

**RENEWABLE ENERGY SYSTEMS TAX CREDIT**

**AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen G. Handy**

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

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**LONG TITLE**

**General Description:**

This bill amends certain renewable energy system tax credits.

**Highlighted Provisions:**

This bill:

- ▶ defines combined heat and power system;
- ▶ adds combined heat and power system to the definition of commercial energy system for purposes of claiming certain renewable energy systems tax credits;
- ▶ provides additional rulemaking authority for the Office of Energy Development to administer the tax credit; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

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

**59-10-1106**, as last amended by Laws of Utah 2015, Chapter 133



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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

(c) "Combined heat and power system" means a system of apparatus and equipment

that:

(i) uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy, including heating and cooling applications;

(ii) produces 20% or more of the combined heat and power system's useful energy in the form of:

(A) thermal energy that is not used to produce electrical or mechanical power or some combination of electrical or mechanical power; and

(B) electrical or mechanical power or some combination of electrical or mechanical power;

(iii) an energy efficient percentage that is more than 60%; and

(iv) does not include a system of apparatus and equipment used to transport the energy source to a combined heat and power system or to distribute energy produced by a combined heat and power system.

59           ~~[(e)]~~ (d) "Commercial energy system" means a system that is:

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

61           (B) a biomass system;

62           ~~(C)~~ a combined heat and power system;

63           ~~[(E)]~~ (D) a direct use geothermal system;

64           ~~[(F)]~~ (E) a geothermal electricity system;

65           ~~[(G)]~~ (F) a geothermal heat pump system;

66           ~~[(H)]~~ (G) a hydroenergy system;

67           ~~[(I)]~~ (H) a passive solar system; or

68           ~~[(J)]~~ (I) a wind system;

69           (ii) located in the state; and

70           (iii) used:

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

72           (B) as a commercial enterprise.

73           ~~[(K)]~~ (e) "Commercial enterprise" means an entity, the purpose of which is to produce  
74 electrical, mechanical, or thermal energy for sale from a commercial energy system.

75           ~~[(L)]~~ (f) (i) "Commercial unit" means a building or structure that an entity uses to  
76 transact business.

77           (ii) Notwithstanding Subsection (1)~~[(L)]~~(f)(i):

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

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

82           ~~[(M)]~~ (g) "Direct use geothermal system" means a system of apparatus and equipment  
83 that enables the direct use of geothermal energy to meet energy needs, including heating a  
84 building, an industrial process, and aquaculture.

85           (h) "Energy efficiency percentage" means a fraction:

86           (i) the numerator of which is the total useful electrical, thermal, and mechanical power:

87           (A) produced by a combined heat and power system at normal operating rates; and

88           (B) expected to be consumed in the combined heat and power system's normal  
89 application; and

90 (ii) the denominator of which is the lower heating value of the fuel sources for the  
91 system.

92 [~~(g)~~] (i) "Geothermal electricity" means energy that is:

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

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

95 [~~(h)~~] (j) "Geothermal energy" means energy generated by heat that is contained in the  
96 earth.

97 [~~(i)~~] (k) "Geothermal heat pump system" means a system of apparatus and equipment  
98 that:

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

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

102 [~~(j)~~] (l) "Hydroenergy system" means a system of apparatus and equipment that is  
103 capable of:

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

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

107 [~~(k)~~] (m) "Office" means the Office of Energy Development created in Section  
108 [63M-4-401](#).

109 [~~(l)~~] (n) (i) "Passive solar system" means a direct thermal system that utilizes the  
110 structure of a building and its operable components to provide for collection, storage, and  
111 distribution of heating or cooling during the appropriate times of the year by utilizing the  
112 climate resources available at the site.

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

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

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

118 (A) an interest charge; or

119 (B) a maintenance expense.

120 [~~(n)~~] (p) "Residential energy system" means the following used to supply energy to or

121 for a residential unit:

- 122 (i) an active solar system;
- 123 (ii) a biomass system;
- 124 (iii) a direct use geothermal system;
- 125 (iv) a geothermal heat pump system;
- 126 (v) a hydroenergy system;
- 127 (vi) a passive solar system; or
- 128 (vii) a wind system.

