

1 **RENEWABLE ENERGY TAX CREDIT AMENDMENTS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ralph Okerlund**

5 House Sponsor: Brad L. Dee

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses renewable energy tax credits.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ addresses renewable energy tax credits; and
- 14 ▶ makes technical and conforming changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 This bill provides a special effective date.

19 This bill provides for retrospective operation.

20 This bill provides a coordination clause.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **59-2-102**, as last amended by Laws of Utah 2014, Chapters 65 and 411

24 **59-7-614**, as last amended by Laws of Utah 2014, Chapter 407

25 **59-10-1014**, as last amended by Laws of Utah 2012, Chapter 37

26 **59-10-1106**, as last amended by Laws of Utah 2012, Chapter 37

27 **Utah Code Sections Affected by Coordination Clause:**

28 **59-7-614**, as last amended by Laws of Utah 2014, Chapter 407

29

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

31 Section 1. Section **59-2-102** is amended to read:

32 **59-2-102. Definitions.**

33 As used in this chapter and title:

34 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
35 engaging in dispensing activities directly affecting agriculture or horticulture with an
36 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
37 rotorcraft's use for agricultural and pest control purposes.

38 (2) "Air charter service" means an air carrier operation which requires the customer to
39 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled
40 trip.

41 (3) "Air contract service" means an air carrier operation available only to customers
42 who engage the services of the carrier through a contractual agreement and excess capacity on
43 any trip and is not available to the public at large.

44 (4) "Aircraft" is as defined in Section [72-10-102](#).

45 (5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

46 (i) operates:

47 (A) on an interstate route; and

48 (B) on a scheduled basis; and

49 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a
50 regularly scheduled route.

51 (b) "Airline" does not include an:

52 (i) air charter service; or

53 (ii) air contract service.

54 (6) "Assessment roll" means a permanent record of the assessment of property as
55 assessed by the county assessor and the commission and may be maintained manually or as a
56 computerized file as a consolidated record or as multiple records by type, classification, or

57 categories.

58 (7) (a) "Certified revenue levy" means a property tax levy that provides an amount of
59 ad valorem property tax revenue equal to the sum of:

60 (i) the amount of ad valorem property tax revenue to be generated statewide in the
61 previous year from imposing a school minimum basic tax rate, as specified in Subsection
62 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section
63 59-2-1602; and

64 (ii) the product of:

65 (A) new growth, as defined in:

66 (I) Section 59-2-924; and

67 (II) rules of the commission; and

68 (B) the school minimum basic tax rate or multicounty assessing and collecting levy
69 certified by the commission for the previous year.

70 (b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not
71 include property tax revenue received by a taxing entity from personal property that is:

72 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and

73 (ii) semiconductor manufacturing equipment.

74 (c) For purposes of calculating the certified revenue levy described in this Subsection
75 (7), the commission shall use:

76 (i) the taxable value of real property assessed by a county assessor contained on the
77 assessment roll;

78 (ii) the taxable value of real and personal property assessed by the commission; and

79 (iii) the taxable year end value of personal property assessed by a county assessor
80 contained on the prior year's assessment roll.

81 (8) "County-assessed commercial vehicle" means:

82 (a) any commercial vehicle, trailer, or semitrailer which is not apportioned under
83 Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or
84 property in furtherance of the owner's commercial enterprise;

85 (b) any passenger vehicle owned by a business and used by its employees for
86 transportation as a company car or vanpool vehicle; and

87 (c) vehicles that are:

88 (i) especially constructed for towing or wrecking, and that are not otherwise used to
89 transport goods, merchandise, or people for compensation;

90 (ii) used or licensed as taxicabs or limousines;

91 (iii) used as rental passenger cars, travel trailers, or motor homes;

92 (iv) used or licensed in this state for use as ambulances or hearses;

93 (v) especially designed and used for garbage and rubbish collection; or

94 (vi) used exclusively to transport students or their instructors to or from any private,
95 public, or religious school or school activities.

96 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,
97 "designated tax area" means a tax area created by the overlapping boundaries of only the
98 following taxing entities:

99 (i) a county; and

100 (ii) a school district.

101 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created
102 by the overlapping boundaries of:

103 (i) the taxing entities described in Subsection (9)(a); and

104 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
105 and the boundaries of the city or town are identical; or

106 (B) a special service district if the boundaries of the school district under Subsection
107 (9)(a) are located entirely within the special service district.

108 (10) "Eligible judgment" means a final and unappealable judgment or order under
109 Section 59-2-1330:

110 (a) that became a final and unappealable judgment or order no more than 14 months
111 prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed;
112 and

113 (b) for which a taxing entity's share of the final and unappealable judgment or order is
114 greater than or equal to the lesser of:

115 (i) \$5,000; or

116 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
117 previous fiscal year.

118 (11) (a) "Escaped property" means any property, whether personal, land, or any
119 improvements to the property, subject to taxation and is:

120 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
121 to the wrong taxpayer by the assessing authority;

122 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
123 comply with the reporting requirements of this chapter; or

124 (iii) undervalued because of errors made by the assessing authority based upon
125 incomplete or erroneous information furnished by the taxpayer.

126 (b) Property that is undervalued because of the use of a different valuation
127 methodology or because of a different application of the same valuation methodology is not
128 "escaped property."

129 (12) "Fair market value" means the amount at which property would change hands
130 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
131 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
132 market value" shall be determined using the current zoning laws applicable to the property in
133 question, except in cases where there is a reasonable probability of a change in the zoning laws
134 affecting that property in the tax year in question and the change would have an appreciable
135 influence upon the value.

136 (13) "Farm machinery and equipment," for purposes of the exemption provided under
137 Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed
138 handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage
139 tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers,
140 and any other machinery or equipment used primarily for agricultural purposes; but does not

141 include vehicles required to be registered with the Motor Vehicle Division or vehicles or other
142 equipment used for business purposes other than farming.

143 (14) "Geothermal fluid" means water in any form at temperatures greater than 120
144 degrees centigrade naturally present in a geothermal system.

145 (15) "Geothermal resource" means:

146 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;

147 and

148 (b) the energy, in whatever form, including pressure, present in, resulting from, created
149 by, or which may be extracted from that natural heat, directly or through a material medium.

150 (16) (a) "Goodwill" means:

151 (i) acquired goodwill that is reported as goodwill on the books and records:

152 (A) of a taxpayer; and

153 (B) that are maintained for financial reporting purposes; or

154 (ii) the ability of a business to:

155 (A) generate income:

156 (I) that exceeds a normal rate of return on assets; and

157 (II) resulting from a factor described in Subsection (16)(b); or

158 (B) obtain an economic or competitive advantage resulting from a factor described in
159 Subsection (16)(b).

160 (b) The following factors apply to Subsection (16)(a)(ii):

161 (i) superior management skills;

162 (ii) reputation;

163 (iii) customer relationships;

164 (iv) patronage; or

165 (v) a factor similar to Subsections (16)(b)(i) through (iv).

