

**INCOME TAX AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill repeals provisions related to income taxes.

**Highlighted Provisions:**

This bill:

- ▶ repeals provisions related to corporate and individual income tax credits;
- ▶ repeals provisions related to individual income tax contributions; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an effective date.

This bill provides for retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

- 23-14-13**, as last amended by Laws of Utah 2010, Chapter 278
- 59-2-1104**, as last amended by Laws of Utah 2014, Chapter 85
- 59-7-105**, as last amended by Laws of Utah 2010, Chapters 6 and 198
- 59-7-106**, as last amended by Laws of Utah 2014, Chapter 273
- 59-7-614 (Effective 01/01/15)**, as last amended by Laws of Utah 2014, Chapter 407
- 59-7-614.9**, as enacted by Laws of Utah 2012, Chapter 306
- 59-10-1031**, as enacted by Laws of Utah 2012, Chapter 306
- 59-10-1304**, as last amended by Laws of Utah 2013, Chapters 235 and 338
- 63M-1-1102**, as renumbered and amended by Laws of Utah 2008, Chapter 382

REPEALS:

- 59-7-602**, as last amended by Laws of Utah 2011, Chapter 366
- 59-7-603**, as enacted by Laws of Utah 1993, Chapter 169

- 32           **59-7-608**, as last amended by Laws of Utah 2003, Chapter 198  
 33           **59-7-609**, as enacted by Laws of Utah 1995, Chapter 42  
 34           **59-7-614.3**, as last amended by Laws of Utah 2011, Chapter 384  
 35           **59-10-1011**, as last amended by Laws of Utah 2011, Chapter 366  
 36           **59-10-1027**, as enacted by Laws of Utah 2011, Chapter 254  
 37           **59-10-1305**, as renumbered and amended by Laws of Utah 2008, Chapter 389

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

40           Section 1. Section **23-14-13** is amended to read:

41           **23-14-13. Wildlife Resources Account.**

42           (1) There is created a restricted account within the General Fund known as the  
 43 "Wildlife Resources Account."

44           (2) The following money shall be deposited into the Wildlife Resources Account:

45           (a) revenue from the sale of licenses, permits, tags, and certificates of registration  
 46 issued under this title or a rule or proclamation of the Wildlife Board, except as otherwise  
 47 provided by this title;

48           (b) revenue from the sale, lease, rental, or other granting of rights of real or personal  
 49 property acquired with revenue specified in Subsection (2)(a);

50           (c) revenue from fines and forfeitures for violations of this title or any rule,  
 51 proclamation, or order of the Wildlife Board, minus court costs not to exceed the schedule  
 52 adopted by the Judicial Council;

53           (d) funds appropriated from the General Fund by the Legislature pursuant to Section  
 54 23-19-39;

55           (e) other money received by the division under any provision of this title, except as  
 56 otherwise provided by this title; and

57           ~~[(f) contributions made in accordance with Section 59-10-1305; and]~~

58           ~~[(g)]~~ (f) interest, dividends, or other income earned on account money.

59           (3) Money in the Wildlife Resources Account shall be used for the administration of  
 60 this title.

61           Section 2. Section **59-2-1104** is amended to read:

62           **59-2-1104. Definitions -- Armed Forces exemption -- Amount of Armed Forces**

63 **exemption.**

64 (1) As used in this section and Section 59-2-1105:

65 (a) "Active component of the United States Armed Forces" [~~is as defined in Section~~  
66 ~~59-10-1027;~~] means active duty service in the:

67 (i) United States Army;

68 (ii) United States Navy;

69 (iii) United States Air Force;

70 (iv) United States Marine Corps; or

71 (v) United States Coast Guard.

72 (b) "Adjusted taxable value limit" means:

73 (i) for the year 2005, \$200,000; and

74 (ii) for each year after 2005, the amount of the adjusted taxable value limit for the  
75 previous year, plus an amount calculated by multiplying the amount of the adjusted taxable  
76 value limit for the previous year by the actual percent change in the Consumer Price Index  
77 during the previous calendar year.

78 (c) "Claimant" means:

79 (i) a veteran with a disability who files an application under Section 59-2-1105 for a  
80 veteran's exemption;

81 (ii) the unmarried surviving spouse:

82 (A) of a:

83 (I) deceased veteran with a disability; or

84 (II) veteran who was killed in action or died in the line of duty; and

85 (B) who files an application under Section 59-2-1105 for a veteran's exemption;

86 (iii) a minor orphan:

87 (A) of a:

88 (I) deceased veteran with a disability; or

89 (II) veteran who was killed in action or died in the line of duty; and

90 (B) who files an application under Section 59-2-1105 for a veteran's exemption; or

91 (iv) a member of an active component of the United States Armed Forces or a reserve  
92 component of the United States Armed Forces who performed qualifying active duty military  
93 service.