129 ~~(p)~~ (q) (i) "Residential unit" means a house, condominium, apartment, or similar  
130 dwelling unit that:

- 131 (A) is located in the state; and
- 132 (B) serves as a dwelling for a person, group of persons, or a family.
- 133 (ii) "Residential unit" does not include property subject to a fee under:
  - 134 (A) Section 59-2-404;
  - 135 (B) Section 59-2-405;
  - 136 (C) Section 59-2-405.1;
  - 137 (D) Section 59-2-405.2; or
  - 138 (E) Section 59-2-405.3.

139 ~~(p)~~ (r) "Wind system" means a system of apparatus and equipment that is capable of:  
140 (i) intercepting and converting wind energy into mechanical or electrical energy; and  
141 (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,  
142 or storage.

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

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

- 148 (i) the taxpayer:
  - 149 (A) purchases and completes a residential energy system to supply all or part of the  
150 energy required for the residential unit; or
  - 151 (B) participates in the financing of a residential energy system to supply all or part of

152 the energy required for the residential unit;

153 (ii) the residential energy system is completed and placed in service on or after January  
154 1, 2007; and

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

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

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

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

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

166 (v) The total amount of tax credit a taxpayer may claim under this Subsection (3) may  
167 not exceed \$2,000 per residential unit.

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

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

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

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

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

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

180 (A) wind, geothermal electricity, solar, [or] biomass, or combined heat and power  
181 equipment capable of producing a total of 660 or more kilowatts of electricity; or

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

183 (ii) the taxpayer purchases or participates in the financing of the commercial energy  
184 system;

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

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

189 (iv) (A) for a commercial energy system that is a wind system, geothermal electricity  
190 system, biomass system, or solar system, the commercial energy system is completed and  
191 placed in service on or after January 1, 2007; [and] or

192 (B) for a commercial energy system that is a combined heat and power system, the  
193 commercial energy system is completed and placed in service on or after January 1, 2017; and

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

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

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

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

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

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

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

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

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

213 (5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a

214 refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

215 (i) the commercial energy system uses wind, geothermal electricity, ~~[or]~~ biomass, or  
216 combined heat and power equipment capable of producing a total of 660 or more kilowatts of  
217 electricity;

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

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

222 (iii) (A) for a commercial energy system that is a wind system, geothermal electricity  
223 system, or biomass system, the commercial energy system is completed and placed in service  
224 on or after January 1, 2007; ~~[and]~~ or

225 (B) for a commercial energy system that is a combined heat and power system, the  
226 commercial energy system is completed and placed in service on or after January 1, 2017; 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 (iii) for determining whether a combined heat and power system meets the  
283 requirements described in Subsection (1)(c)(ii); and

284 (iv) for purposes of calculating the energy efficiency percentage described in  
285 Subsection (1)(h).

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

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

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

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

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

300 Section 2. Section 59-10-1106 is amended to read:

301 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**  
302 **Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

303 (1) As used in this section:

304 (a) "Active solar system" ~~[has the same meaning as]~~ means the same as that term is  
305 defined in Section 59-10-1014.

306 (b) "Biomass system" ~~[has the same meaning as]~~ means the same as that term is

307 defined in Section [59-10-1014](#).

308 (c) "Combined heat and power system" means the same as that term is defined in  
309 Section [59-7-614](#).

310 ~~[(c)]~~ (d) "Commercial energy system" [has the same meaning as] means the same as  
311 that term is defined in Section [59-7-614](#).

312 ~~[(d)]~~ (e) "Commercial enterprise" [has the same meaning as] means the same as that  
313 term is defined in Section [59-7-614](#).

314 ~~[(e)]~~ (f) (i) "Commercial unit" [has the same meaning as] means the same as that term  
315 is defined in Section [59-7-614](#).

316 (ii) Notwithstanding Subsection (1)~~[(e)]~~(f)(i):

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

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

322 ~~[(f)]~~ (g) "Direct use geothermal system" [has the same meaning as] means the same as  
323 that term is defined in Section [59-10-1014](#).

324 (h) "Energy efficiency percentage" means the same as that term is defined in Section  
325 [59-7-614](#).

326 ~~[(g)]~~ (i) "Geothermal electricity" [has the same meaning as] means the same as that  
327 term is defined in Section [59-10-1014](#).

328 ~~[(h)]~~ (j) "Geothermal energy" [has the same meaning as] means the same as that term is  
329 defined in Section [59-10-1014](#).

330 ~~[(i)]~~ (k) "Geothermal heat pump system" [has the same meaning as] means the same as  
331 that term is defined in Section [59-10-1014](#).