166 (c) "Goodwill" does not include:

167 (i) the intangible property described in Subsection (20)(a) or (b);

168 (ii) locational attributes of real property, including:

- 169 (A) zoning;
- 170 (B) location;
- 171 (C) view;
- 172 (D) a geographic feature;
- 173 (E) an easement;
- 174 (F) a covenant;
- 175 (G) proximity to raw materials;
- 176 (H) the condition of surrounding property; or
- 177 (I) proximity to markets;
- 178 (iii) value attributable to the identification of an improvement to real property,
- 179 including:
 - 180 (A) reputation of the designer, builder, or architect of the improvement;
 - 181 (B) a name given to, or associated with, the improvement; or
 - 182 (C) the historic significance of an improvement; or
 - 183 (iv) the enhancement or assemblage value specifically attributable to the interrelation
 - 184 of the existing tangible property in place working together as a unit.
- 185 (17) "Governing body" means:
 - 186 (a) for a county, city, or town, the legislative body of the county, city, or town;
 - 187 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
 - 188 Local Districts, the local district's board of trustees;
 - 189 (c) for a school district, the local board of education; or
 - 190 (d) for a special service district under Title 17D, Chapter 1, Special Service District
 - 191 Act:
 - 192 (i) the legislative body of the county or municipality that created the special service
 - 193 district, to the extent that the county or municipal legislative body has not delegated authority
 - 194 to an administrative control board established under Section [17D-1-301](#); or
 - 195 (ii) the administrative control board, to the extent that the county or municipal
 - 196 legislative body has delegated authority to an administrative control board established under

197 Section 17D-1-301.

198 (18) (a) For purposes of Section 59-2-103:

199 (i) "household" means the association of persons who live in the same dwelling,
200 sharing its furnishings, facilities, accommodations, and expenses; and

201 (ii) "household" includes married individuals, who are not legally separated, that have
202 established domiciles at separate locations within the state.

203 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
204 commission may make rules defining the term "domicile."

205 (19) (a) Except as provided in Subsection (19)(c), "improvement" means a building,
206 structure, fixture, fence, or other item that is permanently attached to land, regardless of
207 whether the title has been acquired to the land, if:

208 (i) (A) attachment to land is essential to the operation or use of the item; and

209 (B) the manner of attachment to land suggests that the item will remain attached to the
210 land in the same place over the useful life of the item; or

211 (ii) removal of the item would:

212 (A) cause substantial damage to the item; or

213 (B) require substantial alteration or repair of a structure to which the item is attached.

214 (b) "Improvement" includes:

215 (i) an accessory to an item described in Subsection (19)(a) if the accessory is:

216 (A) essential to the operation of the item described in Subsection (19)(a); and

217 (B) installed solely to serve the operation of the item described in Subsection (19)(a);

218 and

219 (ii) an item described in Subsection (19)(a) that:

220 (A) is temporarily detached from the land for repairs; and

221 (B) remains located on the land.

222 (c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

223 (i) an item considered to be personal property pursuant to rules made in accordance

224 with Section 59-2-107;

- 225 (ii) a moveable item that is attached to land:
- 226 (A) for stability only; or
- 227 (B) for an obvious temporary purpose;
- 228 (iii) (A) manufacturing equipment and machinery; or
- 229 (B) essential accessories to manufacturing equipment and machinery;
- 230 (iv) an item attached to the land in a manner that facilitates removal without substantial
- 231 damage to:
- 232 (A) the land; or
- 233 (B) the item; or
- 234 (v) a transportable factory-built housing unit as defined in Section [59-2-1502](#) if that
- 235 transportable factory-built housing unit is considered to be personal property under Section
- 236 [59-2-1503](#).
- 237 (20) "Intangible property" means:
- 238 (a) property that is capable of private ownership separate from tangible property,
- 239 including:
- 240 (i) money;
- 241 (ii) credits;
- 242 (iii) bonds;
- 243 (iv) stocks;
- 244 (v) representative property;
- 245 (vi) franchises;
- 246 (vii) licenses;
- 247 (viii) trade names;
- 248 (ix) copyrights; and
- 249 (x) patents;
- 250 (b) a low-income housing tax credit;
- 251 (c) goodwill; or
- 252 (d) a renewable energy tax credit or incentive, including:

253 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
254 Code;

255 (ii) a federal energy credit for qualified renewable electricity production facilities under
256 Section 48, Internal Revenue Code;

257 (iii) a federal grant for a renewable energy property under American Recovery and
258 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

259 (iv) a tax credit under Subsection ~~59-7-614(2)(c)~~(5).

260 (21) "Livestock" means:

261 (a) a domestic animal;

262 (b) a fur-bearing animal;

263 (c) a honeybee; or

264 (d) poultry.

265 (22) "Low-income housing tax credit" means:

266 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

267 or

268 (b) a low-income housing tax credit under:

269 (i) Section ~~59-7-607~~; or

270 (ii) Section ~~59-10-1010~~.

271 (23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

272 (24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
273 valuable mineral.

274 (25) "Mining" means the process of producing, extracting, leaching, evaporating, or
275 otherwise removing a mineral from a mine.

276 (26) (a) "Mobile flight equipment" means tangible personal property that is:

277 (i) owned or operated by an:

278 (A) air charter service;

279 (B) air contract service; or

280 (C) airline; and

281 (ii) (A) capable of flight;
282 (B) attached to an aircraft that is capable of flight; or
283 (C) contained in an aircraft that is capable of flight if the tangible personal property is
284 intended to be used:

285 (I) during multiple flights;
286 (II) during a takeoff, flight, or landing; and
287 (III) as a service provided by an air charter service, air contract service, or airline.

288 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
289 engine that is rotated:

290 (A) at regular intervals; and
291 (B) with an engine that is attached to the aircraft.

292 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
293 commission may make rules defining the term "regular intervals."

294 (27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
295 sand, rock, gravel, and all carboniferous materials.

296 (28) "Part-year residential property" means property that is not residential property on
297 January 1 of a calendar year but becomes residential property after January 1 of the calendar
298 year.

299 (29) "Personal property" includes:

300 (a) every class of property as defined in Subsection (30) that is the subject of
301 ownership and not included within the meaning of the terms "real estate" and "improvements";

302 (b) gas and water mains and pipes laid in roads, streets, or alleys;

303 (c) bridges and ferries;

304 (d) livestock; and

305 (e) outdoor advertising structures as defined in Section [72-7-502](#).

306 (30) (a) "Property" means property that is subject to assessment and taxation according
307 to its value.

308 (b) "Property" does not include intangible property as defined in this section.

