

UTAH ENERGY ACT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to the qualifications for certain energy related tax credits.

Highlighted Provisions:

This bill:

▶ prohibits a taxpayer, claimant, estate, or trust from claiming or carrying forward a renewable energy system tax credit and an alternative energy development tax credit in the same taxable year.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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



28 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**

29 **Rulemaking authority.**

30 (1) As used in this section:

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

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

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

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

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

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

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

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

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

43 (B) a biomass system;

44 (C) a direct use geothermal system;

45 (D) a geothermal electricity system;

46 (E) a geothermal heat pump system;

47 (F) a hydroenergy system;

48 (G) a passive solar system; or

49 (H) a wind system;

50 (ii) located in the state; and

51 (iii) used:

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

53 (B) as a commercial enterprise.

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

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

56 or

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

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

59 business.

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

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

63 or

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

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

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

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

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

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

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

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

75 below 100 degrees Fahrenheit; and

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

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

78 of:

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

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

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

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

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

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

89 (m) (i) "Passive solar system" means a direct thermal system that utilizes the structure

90 of a building and the structure's operable components to provide for collection, storage, and
91 distribution of heating or cooling during the appropriate times of the year by utilizing the
92 climate resources available at the site.

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

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

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

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

100 (A) an interest charge; or

101 (B) a maintenance expense.

102 (p) "Renewable energy source" means the same as that term is defined in Section
103 [54-17-601](#).

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

106 (i) an active solar system;

107 (ii) a biomass system;

108 (iii) a direct use geothermal system;

109 (iv) a geothermal heat pump system;

110 (v) a hydroenergy system;

111 (vi) a passive solar system; or

112 (vii) a wind system.

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

115 (A) is located in the state; and

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

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

118 (A) Section [59-2-405](#);

119 (B) Section [59-2-405.1](#);

120 (C) Section [59-2-405.2](#);

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

122 (E) Section 72-10-110.5.

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

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

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

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

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

132 (i) the taxpayer:

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

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

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

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

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

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

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

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

151 (d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a

152 photovoltaic system may not exceed:

153 (i) for a system installed on or after January 1, 2018, but on or before December 31,
154 2020, \$1,600;

155 (ii) for a system installed on or after January 1, 2021, but on or before December 31,
156 2021, \$1,200;

157 (iii) for a system installed on or after January 1, 2022, but on or before December 31,
158 2022, \$800;

159 (iv) for a system installed on or after January 1, 2023, but on or before December 31,
160 2023, \$400; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

214 Subsection (5); and

215 (iv) the taxpayer obtains a written certification from the office in accordance with

216 Subsection (8).

217 (b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to

218 the product of:

219 (A) 0.35 cents; and

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

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

222 occurring during a period of 48 months beginning with the month in which the commercial

223 energy system is placed in commercial service.

224 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial

225 unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor

226 irrevocably elects not to claim the tax credit.

227 (6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a

228 refundable tax credit as provided in this Subsection (6) if:

229 (i) the taxpayer owns a commercial energy system that uses solar equipment capable of

230 producing a total of 660 or more kilowatts of electricity;

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

232 commercial units owned or used by the taxpayer; or

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

234 system as a commercial enterprise;

235 (iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed

236 and will not claim a tax credit under Subsection (7) for hydrogen production using electricity

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

238 (iv) the taxpayer obtains a written certification from the office in accordance with

239 Subsection (8).

240 (b) (i) Subject to Subsection (6)(b)(ii), a tax credit under this Subsection (6) is equal to

241 the product of:

242 (A) 0.35 cents; and

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

244 (ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for production

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

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

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

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

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

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

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

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

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

264 (A) \$0.12; and

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

266 (ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than
267 5,600 metric tons of hydrogen per taxable year.

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

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

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

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

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

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

277 (A) has been completely installed;

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

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

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

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

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

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

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

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

295 (ii) for each taxpayer:

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

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

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

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

302 (11) A taxpayer may not claim or carry forward a tax credit described in this section in
303 a taxable year during which the taxpayer claims or carries forward a tax credit under Section
304 [59-7-614.7](#).

