1	1 ALTERNATIVE FUEL IN	ICENTIVES AMENDMENTS	
2	2 2021 GENER	ERAL SESSION	
3	3 STATE	E OF UTAH	
4	4 Chief Sponsor: 1	Melissa G. Ballard	
5	5 Senate Sponsor:	: David P. Hinkins	
6	6 Cosponsors: Michael J. Pe	Petersen Keven J. Stratton	
7	7 Carl R. Albrecht Angela Rome	nero	
8	8 Clare Collard Douglas V. S	Sagers	
	Steven J. Lund		
9	9		<b>—</b>
10	10 LONG TITLE		
11	11 General Description:		
12	This bill modifies and enacts incentives re	related to alternative fuels.	
13	13 Highlighted Provisions:		
14	14 This bill:		
15	15 ▶ enacts refundable corporate and indivi	vidual income tax credits for systems that	
16	produce hydrogen from renewable and nonrenewa	vable sources; and	
17	17 • makes technical and conforming change	nges.	
18	18 Money Appropriated in this Bill:		
19	19 None		
20	20 Other Special Clauses:		
21	This bill provides a special effective date.	y <b>.</b>	
22	22 Utah Code Sections Affected:		
23	23 AMENDS:		
24	59-7-614, as last amended by Laws of Uta	rah 2019, Chapter 247	
25	25 <b>59-10-1106</b> , as last amended by Laws of U	Utah 2016, Third Special Session, Chapter 1	
26	26 ENACTS:		
27	27 <b>59-7-626</b> , Utah Code Annotated 1953		

28	<b>59-10-1113</b> , Utah Code Annotated 1953
<ul><li>29</li><li>30</li></ul>	Be it enacted by the Legislature of the state of Utah:
31	Section 1. Section <b>59-7-614</b> is amended to read:
32	59-7-614. Renewable energy systems tax credits Definitions Certification
33	Rulemaking authority.
34	(1) As used in this section:
35	(a) (i) "Active solar system" means a system of equipment that is capable of:
36	(A) collecting and converting incident solar radiation into thermal, mechanical, or
37	electrical energy; and
38	(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
39	apparatus to storage or to the point of use.
40	(ii) "Active solar system" includes water heating, space heating or cooling, and
41	electrical or mechanical energy generation.
42	(b) "Biomass system" means a system of apparatus and equipment for use in:
43	(i) converting material into biomass energy, as defined in Section 59-12-102; and
44	(ii) transporting the biomass energy by separate apparatus to the point of use or storage.
45	(c) "Commercial energy system" means a system that is:
46	(i) (A) an active solar system;
47	(B) a biomass system;
48	(C) a direct use geothermal system;
49	(D) a geothermal electricity system;
50	(E) a geothermal heat pump system;
51	(F) a hydroenergy system;
52	(G) a passive solar system; or
53	(H) a wind system;
54	(ii) located in the state; and
55	(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	<u>or</u>
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:
83	(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	[(k)] (1) "Office" means the Office of Energy Development created in Section
93	63M-4-401.
94	$\left[\frac{1}{m}\right]$ (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	[(m)] (n) "Photovoltaic system" means an active solar system that generates electricity
101	from sunlight.
102	$[\frac{n}{n}]$ $[n$
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	<u>54-17-601.</u>
109	$\left[\frac{(o)}{(o)}\right]$ "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	$[\frac{(p)}{(r)}]$ (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	$[\frac{(q)}{s}]$ "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

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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	<del>January 1, 2007; and</del> ]
144	[(iii)] (ii) the taxpayer obtains a written certification from the office in accordance with
145	Subsection $\left[\frac{7}{(7)}\right]$ (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.
150	(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in
151	which the residential energy system is completed and placed in service.
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.]
204	[(v)] (iv) The total amount of tax credit a taxpayer may claim under this Subsection (4)
205	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.
210	(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this
211	Subsection (4) only the principal recovery portion of the lease payments.
212	(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this
213	Subsection (4) for a period that does not exceed seven taxable years after the [date] day on
214	which the lease begins, as stated in the lease agreement.
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	<del>January 1, 2007; and</del> ]
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 [ <del>(7)</del> ] <u>(8)</u> .
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 <u>taxpayer is eligible to claim a</u> 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 $\left[\frac{7}{8}\right]$ .
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 <u>taxpayer is eligible to claim a</u> 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	<u>if:</u>
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	$\left[\frac{7}{8}\right]$ (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	<u>production system</u> 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.