309 (31) "Public utility," for purposes of this chapter, means the operating property of a
310 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
311 company, electrical corporation, telephone corporation, sewerage corporation, or heat
312 corporation where the company performs the service for, or delivers the commodity to, the
313 public generally or companies serving the public generally, or in the case of a gas corporation
314 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
315 consumers within the state for domestic, commercial, or industrial use. Public utility also
316 means the operating property of any entity or person defined under Section 54-2-1 except water
317 corporations.

318 (32) (a) Subject to Subsection (32)(b), "qualifying exempt primary residential rental
319 personal property" means household furnishings, furniture, and equipment that:

- 320 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;
- 321 (ii) are owned by the owner of the dwelling unit that is the primary residence of a
322 tenant; and

323 (iii) after applying the residential exemption described in Section 59-2-103, are exempt
324 from taxation under this chapter in accordance with Subsection 59-2-1115(2).

325 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
326 commission may by rule define the term "dwelling unit" for purposes of this Subsection (32)
327 and Subsection (35).

328 (33) "Real estate" or "real property" includes:

- 329 (a) the possession of, claim to, ownership of, or right to the possession of land;
- 330 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
331 individuals or corporations growing or being on the lands of this state or the United States, and
332 all rights and privileges appertaining to these; and
- 333 (c) improvements.

334 (34) "Relationship with an owner of the property's land surface rights" means a
335 relationship described in Subsection 267(b), Internal Revenue Code:

- 336 (a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term

337 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

338 (b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for
339 determining the ownership of stock.

340 (35) (a) Subject to Subsection (35)(b), "residential property," for the purposes of the
341 reductions and adjustments under this chapter, means any property used for residential
342 purposes as a primary residence.

343 (b) Subject to Subsection (35)(c), "residential property":

344 (i) except as provided in Subsection (35)(b)(ii), includes household furnishings,
345 furniture, and equipment if the household furnishings, furniture, and equipment are:

346 (A) used exclusively within a dwelling unit that is the primary residence of a tenant;
347 and

348 (B) owned by the owner of the dwelling unit that is the primary residence of a tenant;
349 and

350 (ii) does not include property used for transient residential use.

351 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
352 commission may by rule define the term "dwelling unit" for purposes of Subsection (32) and
353 this Subsection (35).

354 (36) "Split estate mineral rights owner" means a person who:

355 (a) has a legal right to extract a mineral from property;

356 (b) does not hold more than a 25% interest in:

357 (i) the land surface rights of the property where the wellhead is located; or

358 (ii) an entity with an ownership interest in the land surface rights of the property where
359 the wellhead is located;

360 (c) is not an entity in which the owner of the land surface rights of the property where
361 the wellhead is located holds more than a 25% interest; and

362 (d) does not have a relationship with an owner of the land surface rights of the property
363 where the wellhead is located.

364 (37) (a) "State-assessed commercial vehicle" means:

365 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate
366 to transport passengers, freight, merchandise, or other property for hire; or

367 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and
368 transports the vehicle owner's goods or property in furtherance of the owner's commercial
369 enterprise.

370 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which
371 are specified in Subsection (8)(c) as county-assessed commercial vehicles.

372 (38) "Taxable value" means fair market value less any applicable reduction allowed for
373 residential property under Section 59-2-103.

374 (39) "Tax area" means a geographic area created by the overlapping boundaries of one
375 or more taxing entities.

376 (40) "Taxing entity" means any county, city, town, school district, special taxing
377 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
378 Districts, or other political subdivision of the state with the authority to levy a tax on property.

379 (41) "Tax roll" means a permanent record of the taxes charged on property, as extended
380 on the assessment roll and may be maintained on the same record or records as the assessment
381 roll or may be maintained on a separate record properly indexed to the assessment roll. It
382 includes tax books, tax lists, and other similar materials.

383 Section 2. Section 59-7-614 is amended to read:

384 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**
385 **Rulemaking authority -- Revenue and Taxation Interim Committee study.**

386 (1) As used in this section:

387 (a) (i) "Active solar system"[:-(i)] means a system of equipment that is capable of:
388 (A) collecting and converting incident solar radiation into thermal, mechanical, or
389 electrical energy[:]; and

390 (B) transferring [~~these forms~~] a form of energy described in Subsection (1)(a)(i)(A) by
391 a separate apparatus to storage or to the point of use[:~~and~~].

392 (ii) "Active solar system" includes water heating, space heating or cooling, and

393 electrical or mechanical energy generation.

394 (b) "Biomass system" means ~~[any]~~ a system of apparatus and equipment for use in:

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

396 (ii) transporting ~~[that]~~ the biomass energy by separate apparatus to the point of use or
397 storage.

398 ~~[(c) "Business entity" means any sole proprietorship, estate, trust, partnership,
399 association, corporation, cooperative, or other entity under which business is conducted or
400 transacted.]~~

401 ~~[(d)]~~ (c) "Commercial energy system" means ~~[any active solar, passive solar,
402 geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind,
403 hydroenergy, or biomass system used]~~ a system that is:

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

405 (B) a biomass system;

406 (C) a direct use geothermal system;

407 (D) a geothermal electricity system;

408 (E) a geothermal heat pump system;

409 (F) a hydroenergy system;

410 (G) a passive solar system; or

411 (H) a wind system;

412 (ii) located in the state; and

413 (iii) used:

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

415 (B) as a commercial enterprise.

416 ~~[(e)]~~ (d) "Commercial enterprise" means ~~[a business]~~ an entity ~~[whose],~~ the purpose of
417 which is to produce electrical, mechanical, or thermal energy for sale from a commercial
418 energy system.

419 ~~[(f)]~~ (e) (i) "Commercial unit" means ~~[any]~~ a building or structure that ~~[a business]~~ an
420 entity uses to transact ~~[its]~~ business.

421 (ii) Notwithstanding Subsection (1)~~(f)~~(e)(i):

422 (A) ~~[in the case of]~~ with respect to an active solar system used for agricultural water
423 pumping or a wind system, each individual energy generating device ~~[shall]~~ is considered to be
424 a commercial unit; ~~[and]~~ or

425 (B) if an energy system is the building or structure that ~~[a business]~~ an entity uses to
426 transact ~~[its]~~ business, a commercial unit is the complete energy system itself.

427 ~~(g)~~ (f) "Direct use geothermal system" means a system of apparatus and equipment
428 ~~[enabling]~~ that enables the direct use of ~~[thermal]~~ geothermal energy~~[- generally between 100~~
429 ~~and 300 degrees Fahrenheit, that is contained in the earth]~~ to meet energy needs, including
430 heating a building, an industrial process, and aquaculture.