332 ~~[(j)]~~ (l) "Hydroenergy system" [has the same meaning as] means the same as that term  
333 is defined in Section [59-10-1014](#).

334 ~~[(k)]~~ (m) "Office" means the Office of Energy Development created in Section  
335 [63M-4-401](#).

336 ~~[(l)]~~ (n) "Passive solar system" [has the same meaning as] means the same as that term  
337 is defined in Section [59-10-1014](#).

338 ~~[(m)]~~ (o) "Principal recovery portion" ~~[has the same meaning as]~~ means the same as  
339 that term is defined in Section 59-10-1014.

340 ~~[(n)]~~ (p) "Wind system" ~~[has the same meaning as]~~ means the same as that term is  
341 defined in Section 59-10-1014.

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

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

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

348 (A) wind, geothermal electricity, solar, ~~[or]~~ biomass, or combined heat and power  
349 equipment capable of producing a total of 660 or more kilowatts of electricity; or

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

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

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

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

357 (iv) (A) for a commercial energy system that is a wind system, geothermal electricity  
358 system, biomass system, or solar system, the commercial energy system is completed and  
359 placed in service on or after January 1, 2007; ~~[and]~~ or

360 (B) for a commercial energy system that is a combined heat and power system, the  
361 commercial energy system is completed and placed in service on or after January 1, 2017; and

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

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

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

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

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

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

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

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

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

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

384 (i) the commercial energy system uses wind, geothermal electricity, ~~or~~ biomass, or  
385 combined heat and power equipment capable of producing a total of 660 or more kilowatts of  
386 electricity;

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

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

391 (iii) (A) for a commercial energy system that is a wind system, geothermal electricity  
392 system, or biomass system, the commercial energy system is completed and placed in service  
393 on or after January 1, 2007; ~~and~~ or

394 (B) for a commercial energy system that is a combined heat and power system, the  
395 commercial energy system is completed and placed in service on or after January 1, 2017; and

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

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

400 (A) 0.35 cents; and  
401 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.  
402 (ii) A tax credit under this Subsection (4) may be claimed for production occurring  
403 during a period of 48 months beginning with the month in which the commercial energy  
404 system is placed in commercial service.  
405 (iii) A tax credit under this Subsection (4) may not be carried forward or back.  
406 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed  
407 on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or  
408 trust confirms that the lessor irrevocably elects not to claim the tax credit.  
409 (5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust  
410 may claim a refundable tax credit as provided in this Subsection (5) if:  
411 (i) the claimant, estate, or trust owns a commercial energy system that uses solar  
412 equipment capable of producing a total of 660 or more kilowatts of electricity;  
413 (ii) (A) the commercial energy system supplies all or part of the energy required by  
414 commercial units owned or used by the claimant, estate, or trust; or  
415 (B) the claimant, estate, or trust sells all or part of the energy produced by the  
416 commercial energy system as a commercial enterprise;  
417 (iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);  
418 (iv) the commercial energy system is completed and placed in service on or after  
419 January 1, 2015; and  
420 (v) the claimant, estate, or trust obtains a written certification from the office in  
421 accordance with Subsection (6).  
422 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)  
423 is equal to the product of:  
424 (A) 0.35 cents; and  
425 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.  
426 (ii) A tax credit under this Subsection (5) may be claimed for production occurring  
427 during a period of 48 months beginning with the month in which the commercial energy  
428 system is placed in commercial service.  
429 (iii) A tax credit under this Subsection (5) may not be carried forward or carried back.  
430 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed

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

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

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

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

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

441 (A) has been completely installed;

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

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

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

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

450 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs  
451 of a commercial energy system, as an amount per unit of energy production[-];

452 (iii) for determining whether a combined heat and power system meets the  
453 requirements described in Subsection 59-7-614(1)(c)(ii); and

454 (iv) for purposes of calculating the energy efficiency percentage described in  
455 Subsection 59-7-614(1)(h).

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

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

461 (8) A tax credit under this section is in addition to any tax credits provided under the

462 laws or rules and regulations of the United States.

463 (9) A purchaser of one or more solar units that claims a tax credit under Section  
464 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this  
465 section for that purchase.

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

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

473 Section 3. **Effective date.**

474 This bill takes effect for a taxable year that begins on or after January 1, 2017.

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