94 (d) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code,  
95 and defined in Section 1(f)(5), Internal Revenue Code.

96 (e) "Deceased veteran with a disability" means a deceased person who was a veteran  
97 with a disability at the time the person died.

98 (f) "Military entity" means:

99 (i) the federal Department of Veterans Affairs;

100 (ii) an active component of the United States Armed Forces; or

101 (iii) a reserve component of the United States Armed Forces.

102 (g) "Qualifying active duty military service" means:

103 (i) at least 200 days in a calendar year, regardless of whether consecutive, of active  
104 duty military service outside the state in an active component of the United States Armed  
105 Forces or a reserve component of the United States Armed Forces; or

106 (ii) the completion of at least 200 consecutive days of active duty military service  
107 outside the state:

108 (A) in an active component of the United States Armed Forces or a reserve component  
109 of the United States Armed Forces; and

110 (B) that began in the prior year, if those days of active duty military service outside the  
111 state in the prior year were not counted as qualifying active duty military service for purposes  
112 of this section or Section 59-2-1105 in the prior year.

113 (h) "Reserve component of the United States Armed Forces" [~~is as defined in Section~~  
114 ~~59-10-1027~~] means service in a reserve component of the armed forces listed in 10 U.S.C. Sec.  
115 101(c) or 10 U.S.C. Sec. 10101.

116 (i) "Residence" is as defined in Section 59-2-1202, except that a rented dwelling is not  
117 considered to be a residence.

118 (j) "Veteran who was killed in action or died in the line of duty" means a person who  
119 was killed in action or died in the line of duty in an active component of the United States  
120 Armed Forces or a reserve component of the United States Armed Forces, regardless of  
121 whether that person had a disability at the time that person was killed in action or died in the  
122 line of duty.

123 (k) "Veteran with a disability" means a person with a disability who, during military  
124 training or a military conflict, acquired a disability in the line of duty in an active component of

125 the United States Armed Forces or a reserve component of the United States Armed Forces.

126 (1) "Veteran's exemption" means a property tax exemption provided for in Subsection  
127 (2).

128 (2) (a) The amount of taxable value of the property described in Subsection (2)(b) is  
129 exempt from taxation as calculated under Subsections (2)(c) through (e) if the property  
130 described in Subsection (2)(b) is owned by:

131 (i) a veteran with a disability;

132 (ii) the unmarried surviving spouse or a minor orphan of a:

133 (A) deceased veteran with a disability; or

134 (B) veteran who was killed in action or died in the line of duty; or

135 (iii) a member of an active component of the United States Armed Forces or a reserve  
136 component of the United States Armed Forces who performed qualifying active duty military  
137 service.

138 (b) Subsection (2)(a) applies to the following property:

139 (i) the claimant's primary residence;

140 (ii) for a claimant described in Subsection (2)(a)(i) or (ii), tangible personal property

141 that:

142 (A) is held exclusively for personal use; and

143 (B) is not used in a trade or business; or

144 (iii) for a claimant described in Subsection (2)(a)(i) or (ii), a combination of  
145 Subsections (2)(b)(i) and (ii).

146 (c) Except as provided in Subsection (2)(d) or (e), the amount of taxable value of  
147 property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is:

148 (i) as described in Subsection (2)(f), if the property is owned by:

149 (A) a veteran with a disability;

150 (B) the unmarried surviving spouse of a deceased veteran with a disability; or

151 (C) a minor orphan of a deceased veteran with a disability; or

152 (ii) equal to the total taxable value of the claimant's property described in Subsection  
153 (2)(b) if the property is owned by:

154 (A) the unmarried surviving spouse of a veteran who was killed in action or died in the  
155 line of duty;

156 (B) a minor orphan of a veteran who was killed in action or died in the line of duty; or  
157 (C) a member of an active component of the United States Armed Forces or a reserve  
158 component of the United States Armed Forces who performed qualifying active duty military  
159 service.