431 ~~(h)~~ (g) "Geothermal electricity" means energy that is:

432 (i) contained in heat that continuously flows outward from the earth ~~[that is];~~ and

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

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

435 (i) "Geothermal heat pump system" means a system of apparatus and equipment
436 ~~[enabling]~~ that:

437 (i) enables the use of thermal properties contained in the earth at temperatures well
438 below 100 degrees Fahrenheit ~~[to help];~~ and

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

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

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

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

445 ~~[(k) "Individual taxpayer" means any person who is a taxpayer as defined in Section~~
446 ~~59-10-103 and an individual as defined in Section 59-10-103.]~~

447 ~~[(h)]~~ (k) "Office" means the Office of Energy Development created in Section
448 ~~63M-4-401.~~

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

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

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

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

458 (A) an interest charge; or

459 (B) a maintenance expense.

460 (n) "Residential energy system" means ~~[any active solar, passive solar, biomass,~~
461 ~~direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system]~~ the
462 following used to supply energy to or for ~~[any]~~ a residential unit ~~[-]:~~

463 (i) an active solar system;

464 (ii) a biomass system;

465 (iii) a direct use geothermal system;

466 (iv) a geothermal heat pump system;

467 (v) a hydroenergy system;

468 (vi) a passive solar system; or

469 (vii) a wind system.

470 (o) (i) "Residential unit" means ~~[any]~~ a house, condominium, apartment, or similar
471 dwelling unit that:

472 (A) is located in the state; and

473 (B) serves as a dwelling for a person, group of persons, or a family ~~[but]~~.

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

475 ~~[(i)]~~ (A) Section 59-2-404;

476 ~~[(ii)]~~ (B) Section 59-2-405;

477 [(iii)] (C) Section 59-2-405.1;

478 [(iv)] (D) Section 59-2-405.2; or

479 [(v)] (E) Section 59-2-405.3.

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

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

482 (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,

483 or storage.

484 ~~[(2) (a) (i) A business entity that purchases and completes or participates in the~~
 485 ~~financing of a residential energy system to supply all or part of the energy required for a~~
 486 ~~residential unit owned or used by the business entity and located in the state may claim a~~
 487 ~~nonrefundable tax credit as provided in this Subsection (2)(a).]~~

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

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

493 (i) the taxpayer:

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

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

498 (ii) the residential energy system is completed and placed in service on or after January
 499 1, 2007; and

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

502 ~~[(ii) (A) The]~~ (b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal
 503 to 25% of the reasonable costs of each residential energy system installed with respect to each
 504 residential unit the [business entity] taxpayer owns or uses~~[, including].~~

505 (ii) A tax credit under this Subsection (3) may include installation costs~~[, against any~~
506 ~~tax due under this chapter].~~

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

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

512 ~~[(B)]~~ (v) The total amount of [each] tax credit a taxpayer may claim under this
513 Subsection [(2)(a)] (3) may not exceed \$2,000 per residential unit.

514 ~~[(C) The tax credit under this Subsection (2)(a) is allowed for any residential energy~~
515 ~~system completed and placed in service on or after January 1, 2007.]~~

516 ~~[(iii)]~~ (c) If a [business entity] taxpayer sells a residential unit to [an individual
517 taxpayer] another person before [making a claim for] the taxpayer claims the tax credit under
518 this Subsection [(2)(a)] (3)~~[, the business entity may]:~~

519 ~~[(A)]~~ (i) the taxpayer may assign [its right to this] the tax credit to the [individual
520 taxpayer] other person; and

521 ~~[(B)]~~ (ii) (A) [if the business entity assigns its right to the tax credit to an individual
522 taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer] if the other person files a
523 return under this chapter, the other person may claim the tax credit under this section as if the
524 [individual taxpayer had completed or participated in the costs of the residential energy system
525 under Section 59-10-1014.] other person had met the requirements of this section to claim the
526 tax credit; or

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

530 ~~[(b) (i) A business entity that purchases or participates in the financing of a commercial~~
531 ~~energy system situated in Utah may claim a refundable tax credit as provided in this Subsection~~
532 ~~(2)(b) if the commercial energy system does not use wind, geothermal electricity, solar, or~~

533 biomass equipment capable of producing a total of 660 or more kilowatts of electricity or if the
534 commercial energy system does not use solar equipment capable of producing 2,000 or more
535 kilowatts of electricity, and:]

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

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

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

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

542 (ii) the taxpayer purchases or participates in the financing of the commercial energy
543 system;

544 (iii) (A) the commercial energy system supplies all or part of the energy required by
545 commercial units owned or used by the [business entity] taxpayer; or

546 (B) the [business entity] taxpayer sells all or part of the energy produced by the
547 commercial energy system as a commercial enterprise[-];

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

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

552 [(ii) (A) A business entity is entitled to a] (b) (i) Subject to Subsections (4)(b)(ii)
553 through (v), the tax credit [of up] is equal to 10% of the reasonable costs of [any] the
554 commercial energy system [installed, including].

555 (ii) A tax credit under this Subsection (4) may include installation costs[-, against any
556 tax due under this chapter].

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

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

560 [(B) Notwithstanding Subsection (2)(b)(ii)(A), the]

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

563 [(C) The tax credit under this Subsection (2)(b) is allowed for any commercial energy
564 system completed and placed in service on or after January 1, 2007.]

565 [(iii) (c) (i) [A business entity that leases] Subject to Subsections (4)(c)(ii) and (iii), a
566 taxpayer that is a lessee of a commercial energy system installed on a commercial unit [is
567 eligible for the] may claim a tax credit under this Subsection [(2)(b)] (4) if the [lessee can
568 confirm] taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

569 [(iv) Only] (ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit
570 under this Subsection (4) only the principal recovery portion of the lease payments[, which is
571 the cost incurred by a business entity in acquiring a commercial energy system, excluding
572 interest charges and maintenance expenses, is eligible for the tax credit under this Subsection
573 (2)(b)].

574 [(v) A business entity that leases a commercial energy system is eligible to use the]

575 (iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this
576 Subsection [(2)(b)] (4) for a period [no greater than] that does not exceed seven taxable years
577 [from the initiation of the lease] after the date the lease begins, as stated in the lease agreement.

578 [(vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or
579 carried back.]

580 [(c) (i) A business entity that owns a commercial energy system located in the state
581 using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or
582 more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection
583 (2)(c) if:]

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

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

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

589 commercial units owned or used by the ~~[business entity]~~ taxpayer; or

590 (B) the ~~[business entity]~~ taxpayer sells all or part of the energy produced by the
591 commercial energy system as a commercial enterprise[-];

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

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

596 ~~[(ii) (A) A business entity may claim]~~

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

599 ~~[(F)] (A) 0.35 cents; and~~

600 ~~[(H)] (B) the kilowatt hours of electricity produced and [either] used or sold during the~~
601 ~~taxable year.~~

602 ~~[(B) (I) The tax credit calculated under Subsection (2)(c)(ii)(A)]~~

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

606 ~~[(H) The tax credit allowed by this Subsection (2)(c) for each year]~~

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

608 ~~[(C) The tax credit under this Subsection (2)(c) is allowed for any commercial energy~~
609 ~~system completed and placed in service on or after January 1, 2007.]~~

610 ~~[(iii) A business entity that leases]~~

611 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial
612 unit [is eligible for the] may claim a tax credit under this Subsection [(2)(c)] (5) if the [lessee
613 can confirm] taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

614 ~~[(d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year~~
615 ~~in which the energy system is completed and placed in service.]~~

616 ~~[(ii) Additional energy systems or parts of energy systems may be claimed for~~

617 subsequent years.]

