (vii) a wind system.

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

- 349 (A) is located in the state; and
- 350 (B) serves as a dwelling for a person, group of persons, or a family.
- 351 (ii) "Residential unit" does not include property subject to a fee under:
  - 352 (A) Section [59-2-404](#);
  - 353 (B) Section [59-2-405](#);
  - 354 (C) Section [59-2-405.1](#);
  - 355 (D) Section [59-2-405.2](#); or
  - 356 (E) Section [59-2-405.3](#).

357 (m) "Wind system" means a system of apparatus and equipment that is capable of:  
358 (i) intercepting and converting wind energy into mechanical or electrical energy; and  
359 (ii) transferring these forms of energy by a separate apparatus to the point of use or  
360 storage.

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

363 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust  
364 may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit  
365 the claimant, estate, or trust owns or uses if:

- 366 (i) the claimant, estate, or trust:
  - 367 (A) purchases and completes a residential energy system to supply all or part of the  
368 energy required for the residential unit; or

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

371 (ii) the residential energy system is completed and placed in service on or after January  
372 1, 2007; and

373 (iii) the claimant, estate, or trust obtains a written certification from the office in  
374 accordance with Subsection (4).

375 (b) (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit is equal to 25% of  
376 the reasonable costs of each residential energy system installed with respect to each residential  
377 unit the claimant, estate, or trust owns or uses.

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

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

381 (iv) If the amount of a tax credit under this Subsection (3) exceeds a claimant's,  
382 estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit  
383 exceeding the liability may be carried forward for a period that does not exceed the next four  
384 taxable years.

385 (v) (A) [The] Except as provided in Subsections (3)(b)(v)(B) through (E), the total  
386 amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not  
387 exceed \$2,000 per residential unit.

388 (B) If the commercial energy system utilizes only an active solar system or a passive  
389 solar system, or both, to supply energy to the commercial unit, the tax credit claimed under this  
390 Subsection (3) may not exceed \$40,000 for a taxable year beginning on or after January 1,  
391 2017, and ending on December 31, 2017.

392 (C) If the commercial energy system utilizes only an active solar system or a passive  
393 solar system, or both, to supply energy to the commercial unit, the tax credit claimed under this  
394 Subsection (3) may not exceed \$30,000 for a taxable year beginning on or after January 1,  
395 2018, and ending on December 31, 2018.

396 (D) If the commercial energy system utilizes only an active solar system or a passive  
397 solar system, or both, to supply energy to the commercial unit, the tax credit claimed under this  
398 Subsection (3) may not exceed \$20,000 for a taxable year beginning on or after January 1,  
399 2019, and ending on December 31, 2019.

400           (E) If the commercial energy system utilizes only an active solar system or a passive  
401 solar system, or both, to supply energy to the commercial unit, the tax credit claimed under this  
402 Subsection (3) may not exceed \$10,000 for a taxable year beginning on or after January 1,  
403 2020, and ending on December 31, 2020.

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

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

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

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

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

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

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

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

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

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

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

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

435 (A) has been completely installed;

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

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

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

442 (i) for determining whether a residential energy system meets the requirements of  
443 Subsection (4)(b)(ii); and

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

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

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

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

453 (7) A purchaser of one or more solar units that claims a tax credit under Section  
454 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this  
455 section for that purchase.

456 (8) (a) On or before October 1, 2017, and every five years after 2017, the Revenue and  
457 Taxation Interim Committee shall review each tax credit provided by this section and report its  
458 recommendations to the Legislative Management Committee concerning whether the tax credit  
459 should be continued, modified, or repealed.

460 (b) The Revenue and Taxation Interim Committee's report under Subsection (8)(a)  
461 shall include information concerning the cost of the tax credit, the purpose and effectiveness of

462 the tax credit, and the state's benefit from the tax credit.

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

464 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**  
465 **Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

466 (1) As used in this section:

467 (a) "Active solar system" has the same meaning as defined in Section [59-10-1014](#).

468 (b) "Biomass system" has the same meaning as defined in Section [59-10-1014](#).

469 (c) "Commercial energy system" has the same meaning as defined in Section [59-7-614](#).

470 (d) "Commercial enterprise" has the same meaning as defined in Section [59-7-614](#).

471 (e) (i) "Commercial unit" has the same meaning as defined in Section [59-7-614](#).

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

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

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

478 (f) "Direct use geothermal system" has the same meaning as defined in Section  
479 [59-10-1014](#).

480 (g) "Geothermal electricity" has the same meaning as defined in Section [59-10-1014](#).