160 (d) (i) Notwithstanding Subsection (2)(c)(i) and subject to Subsection (2)(d)(ii), a  
161 veteran's exemption except for a claimant described in Subsection (2)(a)(iii) may not be  
162 allowed under this Subsection (2) if the percentage of disability listed on the [certificate]  
163 statement described in Subsection 59-2-1105(3)(a) is less than 10%.

164 (ii) A veteran with a disability is considered to have a 100% disability, regardless of  
165 the percentage of disability listed on a [certificate] statement described in Subsection  
166 59-2-1105(3)(a), if the United States Department of Veterans Affairs certifies the veteran in the  
167 classification of individual unemployability.

168 (e) Notwithstanding Subsection (2)(c)(i), a claimant who is the unmarried surviving  
169 spouse or minor orphan of a deceased veteran with a disability may claim an exemption for the  
170 total value of the property described in Subsection (2)(b) if:

171 (i) the deceased veteran with a disability served in the military service of the United  
172 States or the state prior to January 1, 1921; and

173 (ii) the percentage of disability listed on the [certificate] statement described in  
174 Subsection 59-2-1105(3)(a) for the deceased veteran with a disability is 10% or more.

175 (f) Except as provided in Subsection (2)(g), the amount of the taxable value of the  
176 property described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) is equal to the  
177 percentage of disability listed on the [certificate] statement described in Subsection  
178 59-2-1105(3)(a) multiplied by the adjusted taxable value limit.

179 (g) Notwithstanding Subsection (2)(f), the amount of the taxable value of the property  
180 described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) may not be greater than  
181 the taxable value of the property described in Subsection (2)(b).

182 (h) For purposes of this section and Section 59-2-1105, a person who received an  
183 honorable or general discharge from military service of an active component of the United  
184 States Armed Forces or a reserve component of the United States Armed Forces:

185 (i) is presumed to be a citizen of the United States; and

186 (ii) may not be required to provide additional proof of citizenship to establish that the

187 person is a citizen of the United States.

188 (3) The Department of Veterans' and Military Affairs created in Section 71-8-2 shall,  
189 through an informal hearing held in accordance with Title 63G, Chapter 4, Administrative  
190 Procedures Act, resolve each dispute arising under this section concerning a veteran's status as  
191 a veteran with a disability.

192 Section 3. Section **59-7-105** is amended to read:

193 **59-7-105. Additions to unadjusted income.**

194 In computing adjusted income the following amounts shall be added to unadjusted  
195 income:

196 (1) interest from bonds, notes, and other evidences of indebtedness issued by any state  
197 of the United States, including any agency and instrumentality of a state of the United States;

198 (2) the amount of any deduction taken on a corporation's federal return for taxes paid  
199 by a corporation:

200 (a) to Utah for taxes imposed by this chapter; and

201 (b) to another state of the United States, a foreign country, a United States possession,  
202 or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or  
203 exercising its corporate franchise, including income, franchise, corporate stock and business  
204 and occupation taxes;

205 (3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and  
206 (2)(a);

207 (4) capital losses that have been deducted on a Utah corporate return in previous years;

208 (5) any deduction on the federal return that has been previously deducted on the Utah  
209 return;

210 [~~(6) the amount of contributions claimed as a tax credit pursuant to Section 59-7-602;~~]

211 [~~(7) the amount of the deduction taken pursuant to Section 59-7-603 for sophisticated  
212 technological equipment;~~]

213 [~~(8)~~] (6) charitable contributions, to the extent deducted on the federal return when  
214 determining federal taxable income;

215 [~~(9)~~] (7) the amount of gain or loss determined under Section 59-7-114 relating to a  
216 target corporation under Section 338, Internal Revenue Code, unless such gain or loss has  
217 already been included in the unadjusted income of the target corporation;

218 ~~[(10)]~~ (8) the amount of gain or loss determined under Section 59-7-115 relating to  
219 corporations treated for federal purposes as having disposed of its assets under Section 336(e),  
220 Internal Revenue Code, unless such gain or loss has already been included in the unadjusted  
221 income of the target corporation;

222 ~~[(11)]~~ (9) adjustments to gains, losses, depreciation expense, amortization expense, and  
223 similar items due to a difference between basis for federal purposes and basis as computed  
224 under Section 59-7-107;

225 ~~[(12)]~~ (10) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational  
226 Savings Plan, from the account of a corporation that is an account owner as defined in Section  
227 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn  
228 from the account of the corporation that is the account owner:

229 (a) is not expended for:

230 (i) higher education costs as defined in Section 53B-8a-102; or

231 (ii) a payment or distribution that qualifies as an exception to the additional tax for  
232 distributions not used for educational expenses provided in Sections 529(c) and 530(d),  
233 Internal Revenue Code; and

234 (b) is subtracted by the corporation:

235 (i) that is the account owner; and

236 (ii) in accordance with Subsection 59-7-106 (1)(r); and

237 ~~[(13)]~~ (11) the amount of the deduction for dividends paid, as defined in Section 561,  
238 Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in  
239 computing the taxable income of a captive real estate investment trust, if that captive real estate  
240 investment trust is subject to federal income taxation.