618 ~~[(iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's~~
619 ~~tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the~~
620 ~~liability may be carried forward for a period that does not exceed the next four taxable years.]~~

621 ~~[(3) (a) A business entity that owns a commercial energy system located in the state~~
622 ~~that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity]~~

623 (6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a
624 refundable tax credit as provided in this Subsection ~~[(3)] (6) if:~~

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

627 ~~[(i)] (ii) (A) the commercial energy system supplies all or part of the energy required~~
628 ~~by commercial units owned or used by the ~~[business entity] taxpayer;~~ or~~

629 ~~(B) the ~~[business entity] taxpayer~~ sells all or part of the energy produced by the~~
630 ~~commercial energy system as a commercial enterprise; ~~[and]~~~~

631 ~~[(ii)] (iii) the ~~[business entity] taxpayer~~ does not claim a tax credit under Subsection~~
632 ~~~~[(2)(b)]. (4);~~~~

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

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

637 ~~(b) ~~[A business entity may claim] (i) Subject to Subsections (6)(b)(ii) and (iii), a tax~~~~
638 ~~credit under this ~~[section] Subsection (6) is~~ equal to the product of:~~

639 ~~[(i)] (A) 0.35 cents; and~~

640 ~~[(ii)] (B) the kilowatt hours of electricity produced and ~~[either]~~ used or sold during the~~
641 ~~taxable year.~~

642 ~~[(c) The] (ii) A tax credit under this Subsection ~~[(3)] (6) may be claimed for~~~~
643 ~~production occurring during a period of 48 months beginning with the month in which the~~
644 ~~commercial energy system is placed in commercial service.~~

645 ~~[(d) The]~~ (iii) A tax credit under this Subsection [(3)] (6) may not be carried forward
646 or carried back.

647 ~~[(e) The tax credit under this Subsection (3) is allowed for a commercial energy system~~
648 ~~completed and placed in service on or after January 1, 2015.]~~

649 ~~[(f)]~~ (c) A [business entity that leases] taxpayer that is a lessee of a commercial energy
650 system installed on a commercial unit may claim a tax credit under this Subsection [(3)] (6) if
651 the [business entity that is the lessee can confirm] taxpayer confirms that the lessor irrevocably
652 elects not to claim the tax credit.

653 ~~[(4) (a) Except as provided in Subsection (4)(b), the tax credits provided for under~~
654 ~~Subsection (2) or (3) are]~~

655 (7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall
656 obtain a written certification from the office.

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

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

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

661 (A) has been completely installed;

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

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

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

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

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

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

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

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

680 ~~[(b)]~~ (10) A purchaser of one or more solar units that claims a tax credit under Section
681 [59-7-614.3](#) for the purchase of the one or more solar units may not claim a tax credit under this
682 section for that purchase.

683 ~~[(c)(i) The office may set standards for residential and commercial energy systems~~
684 ~~claiming a tax credit under Subsections (2)(a) and (b) that cover the safety, reliability,~~
685 ~~efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible~~
686 ~~for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate~~
687 ~~and economic manner.]~~

688 ~~[(ii) The office may set standards for residential and commercial energy systems that~~
689 ~~establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and~~
690 ~~(2)(b)(ii)(A), as an amount per unit of energy production.]~~

691 ~~[(iii) A tax credit may not be taken under Subsection (2) or (3) until the office has~~
692 ~~certified that the energy system has been completely installed and is a viable system for saving~~
693 ~~or production of energy from renewable resources.]~~

694 ~~[(d) The office and the commission may make rules in accordance with Title 63G,~~
695 ~~Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.]~~

696 ~~[(5)]~~ (11) (a) On or before October 1, ~~[2012]~~ 2017, and every five years ~~[thereafter]~~
697 after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided
698 by this section and report its recommendations to the Legislative Management Committee
699 concerning whether the tax credit should be continued, modified, or repealed.

700 (b) The Revenue and Taxation Interim Committee's report under Subsection ~~[(5)]~~

701 (11)(a) shall include information concerning the cost of the tax credit, the purpose and
 702 effectiveness of the tax credit, and the state's benefit from the tax credit.

703 Section 3. Section **59-10-1014** is amended to read:

704 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**
 705 **Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

706 (1) As used in this ~~[part]~~ section:

707 (a) (i) "Active solar system"~~[(i)]~~ means a system of equipment that is capable of:

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

710 (B) transferring ~~[these forms]~~ a form of energy described in Subsection (1)(a)(i)(A) by
 711 a separate apparatus to storage or to the point of use~~;~~~~and~~.

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

714 (b) "Biomass system" means ~~[any]~~ a system of apparatus and equipment for use in:

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

716 (ii) transporting ~~[that]~~ the biomass energy by separate apparatus to the point of use or
 717 storage.

718 ~~[(c) "Business entity" means any entity under which business is conducted or~~
 719 ~~transacted.]~~

720 ~~[(d)]~~ (c) "Direct use geothermal system" means a system of apparatus and equipment
 721 ~~[enabling]~~ that enables the direct use of ~~[thermal]~~ geothermal energy~~;~~~~generally between 100~~
 722 ~~and 300 degrees Fahrenheit, that is contained in the earth]~~ to meet energy needs, including
 723 heating a building, an industrial process, and aquaculture.

724 ~~[(e)]~~ (d) "Geothermal electricity" means energy that is:

725 (i) contained in heat that continuously flows outward from the earth ~~[that is]~~~~;~~ and

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

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

728 (f) "Geothermal heat pump system" means a system of apparatus and equipment

729 ~~[enabling]~~ that:

730 (i) enables the use of thermal properties contained in the earth at temperatures well
731 below 100 degrees Fahrenheit ~~[to help]~~; and

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

733 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable
734 of:

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

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

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

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

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

745 (j) (i) "Principal recovery portion" means the portion of a lease payment that
746 constitutes the cost a person incurs in acquiring a residential energy system.

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

748 (A) an interest charge; or

749 (B) a maintenance expense.

750 ~~[(j)]~~ (k) "Residential energy system" means [any active solar, passive solar, biomass,
751 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system] the
752 following used to supply energy to or for [any] a residential unit[-]:

753 (i) an active solar system;

754 (ii) a biomass system;

755 (iii) a direct use geothermal system;

756 (iv) a geothermal heat pump system;

757 (v) a hydroenergy system;

758 (vi) a passive solar system; or

759 (vii) a wind system.