481 (h) "Geothermal energy" has the same meaning as defined in Section [59-10-1014](#).

482 (i) "Geothermal heat pump system" has the same meaning as defined in Section  
483 [59-10-1014](#).

484 (j) "Hydroenergy system" has the same meaning as defined in Section [59-10-1014](#).

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

486 (l) "Passive solar system" has the same meaning as defined in Section [59-10-1014](#).

487 (m) "Principal recovery portion" has the same meaning as defined in Section  
488 [59-10-1014](#).

489 (n) "Wind system" has the same meaning as defined in Section [59-10-1014](#).

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

492 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust



493 may claim a refundable tax credit under this Subsection (3) with respect to a commercial  
494 energy system if:

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

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

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

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

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

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

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

507 (v) the claimant, estate, or trust obtains a written certification from the office in  
508 accordance with Subsection (6).

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

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

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

514 (iv) A tax credit under this Subsection (3) may not be carried forward or carried back.

515 (v) (A) [The] Except as provided in Subsections (3)(b)(v)(B) through (D), the total  
516 amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not  
517 exceed \$50,000 per commercial unit.

518 (B) If the residential energy system utilizes only an active solar system or a passive  
519 solar system, or both, to supply energy to the residential unit, the tax credit claimed under this  
520 Subsection (3) may not exceed \$1,500 for a taxable year beginning on or after January 1, 2018,  
521 and ending on December 31, 2018.

522 (C) If the residential energy system utilizes only an active solar system or a passive  
523 solar system, or both, to supply energy to the residential unit, the tax credit claimed under this

524 Subsection (3) may not exceed \$1,000 for a taxable year beginning on or after January 1, 2019,  
525 and ending on December 31, 2019.

526 (D) If the residential energy system utilizes only an active solar system or a passive  
527 solar system, or both, to supply energy to the residential unit, the tax credit claimed under this  
528 Subsection (3) may not exceed \$500 for a taxable year beginning on or after January 1, 2020,  
529 and ending on December 31, 2020.

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

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

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

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

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

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

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

548 (iii) the commercial energy system is completed and placed in service on or after  
549 January 1, 2007; and

550 (iv) the claimant, estate, or trust obtains a written certification from the office in  
551 accordance with Subsection (6).

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

554 (A) 0.35 cents; and

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

556 (ii) A tax credit under this Subsection (4) may be claimed for production occurring  
557 during a period of 48 months beginning with the month in which the commercial energy  
558 system is placed in commercial service.

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

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

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

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

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

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

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

572 (iv) the commercial energy system is completed and placed in service on or after  
573 January 1, 2015; and

574 (v) the claimant, estate, or trust obtains a written certification from the office in  
575 accordance with Subsection (6).

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

578 (A) 0.35 cents; and

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

580 (ii) A tax credit under this Subsection (5) may be claimed for production occurring  
581 during a period of 48 months beginning with the month in which the commercial energy  
582 system is placed in commercial service.

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

584 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed  
585 on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or

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

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

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

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

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

595 (A) has been completely installed;

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

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

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

602 (i) for determining whether a commercial energy system meets the requirements of  
603 Subsection (6)(b)(ii); and

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

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

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

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

613 (9) A purchaser of one or more solar units that claims a tax credit under Section  
614 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this  
615 section for that purchase.

616 (10) (a) On or before October 1, 2017, and every five years after 2017, the Revenue

617 and Taxation Interim Committee shall review each tax credit provided by this section and  
 618 report its recommendations to the Legislative Management Committee concerning whether the  
 619 credit should be continued, modified, or repealed.

620 (b) The Revenue and Taxation Interim Committee's report under Subsection (10)(a)  
 621 shall include information concerning the cost of the credit, the purpose and effectiveness of the  
 622 credit, and the state's benefit from the credit.

623 Section 4. Section **63I-2-259** is amended to read:

624 **63I-2-259. Repeal dates -- Title 59.**

625 [~~(1) Subsection 59-2-919(10) is repealed December 31, 2015.~~]

626 [~~(2) Subsection 59-2-919.1(4) is repealed December 31, 2015.~~]

627 [~~(3)~~] (1) Subsection 59-2-1007(14) is repealed on December 31, 2018.

628 (2) Subsection 59-7-614(1)(a) is repealed on January 1, 2021.

629 (3) Subsections 59-7-614(1)(c)(i)(A) and (G) are repealed on January 1, 2021.

630 (4) Subsection 59-7-614(1)(e)(ii)(A) is repealed on January 1, 2021.