241 Section 4. Section **59-7-106** is amended to read:

242 **59-7-106. Subtractions from unadjusted income.**

243 (1) In computing adjusted income the following amounts shall be subtracted from  
244 unadjusted income:

245 (a) the foreign dividend gross-up included in gross income for federal income tax  
246 purposes under Section 78, Internal Revenue Code;

247 (b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the  
248 taxpayer elects to deduct the net capital loss on the return filed under this chapter for the

- 249 taxable year for which the net capital loss is incurred;
- 250 (c) the decrease in salary expense deduction for federal income tax purposes due to  
251 claiming the federal work opportunity credit under Section 51, Internal Revenue Code;
- 252 (d) the decrease in qualified research and basic research expense deduction for federal  
253 income tax purposes due to claiming the federal credit for increasing research activities under  
254 Section 41, Internal Revenue Code;
- 255 (e) the decrease in qualified clinical testing expense deduction for federal income tax  
256 purposes due to claiming the federal credit for clinical testing expenses for certain drugs for  
257 rare diseases or conditions under Section 45C, Internal Revenue Code;
- 258 (f) any decrease in any expense deduction for federal income tax purposes due to  
259 claiming any other federal credit;
- 260 (g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and  
261 (2)(b);
- 262 (h) any income on the federal corporation income tax return that has been previously  
263 taxed by Utah;
- 264 (i) an amount included in federal taxable income that is due to a refund of a tax,  
265 including a franchise tax, an income tax, a corporate stock and business tax, or an occupation  
266 tax:
- 267 (i) if that tax is imposed for the privilege of:
- 268 (A) doing business; or
- 269 (B) exercising a corporate franchise;
- 270 (ii) if that tax is paid by the corporation to:
- 271 (A) Utah;
- 272 (B) another state of the United States;
- 273 (C) a foreign country;
- 274 (D) a United States possession; or
- 275 (E) the Commonwealth of Puerto Rico; and
- 276 (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;
- 277 (j) a charitable contribution, to the extent the charitable contribution is allowed as a  
278 subtraction under Section 59-7-109;
- 279 (k) subject to Subsection (3), 50% of a dividend considered to be received or received

280 from a subsidiary that:

281 (i) is a member of the unitary group;

282 (ii) is organized or incorporated outside of the United States; and

283 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

284 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a

285 foreign operating company;

286 (m) the amount of gain or loss that is included in unadjusted income but not recognized

287 for federal purposes on stock sold or exchanged by a member of a selling consolidated group as

288 defined in Section 338, Internal Revenue Code, if an election has been made in accordance

289 with Section 338(h)(10), Internal Revenue Code;

290 (n) the amount of gain or loss that is included in unadjusted income but not recognized

291 for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance

292 with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal

293 Revenue Code, has been made for federal purposes;

294 (o) subject to Subsection (5), an adjustment to the following due to a difference

295 between basis for federal purposes and basis as computed under Section 59-7-107:

296 (i) an amortization expense;

297 (ii) a depreciation expense;

298 (iii) a gain;

299 (iv) a loss; or

300 (v) an item similar to Subsections (1)(o)(i) through (iv);

301 (p) an interest expense that is not deducted on a federal corporation income tax return

302 under Section 265(b) or 291(e), Internal Revenue Code;

303 (q) 100% of dividends received from a subsidiary that is an insurance company if that

304 subsidiary that is an insurance company is:

305 (i) exempt from this chapter under Subsection 59-7-102(1)(c); and

306 (ii) under common ownership;

307 (r) subject to Subsection 59-7-105[~~(12)~~](10), the amount of a qualified investment as

308 defined in Section 53B-8a-102 that:

309 (i) a corporation that is an account owner as defined in Section 53B-8a-102 makes

310 during the taxable year;

311 (ii) the corporation described in Subsection (1)(r)(i) does not deduct on a federal  
312 corporation income tax return; and

313 (iii) does not exceed the maximum amount of the qualified investment that may be  
314 subtracted from unadjusted income for a taxable year in accordance with Subsection  
315 53B-8a-106(1);

316 (s) for purposes of income included in a combined report under Part 4, Combined  
317 Reporting, the entire amount of the dividends a member of a unitary group receives or is  
318 considered to receive from a captive real estate investment trust; and

319 (t) the increase in income for federal income tax purposes due to claiming a:

320 (i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or  
321 (ii) qualified zone academy bond under Section 1397E, Internal Revenue Code.