760 ~~[(k)]~~ (l) (i) "Residential unit" means ~~[any]~~ a house, condominium, apartment, or similar
761 dwelling unit that:

762 (A) is located in the state; and

763 (B) serves as a dwelling for a person, group of persons, or a family ~~[but]~~.

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

765 ~~[(†)]~~ (A) Section 59-2-404;

766 ~~[(††)]~~ (B) Section 59-2-405;

767 ~~[(†††)]~~ (C) Section 59-2-405.1;

768 ~~[(††††)]~~ (D) Section 59-2-405.2; or

769 ~~[(†††††)]~~ (E) Section 59-2-405.3.

770 ~~[(††)]~~ (m) "Wind system" means a system of apparatus and equipment that is capable of:

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

772 (ii) transferring these forms of energy by a separate apparatus to the point of use or

773 storage.

774 ~~[(2) For taxable years beginning on or after January 1, 2007, a claimant, estate, or trust
775 may claim a nonrefundable tax credit as provided in this section if:]~~

776 ~~[(a) a claimant, estate, or trust that is not a business entity purchases and completes or
777 participates in the financing of a residential energy system to supply all or part of the energy for
778 the claimant's, estate's, or trust's residential unit in the state; or]~~

779 ~~[(b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to
780 another claimant, estate, or trust that is not a business entity before making a claim for a tax
781 credit under Subsection (6) or Section 59-7-614; and]~~

782 ~~[(ii) the claimant, estate, or trust that is a business entity assigns its right to the tax
783 credit to the claimant, estate, or trust that is not a business entity as provided in Subsection
784 (6)(c) or Subsection 59-7-614(2)(a)(iii).]~~

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

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

790 (i) the claimant, estate, or trust:

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

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

795 (ii) the residential energy system is completed and placed in service on or after January
796 1, 2007; and

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

799 ~~[(3)(a) The] (b) (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit~~
800 ~~[described in Subsection (2)] is equal to 25% of the reasonable costs of each residential energy~~
801 ~~system[, including installation costs, against any income tax liability of the claimant, estate, or~~
802 ~~trust under this chapter for the taxable year in which the residential energy system is completed~~
803 ~~and placed in service] installed with respect to each residential unit the claimant, estate, or trust~~
804 ~~owns or uses.~~

805 ~~[(b) The total amount of each tax credit under this section may not exceed \$2,000 per~~
806 ~~residential unit.]~~

807 ~~[(c) The tax credit under this section is allowed for any residential energy system~~
808 ~~completed and placed in service on or after January 1, 2007.]~~

809 ~~[(4) (a) The tax credit provided for in this section shall be claimed in the return for the~~
810 ~~taxable year in which the residential energy system is completed and placed in service.]~~

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

812 (iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the

813 taxable year in which the residential energy system is completed and placed in service.

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

818 (v) The total amount of tax credit a claimant, estate, or trust may claim under this
819 Subsection (3) may not exceed \$2,000 per residential unit.

820 ~~[(b) Additional]~~ (vi) A claimant, estate, or trust may claim a tax credit with respect to
821 additional residential energy systems or parts of residential energy systems [may be similarly
822 claimed in returns] for a subsequent taxable [years as long as] year if the total amount
823 [claimed] of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per
824 residential unit.

825 ~~[(c) If the amount of the tax credit under this section exceeds the income tax liability of~~
826 ~~the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then~~
827 ~~the amount not used may be carried over for a period that does not exceed the next four taxable~~
828 ~~years.]~~

829 ~~[(5)(a) A]~~ (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust
830 [that is not a business entity] that leases a residential energy system installed on a residential
831 unit [is eligible for the residential energy] may claim a tax credit under this Subsection (3) if
832 [that] the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the
833 tax credit.

834 ~~[(b) Only]~~ (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a
835 residential energy system may claim as a tax credit under this Subsection (3) only the principal
836 recovery portion of the lease payments[, which is the cost incurred by the claimant, estate, or
837 trust in acquiring the residential energy system excluding interest charges and maintenance
838 expenses, is eligible for the tax credits].

839 ~~[(e)]~~ (iii) A claimant, estate, or trust described in [this] Subsection [(5)] (3)(c)(i) that
840 leases a residential energy system may [use the tax credits] claim a tax credit under this

841 Subsection (3) for a period that does not exceed seven taxable years [from the initiation of the
842 lease.] after the date the lease begins, as stated in the lease agreement.

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

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

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

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

852 ~~[(6) (a) A claimant, estate, or trust that is a business entity that purchases and~~
853 ~~completes or participates in the financing of a residential energy system to supply all or part of~~
854 ~~the energy required for a residential unit owned or used by the claimant, estate, or trust that is a~~
855 ~~business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this~~
856 ~~Subsection (6).]~~

857 ~~[(b) (i) For taxable years beginning on or after January 1, 2007, a claimant, estate, or~~
858 ~~trust that is a business entity is entitled to a nonrefundable tax credit equal to 25% of the~~
859 ~~reasonable costs of a residential energy system installed with respect to each residential unit it~~
860 ~~owns or uses, including installation costs, against any tax due under this chapter for the taxable~~
861 ~~year in which the energy system is completed and placed in service.]~~

862 ~~[(ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000~~
863 ~~per residential unit.]~~

864 ~~[(iii) The tax credit under this Subsection (6) is allowed for any residential energy~~
865 ~~system completed and placed in service on or after January 1, 2007.]~~

866 ~~[(c) If a claimant, estate, or trust that is a business entity sells a residential unit to a~~
867 ~~claimant, estate, or trust that is not a business entity before making a claim for the tax credit~~
868 ~~under this Subsection (6), the claimant, estate, or trust that is a business entity may:]~~

869 ~~[(i) assign its right to this tax credit to the claimant, estate, or trust that is not a business~~
870 ~~entity; and]~~

871 ~~[(ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax~~
872 ~~credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the~~
873 ~~claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant,~~
874 ~~estate, or trust that is not a business entity had completed or participated in the costs of the~~
875 ~~residential energy system under this section.]~~

876 ~~[(7) (a) A tax credit under this section may be claimed for the taxable year in which the~~
877 ~~residential energy system is completed and placed in service.]~~

878 ~~[(b) Additional residential energy systems or parts of residential energy systems may be~~
879 ~~claimed for subsequent years.]~~

880 ~~[(c) If the amount of a tax credit under this section exceeds the tax liability of the~~
881 ~~claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount~~
882 ~~of the tax credit exceeding the tax liability may be carried over for a period which does not~~
883 ~~exceed the next four taxable years.]~~

884 ~~[(8) (a) Except as provided in Subsection (8)(b), tax credits provided for under this~~
885 ~~section are]~~

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

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

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

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

894 (A) has been completely installed;

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

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

897 energy system uses the state's renewable and nonrenewable energy resources in an appropriate
898 and economic manner.

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

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

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

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

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

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

912 ~~[(b)]~~ (7) A purchaser of one or more solar units that claims a tax credit under Section
913 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
914 section for that purchase.