631 (5) Subsection 59-7-614(1)(l) is repealed on January 1, 2021.

632 (6) Subsections 59-7-614(1)(n)(i) and (vi) are repealed on January 1, 2021.

633 (7) Subsection 59-7-614(3)(b)(v)(A), the language that states "Except as provided in  
 634 Subsections (3)(b)(v)(B) through (3)(b)(v)(D)," is repealed on January 1, 2021.

635 (8) Subsections 59-7-614(3)(b)(v)(B) through (3)(b)(v)(D) are repealed on January 1,  
 636 2021.

637 (9) Subsection 59-7-614(4)(a)(i)(A), the language that states "solar," is repealed on  
 638 January 1, 2021.

639 (10) Subsection 59-7-614(4)(b)(v)(A), the language that states, "Except as provided in  
 640 Subsections (4)(b)(v)(B) through (4)(b)(v)(E)," is repealed on January 1, 2021.

641 (11) Subsections 59-7-614(4)(b)(v)(B) through (4)(b)(v)(E) are repealed on January 1,  
 642 2021.

643 (12) Subsection 59-7-614(6)(a)(i) is repealed on January 1, 2021.

644 (13) Subsection 59-10-1106(1)(a) is repealed on January 1, 2021.

645 (14) Subsection 59-10-1106(1)(e)(ii)(A) is repealed on January 1, 2021.

646 (15) Subsection 59-10-1106(1)(l) is repealed on January 1, 2021.

647 (16) Subsection 59-10-1106(3)(a)(i)(A), the language that states "solar," is repealed on

648 January 1, 2021.

649 (17) Subsection [59-10-1106\(3\)\(a\)\(i\)\(B\)](#) is repealed on January 1, 2021.

650 (18) Subsection [59-10-1106\(3\)\(b\)\(v\)\(A\)](#), the language that states, "Except as provided  
651 in Subsections (3)(b)(v)(B) through (D)," is repealed on January 1, 2021.

652 (19) Subsections [59-10-1106\(3\)\(b\)\(v\)\(B\)](#) through (D) are repealed on January 1, 2021.

653 (20) Subsection [59-10-1106\(5\)\(a\)\(i\)](#) is repealed on January 1, 2021;

654 (21) Subsection [59-10-1106\(9\)](#) is repealed on January 1, 2021.

655 (22) Subsection [59-10-1014\(1\)\(a\)](#) is repealed on January 1, 2021.

656 (23) Subsection [59-10-1014\(1\)\(i\)](#) is repealed on January 1, 2021.

657 (24) Subsections [59-10-1014\(1\)\(k\)\(i\)](#) and (vi) are repealed on January 1, 2021.

658 (25) Subsection [59-10-1014\(3\)\(b\)\(v\)\(A\)](#), the language that states, "Except as provided  
659 in Subsections (3)(b)(v)(B) through (D)," is repealed on January 1, 2021.

660 (26) Subsections [59-10-1014\(3\)\(b\)\(v\)\(B\)](#) through (E) are repealed on January 1, 2021.

661 (27) Subsection [59-10-1014\(7\)](#) is repealed on January 1, 2021.

662 (28) Section [59-10-1024](#) is repealed on January 1, 2021.

663 (29) On January 1, 2021, when making the changes in this section, the Office of  
664 Legislative Research and General Counsel shall, in addition to its authority under Subsection  
665 [36-12-12\(3\)](#), make corrections necessary to ensure that sections and subsections identified in  
666 this section are complete sentences and accurately reflect the office's perception of the  
667 Legislature's intent.

668 Section 5. Section **63M-4-203** is amended to read:

669 **63M-4-203. Reports.**

670 (1) The governor's energy advisor shall report annually to:

671 (a) the governor; and

672 (b) the Natural Resources, Agriculture, and Environment Interim Committee.

673 (2) The report required in Subsection (1) shall:

674 (a) summarize the status and development of the state's energy resources;

675 (b) summarize the activities and accomplishments of the Office of Energy

676 Development;

677 (c) address the governor's energy advisor's activities under this part; and

678 (d) recommend any energy-related executive or legislative action the governor's energy

679 advisor considers beneficial to the state, including updates to the state energy policy under  
680 Section 63M-4-301.

681 (3) The governor's energy advisor shall report to the Natural Resources, Agriculture,  
682 and Environment Interim Committee, no later than October 30, 2017, on the advisability of  
683 creating a grant program within the office for residential and commercial energy systems to  
684 utilize solar power.

---

**Legislative Review Note**  
**Office of Legislative Research and General Counsel**