322 (2) For purposes of Subsection (1)(b):

323 (a) the subtraction shall be made by claiming the subtraction on a return filed:

324 (i) under this chapter for the taxable year for which the net capital loss is incurred; and  
325 (ii) by the due date of the return, including extensions; and

326 (b) a net capital loss for a taxable year shall be:

327 (i) subtracted for the taxable year for which the net capital loss is incurred; or  
328 (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue  
329 Code.

330 (3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a  
331 taxpayer shall first subtract from a dividend considered to be received or received an expense  
332 directly attributable to that dividend.

333 (b) For purposes of Subsection (3)(a), the amount of an interest expense that is  
334 considered to be directly attributable to a dividend is calculated by multiplying the interest  
335 expense by a fraction:

336 (i) the numerator of which is the taxpayer's average investment in the dividend paying  
337 subsidiaries; and

338 (ii) the denominator of which is the taxpayer's average total investment in assets.

339 (c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in  
340 determining income apportionable to this state, a portion of the factors of a foreign subsidiary  
341 that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the

342 combined report factors as provided in this Subsection (3)(c).

343 (ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign  
344 subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be  
345 included in the combined report factors is calculated by multiplying each factor of the foreign  
346 subsidiary by a fraction:

347 (A) not to exceed 100%; and

348 (B) (I) the numerator of which is the amount of the dividend paid by the foreign  
349 subsidiary that is included in adjusted income; and

350 (II) the denominator of which is the current year earnings and profits of the foreign  
351 subsidiary as determined under the Internal Revenue Code.

352 (4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under  
353 Subsection (1)(l):

354 (i) if the taxpayer elects to file a worldwide combined report as provided in Section  
355 59-7-403; or

356 (ii) for the following:

357 (A) income generated from intangible property; or

358 (B) a capital gain, dividend, interest, rent, royalty, or other similar item that is  
359 generated from an asset held for investment and not from a regular business trading activity.

360 (b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating  
361 company:

362 (i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

363 (ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a  
364 transaction that occurs between members of a unitary group.

365 (c) For purposes of the subtraction provided for in Subsection (1)(l), in determining  
366 income apportionable to this state, the factors for a foreign operating company shall be  
367 included in the combined report factors in the same percentages as the foreign operating  
368 company's adjusted income is included in the combined adjusted income.

369 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
370 commission may by rule define what constitutes:

371 (i) income generated from intangible property; or

372 (ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is

373 generated from an asset held for investment and not from a regular business trading activity.

374 (5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of  
375 a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax  
376 credit is claimed if:

377 (i) there is a reduction in federal basis for a federal tax credit; and

378 (ii) there is no corresponding tax credit allowed in this state.

379 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
380 commission may by rule define what constitutes an item similar to Subsections (1)(o)(i)  
381 through (iv).

382 Section 5. Section **59-7-614 (Effective 01/01/15)** is amended to read:

383 **59-7-614 (Effective 01/01/15). Renewable energy systems tax credit -- Definitions**  
384 **-- Limitations -- Certification -- Rulemaking authority.**

385 (1) As used in this section:

386 (a) "Active solar system":

387 (i) means a system of equipment capable of collecting and converting incident solar  
388 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy  
389 by a separate apparatus to storage or to the point of use; and

390 (ii) includes water heating, space heating or cooling, and electrical or mechanical  
391 energy generation.

392 (b) "Biomass system" means any system of apparatus and equipment for use in  
393 converting material into biomass energy, as defined in Section 59-12-102, and transporting that  
394 energy by separate apparatus to the point of use or storage.

395 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,  
396 association, corporation, cooperative, or other entity under which business is conducted or  
397 transacted.

398 (d) "Commercial energy system" means any active solar, passive solar, geothermal  
399 electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or  
400 biomass system used to supply energy to a commercial unit or as a commercial enterprise.