915 ~~[(9) (a) The office may set standards for residential energy systems that cover the~~
916 ~~safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the~~
917 ~~systems eligible for the tax credit use the state's renewable and nonrenewable energy resources~~
918 ~~in an appropriate and economic manner.]~~

919 ~~[(b) The office may set standards for residential and commercial energy systems that~~
920 ~~establish the reasonable costs of an energy system, as used in Subsections (3)(a) and (6)(b)(i);~~
921 ~~as an amount per unit of energy production.]~~

922 ~~[(c) A tax credit may not be taken under this section until the office has certified that~~
923 ~~the energy system has been completely installed and is a viable system for saving or production~~
924 ~~of energy from renewable resources.]~~

925 ~~[(10) The office and the commission may make rules in accordance with Title 63G,~~
 926 ~~Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.]~~

927 ~~[(H)]~~ (8) (a) On or before October 1, ~~[2012]~~ 2017, and every five years ~~[thereafter]~~
 928 after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided
 929 by this section and report its recommendations to the Legislative Management Committee
 930 concerning whether the tax credit should be continued, modified, or repealed.

931 (b) The Revenue and Taxation Interim Committee's report under Subsection ~~[(H)]~~
 932 (8)(a) shall include information concerning the cost of the tax credit, the purpose and
 933 effectiveness of the tax credit, and the state's benefit from the tax credit.

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

935 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**
 936 **Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

937 (1) As used in this section:

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

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

940 ~~[(c) "Business entity" is as defined in Section 59-10-1014.]~~

941 ~~[(d)]~~ (c) "Commercial energy system" ~~[means any active solar, passive solar,~~
 942 ~~geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind,~~
 943 ~~hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial~~
 944 ~~enterprise]~~ has the same meaning as defined in Section 59-7-614.

945 ~~[(e)]~~ (d) "Commercial enterprise" ~~[means a business entity that:]~~ has the same meaning
 946 as defined in Section 59-7-614.

947 ~~[(i) is a claimant, estate, or trust; and]~~

948 ~~[(ii) has the purpose of producing electrical, mechanical, or thermal energy for sale~~
 949 ~~from a commercial energy system.]~~

950 ~~[(f)]~~ (e) (i) "Commercial unit" ~~[means any building or structure that a business entity~~
 951 ~~that is a claimant, estate, or trust uses to transact its business]~~ has the same meaning as defined
 952 in Section 59-7-614.

953 (ii) Notwithstanding Subsection (1)~~(f)~~(e)(i):

954 (A) ~~[in the case of]~~ with respect to an active solar system used for agricultural water
955 pumping or a wind system, each individual energy generating device ~~[shall]~~ is considered to be
956 a commercial unit; ~~[and]~~ or

957 (B) if an energy system is the building or structure that ~~[a business entity that is]~~ a
958 claimant, estate, or trust uses to transact ~~[its]~~ business, a commercial unit is the complete
959 energy system itself.

960 ~~(g)~~ (f) "Direct use geothermal system" ~~[is]~~ has the same meaning as defined in
961 Section [59-10-1014](#).

962 ~~(h)~~ (g) "Geothermal electricity" ~~[is]~~ has the same meaning as defined in Section
963 [59-10-1014](#).

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

965 (i) "Geothermal heat pump system" ~~[is]~~ has the same meaning as defined in Section
966 [59-10-1014](#).

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

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

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

970 (m) "Principal recovery portion" has the same meaning as defined in Section
971 [59-10-1014](#).

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

973 ~~[(2) (a) (i) A business entity that is a claimant, estate, or trust that purchases or~~
974 ~~participates in the financing of a commercial energy system situated in Utah is entitled to a~~
975 ~~refundable tax credit as provided in this Subsection (2)(a) if the commercial energy system~~
976 ~~does not use wind, geothermal electricity, or biomass equipment capable of producing a total of~~
977 ~~660 or more kilowatts of electricity and:]~~

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

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

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

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

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

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

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

989 (iii) (A) the commercial energy system supplies all or part of the energy required by
 990 commercial units owned or used by the [business entity that is a] claimant, estate, or trust; or

991 (B) the [business entity that is a] claimant, estate, or trust sells all or part of the energy
 992 produced by the commercial energy system as a commercial enterprise[-];

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

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

997 [~~(ii) (A) A business entity that is a claimant, estate, or trust is entitled to a~~ (b) (i)
 998 Subject to Subsections (3)(b)(ii) through (v), the tax credit [of up] is equal to 10% of the
 999 reasonable costs of [any] the commercial energy system [installed, including].

1000 (ii) A tax credit under this Subsection (3) may include installation costs[~~, against any~~
 1001 tax due under this chapter].

1002 (iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the
 1003 taxable year in which the commercial energy system is completed and placed in service.

1004 (iv) A tax credit under this Subsection (3) may not be carried forward or carried back.

1005 [~~(B) Notwithstanding Subsection (2)(a)(ii)(A), the~~

1006 (v) The total amount of [the] tax credit a claimant, estate, or trust may claim under this
 1007 Subsection [~~(2)(a)] (3) may not exceed \$50,000 per commercial unit.~~

1008 [~~(C) The credit under this Subsection (2)(a) is allowed for any commercial energy~~

1009 system completed and placed in service on or after January 1, 2007.]

1010 ~~[(iii) (c) (i) [A business entity that is a claimant, estate, or trust that leases]~~ Subject to
1011 Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial
1012 energy system installed on a commercial unit [is eligible for the] may claim a tax credit under
1013 this Subsection [(2)(a)] (3) if the [lessee can confirm] claimant, estate, or trust confirms that the
1014 lessor irrevocably elects not to claim the tax credit.

1015 ~~[(iv) Only]~~ (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim
1016 as a tax credit under this Subsection (3) only the principal recovery portion of the lease
1017 payments[, which is the cost incurred by a business entity that is a claimant, estate, or trust in
1018 acquiring a commercial energy system, excluding interest charges and maintenance expenses,
1019 is eligible for the tax credit under this Subsection (2)(a)].

1020 ~~[(v) A business entity that is a claimant, estate, or trust that leases a commercial energy~~
1021 ~~system is eligible to use the]~~

1022 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit
1023 under this Subsection [(2)(a)] (3) for a period [no greater than] that does not exceed seven
1024 taxable years [from the initiation of the lease] after the date the lease begins, as stated in the
1025 lease agreement.