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

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308	cerunication 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 <b>59-7-626</b> is enacted to read:
322	59-7-626. Refundable tax credit for nonrenewable hydrogen production system.
323	(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.
331	(2) (a) A taxpayer may claim a refundable credit under this section if:
332	(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 <b>59-10-1106</b> 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) [ <del>(i)</del> ] "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;
	while system, each mervidual energy generating device is considered to be a commercial unit,

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	<u>59-7-614.</u>
405	[(k)] (1) "Office" means the Office of Energy Development created in Section
406	63M-4-401.
407	$[\underbrace{\text{(H)}}]$ (m) "Passive solar system" means the same as that term is defined in Section
408	59-10-1014.
409	[(m)] (n) "Principal recovery portion" means the same as that term is defined in Section
410	59-10-1014.
411	$[\frac{(n)}{(n)}]$ "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

120	(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;
421	(ii) the claimant, estate, or trust purchases or participates in the financing of the
422	commercial energy system;
123	(iii) (A) the commercial energy system supplies all or part of the energy required by
124	commercial units owned or used by the claimant, estate, or trust; or
125	(B) the claimant, estate, or trust sells all or part of the energy produced by the
426	commercial energy system as a commercial enterprise;
127	[(iv) the commercial energy system is completed and placed in service on or after
128	January 1, 2007; and]
129	(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
430	Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust
431	claims a tax credit under this Subsection (3); and
432	(v) the claimant, estate, or trust obtains a written certification from the office in
433	accordance with Subsection $[(6)]$ $(7)$ .
134	(b) (i) Subject to Subsections (3)(b)(ii) through [(v)] (iv), the tax credit is equal to 10%
435	of the reasonable costs of the commercial energy system.
436	(ii) A tax credit under this Subsection (3) may include installation costs.
437	(iii) A claimant, estate, or trust [may claim] is eligible to claim a tax credit under this
438	Subsection (3) for the taxable year in which the commercial energy system is completed and
139	placed in service.
440	[(iv) A tax credit under this Subsection (3) may not be carried forward or carried back.]
<b>44</b> 1	[(v)] (iv) The total amount of tax credit a claimant, estate, or trust may claim under this
142	Subsection (3) may not exceed \$50,000 per commercial unit.
143	(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a
144	lessee of a commercial energy system installed on a commercial unit may claim a tax credit
145	under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably
146	elects not to claim the tax credit.
147	(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 <u>claimant, estate, or trust is eligible to claim a</u> 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.]

176	(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
177	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.
179	(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
184	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;
187	(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
189	January 1, 2015; and]
190	(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
192	credit under this Subsection (5); and
193	(v) the claimant, estate, or trust obtains a written certification from the office in
194	accordance with Subsection $[(6)]$ $(7)$ .
195	(b) (i) Subject to [Subsections] Subsection (5)(b)(ii) [and (iii)], a tax credit under this
196	Subsection (5) is equal to the product of:
197	(A) 0.35 cents; and
198	(B) the kilowatt hours of electricity produced and used or sold during the taxable year.
199	(ii) A <u>claimant</u> , 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	<u>January 1, 2022;</u>
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	<u>and</u>
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 $\underline{\text{or the hydrogen production system}}$ 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 [(6)] (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	<u>installed.</u>
558	[ <del>(7)</del> ] (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
559	Act, the commission may make rules to address the certification of a tax credit under this

560	section.
561	[ <del>(8)</del> ] <u>(9)</u> 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 <b>59-10-1113</b> 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	<u>59-7-626.</u>
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	<u>59-7-626.</u>
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:

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(A) \$0.12; and

- (B) the number of kilograms of hydrogen produced during the taxable year.
- (ii) A claimant, estate, or trust may not receive a tax credit under this section for more
   than 5,600 metric tons of hydrogen per taxable year.
  - (iii) A claimant, estate, or trust is eligible to claim a tax credit under this section for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.
  - (3) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.
- 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:
  - (A) has been completely installed;

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- (B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen production system uses the state's nonrenewable energy resources in an appropriate and economic manner.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules for determining whether a hydrogen production system meets the requirements of this Subsection (3)(b)(ii).
- (d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.
  - (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

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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.

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

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