305 Section 2. Section [59-7-614.7](#) is amended to read:

306 **[59-7-614.7](#). Nonrefundable alternative energy development tax credit.**

307 (1) As used in this section:

308 (a) "Alternative energy entity" means the same as that term is defined in Section
309 79-6-502.

310 (b) "Alternative energy project" means the same as that term is defined in Section
311 79-6-502.

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

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

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

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

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

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

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

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

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

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

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

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

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

337 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting

338 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
339 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
340 provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative
341 energy entities that receive the tax credit under this section.

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

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

- 348 (i) the cost of the tax credit to the state;
- 349 (ii) the purpose and effectiveness of the tax credit; and
- 350 (iii) the extent to which the state benefits from the tax credit.

351 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection (2)
352 in a taxable year during which the taxpayer claims or carries forward a tax credit under Section
353 59-7-614.

354 Section 3. Section **59-10-1029** is amended to read:

355 **59-10-1029. Nonrefundable alternative energy development tax credit.**

356 (1) As used in this section:

357 (a) "Alternative energy entity" means the same as that term is defined in Section
358 [79-6-502](#).

359 (b) "Alternative energy project" means the same as that term is defined in Section
360 [79-6-502](#).

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

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

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

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

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

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

373 (5) (a) In accordance with Section [59-10-137](#), the Revenue and Taxation Interim
374 Committee shall study the tax credit allowed by this section and make recommendations
375 concerning whether the tax credit should be continued, modified, or repealed.

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

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

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

382 (C) the information contained in the office's latest report under Section [79-6-505](#); and

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

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

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

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

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

397 (i) the cost of the tax credit to the state;

398 (ii) the purpose and effectiveness of the tax credit; and

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

400 (6) A claimant, estate, or trust may not claim may not claim or carry forward a tax
401 credit described in Subsection (2) in a taxable year during which the taxpayer claims or carries
402 forward a tax credit under Section 59-10-1106.

403 Section 4. Section 59-10-1106 is amended to read:

404 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**
405 **Certification -- Rulemaking authority.**

406 (1) As used in this section:

407 (a) "Active solar system" means the same as that term is defined in Section
408 59-10-1014.

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

410 (c) "Commercial energy system" means the same as that term is defined in Section
411 59-7-614.

412 (d) "Commercial enterprise" means the same as that term is defined in Section
413 59-7-614.

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

415 (f) "Direct use geothermal system" means the same as that term is defined in Section
416 59-10-1014.

417 (g) "Geothermal electricity" means the same as that term is defined in Section
418 59-10-1014.

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

420 (i) "Geothermal heat pump system" means the same as that term is defined in Section
421 59-10-1014.

422 (j) "Hydroenergy system" means the same as that term is defined in Section
423 59-10-1014.

424 (k) "Hydrogen production system" means the same as that term is defined in Section
425 59-7-614.

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

427 (m) "Passive solar system" means the same as that term is defined in Section
428 59-10-1014.

429 (n) "Principal recovery portion" means the same as that term is defined in Section
430 59-10-1014.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

459 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a
460 lessee of a commercial energy system installed on a commercial unit may claim a tax credit
461 under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably

462 elects not to claim the tax credit.

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

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

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

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

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

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

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

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

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

484 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

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

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

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

508 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

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

531 (A) \$0.12; and

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

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

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

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

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

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

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

546 (A) has been completely installed;

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

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

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

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

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

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

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

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

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

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

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

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

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

571 (10) A purchaser of one or more solar units that claims a tax credit under Section
572 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
573 section for that purchase.

574 (11) A claimant, estate, or trust may not claim or carry forward a tax credit described in
575 this section in a taxable year during which the claimant, estate, or trust claims or carries
576 forward a tax credit under Section [59-7-1029](#).

577 **Section 5. Retrospective operation.**

578 This bill has retrospective operation for a taxable year beginning on or after January 1,
579 2023.