1026 ~~[(b) (i) A business entity that is a claimant, estate, or trust that owns a commercial~~
1027 ~~energy system situated in Utah using wind, geothermal electricity, or biomass equipment~~
1028 ~~capable of producing a total of 660 or more kilowatts of electricity is entitled to a refundable~~
1029 ~~tax credit as provided in this section if:]~~

1030 (4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust
1031 may claim a refundable tax credit under this Subsection (4) with respect to a commercial
1032 energy system if:

1033 (i) the commercial energy system uses wind, geothermal electricity, or biomass
1034 equipment capable of producing a total of 660 or more kilowatts of electricity;

1035 (ii) (A) the commercial energy system supplies all or part of the energy required by
1036 commercial units owned or used by the [business entity that is a] claimant, estate, or trust; or

1037 (B) the ~~[business entity that is a]~~ claimant, estate, or trust sells all or part of the energy
1038 produced by the commercial energy system as a commercial enterprise~~[-];~~

1039 (iii) the commercial energy system is completed and placed in service on or after
1040 January 1, 2007; and

1041 (iv) the claimant, estate, or trust obtains a written certification from the office in
1042 accordance with Subsection (6).

1043 ~~[(ii) A business entity that is a claimant, estate, or trust is entitled to]~~

1044 (b) (i) Subject to Subsections (4)(b)(ii) and (iii), a tax credit under this Subsection
1045 ~~[(2)(b)] (4) is equal to the product of:~~

1046 (A) 0.35 cents; and

1047 (B) the kilowatt hours of electricity produced and ~~[either]~~ used or sold during the
1048 taxable year.

1049 ~~[(iii) The credit allowed by this Subsection (2)(b):]~~

1050 ~~[(A)] (ii) A tax credit under this Subsection (4) may be claimed for production~~
1051 ~~occurring during a period of 48 months beginning with the month in which the commercial~~
1052 ~~energy system is placed in commercial service[-and].~~

1053 ~~[(B)] (iii) A tax credit under this Subsection (4) may not be carried forward or back.~~

1054 ~~[(iv) A business entity that is a claimant, estate, or trust that leases]~~

1055 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
1056 on a commercial unit ~~[is eligible for the]~~ may claim a tax credit under this ~~[section]~~ Subsection
1057 (4) if the ~~[lessee can confirm]~~ claimant, estate, or trust confirms that the lessor irrevocably
1058 elects not to claim the tax credit.

1059 ~~[(3) The tax credits provided for under this section are]~~

1060 (5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust
1061 may claim a refundable tax credit as provided in this Subsection (5) if:

1062 (i) the claimant, estate, or trust owns a commercial energy system that uses solar
1063 equipment capable of producing a total of 660 or more kilowatts of electricity;

1064 (ii) (A) the commercial energy system supplies all or part of the energy required by

1065 commercial units owned or used by the claimant, estate, or trust; or
1066 (B) the claimant, estate, or trust sells all or part of the energy produced by the
1067 commercial energy system as a commercial enterprise;
1068 (iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);
1069 (iv) the commercial energy system is completed and placed in service on or after
1070 January 1, 2015; and
1071 (v) the claimant, estate, or trust obtains a written certification from the office in
1072 accordance with Subsection (6).
1073 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)
1074 is equal to the product of:
1075 (A) 0.35 cents; and
1076 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.
1077 (ii) A tax credit under this Subsection (5) may be claimed for production occurring
1078 during a period of 48 months beginning with the month in which the commercial energy
1079 system is placed in commercial service.
1080 (iii) A tax credit under this Subsection (5) may not be carried forward or carried back.
1081 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
1082 on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or
1083 trust confirms that the lessor irrevocably elects not to claim the tax credit.
1084 (6) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1085 claimant, estate, or trust shall obtain a written certification from the office.
1086 (b) The office shall issue a claimant, estate, or trust a written certification if the office
1087 determines that:
1088 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1089 credit; and
1090 (ii) the office determines that the commercial energy system with respect to which the
1091 claimant, estate, or trust seeks to claim a tax credit:
1092 (A) has been completely installed;

1093 (B) is a viable system for saving or producing energy from renewable resources; and

1094 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial

1095 energy system uses the state's renewable and nonrenewable resources in an appropriate and

1096 economic manner.

1097 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1098 office may make rules:

1099 (i) for determining whether a commercial energy system meets the requirements of

1100 Subsection (6)(b)(ii); and

1101 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs

1102 of a commercial energy system, as an amount per unit of energy production.

1103 (d) A claimant, estate, or trust that obtains a written certification from the office shall

1104 retain the certification for the same time period a person is required to keep books and records

1105 under Section [59-1-1406](#).

1106 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1107 commission may make rules to address the certification of a tax credit under this section.

1108 (8) A tax credit under this section is in addition to any tax credits provided under the

1109 laws or rules and regulations of the United States.

1110 ~~[(4) (a) The office may set standards for commercial energy systems claiming a tax~~

1111 ~~credit under Subsection (2)(a) that cover the safety, reliability, efficiency, leasing, and technical~~

1112 ~~feasibility of the systems to ensure that the systems eligible for the tax credit use the state's~~

1113 ~~renewable and nonrenewable energy resources in an appropriate and economic manner.]~~

1114 ~~[(b) A tax credit may not be taken under this section until the office has certified that~~

1115 ~~the commercial energy system has been completely installed and is a viable system for saving~~

1116 ~~or production of energy from renewable resources.]~~

1117 ~~[(5) The office and the commission may make rules in accordance with Title 63G,~~

1118 ~~Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.]~~

1119 (9) A purchaser of one or more solar units that claims a tax credit under Section

1120 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this

1121 section for that purchase.

1122 ~~[(6)]~~ (10) (a) On or before October 1, ~~[2012]~~ 2017, and every five years ~~[thereafter]~~
1123 after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided
1124 by this section and report its recommendations to the Legislative Management Committee
1125 concerning whether the credit should be continued, modified, or repealed.

1126 (b) The Revenue and Taxation Interim Committee's report under Subsection ~~[(6)]~~
1127 (10)(a) shall include information concerning the cost of the credit, the purpose and
1128 effectiveness of the credit, and the state's benefit from the credit.

1129 **Section 5. Effective date -- Retrospective operation.**

1130 (1) This bill takes effect on May 12, 2015.

1131 (2) The actions affecting the following sections have retrospective operation for a
1132 taxable year beginning on or after January 1, 2015:

1133 (a) Section [59-7-614](#);

1134 (b) Section [59-10-1014](#); and

1135 (c) Section [59-10-1106](#).

1136 **Section 6. Coordinating S.B. 14 with S.B. 13 -- Substantive and technical**
1137 **amendments.**

1138 If this S.B. 14 and S.B. 13, Income Tax Amendments, both pass and become law, it is
1139 the intent of the Legislature that the Office of Legislative Research and General Counsel
1140 prepare the Utah Code database for publication as follows:

1141 (1) Section [59-7-614](#) in this bill supersedes Section [59-7-614](#) in S.B. 13;

1142 (2) delete all of Subsection [59-7-614](#)(10) in this bill; and

1143 (3) renumber Subsection [59-7-614](#)(11) in this bill, including the references to
1144 Subsection [59-7-614](#)(11) in this bill, to Subsection (10).