401 (e) "Commercial enterprise" means a business entity whose purpose is to produce  
402 electrical, mechanical, or thermal energy for sale from a commercial energy system.

403 (f) (i) "Commercial unit" means any building or structure that a business entity uses to

404 transact its business.

405 (ii) Notwithstanding Subsection (1)(f)(i):

406 (A) in the case of an active solar system used for agricultural water pumping or a wind  
407 system, each individual energy generating device shall be a commercial unit; and

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

410 (g) "Direct-use geothermal system" means a system of apparatus and equipment  
411 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,  
412 that is contained in the earth to meet energy needs, including heating a building, an industrial  
413 process, and aquaculture.

414 (h) "Geothermal electricity" means energy contained in heat that continuously flows  
415 outward from the earth that is used as a sole source of energy to produce electricity.

416 (i) "Geothermal heat-pump system" means a system of apparatus and equipment  
417 enabling the use of thermal properties contained in the earth at temperatures well below 100  
418 degrees Fahrenheit to help meet heating and cooling needs of a structure.

419 (j) "Hydroenergy system" means a system of apparatus and equipment capable of  
420 intercepting and converting kinetic water energy into electrical or mechanical energy and  
421 transferring this form of energy by separate apparatus to the point of use or storage.

422 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
423 59-10-103 and an individual as defined in Section 59-10-103.

424 (l) "Office" means the Office of Energy Development created in Section 63M-4-401.

425 (m) "Passive solar system":

426 (i) means a direct thermal system that utilizes the structure of a building and its  
427 operable components to provide for collection, storage, and distribution of heating or cooling  
428 during the appropriate times of the year by utilizing the climate resources available at the site;  
429 and

430 (ii) includes those portions and components of a building that are expressly designed  
431 and required for the collection, storage, and distribution of solar energy.

432 (n) "Residential energy system" means any active solar, passive solar, biomass,  
433 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to  
434 supply energy to or for any residential unit.

435 (o) "Residential unit" means any house, condominium, apartment, or similar dwelling  
436 unit that serves as a dwelling for a person, group of persons, or a family but does not include  
437 property subject to a fee under:

438 (i) Section 59-2-404;

439 (ii) Section 59-2-405;

440 (iii) Section 59-2-405.1;

441 (iv) Section 59-2-405.2; or

442 (v) Section 59-2-405.3.

443 (p) "Wind system" means a system of apparatus and equipment capable of intercepting  
444 and converting wind energy into mechanical or electrical energy and transferring these forms of  
445 energy by a separate apparatus to the point of use, sale, or storage.

446 (2) (a) (i) A business entity that purchases and completes or participates in the  
447 financing of a residential energy system to supply all or part of the energy required for a  
448 residential unit owned or used by the business entity and located in the state may claim a  
449 nonrefundable tax credit as provided in this Subsection (2)(a).

450 (ii) (A) The tax credit is equal to 25% of the reasonable costs of each residential energy  
451 system installed with respect to each residential unit the business entity owns or uses, including  
452 installation costs, against any tax due under this chapter for the taxable year in which the  
453 energy system is completed and placed in service.

454 (B) The total amount of each tax credit under this Subsection (2)(a) may not exceed  
455 \$2,000 per residential unit.

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

458 (iii) If a business entity sells a residential unit to an individual taxpayer before making  
459 a claim for the tax credit under this Subsection (2)(a), the business entity may:

460 (A) assign its right to this tax credit to the individual taxpayer; and

461 (B) if the business entity assigns its right to the tax credit to an individual taxpayer  
462 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the  
463 individual taxpayer had completed or participated in the costs of the residential energy system  
464 under Section 59-10-1014.

465 (b) (i) A business entity that purchases or participates in the financing of a commercial

466 energy system situated in Utah may claim a refundable tax credit as provided in this Subsection  
467 (2)(b) if the commercial energy system does not use wind, geothermal electricity, solar, or  
468 biomass equipment capable of producing a total of 660 or more kilowatts of electricity or if the  
469 commercial energy system does not use solar equipment capable of producing 2,000 or more  
470 kilowatts of electricity, and:

471 (A) the commercial energy system supplies all or part of the energy required by  
472 commercial units owned or used by the business entity; or

473 (B) the business entity sells all or part of the energy produced by the commercial  
474 energy system as a commercial enterprise.

475 (ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs  
476 of any commercial energy system installed, including installation costs, against any tax due  
477 under this chapter for the taxable year in which the commercial energy system is completed and  
478 placed in service.

479 (B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the tax credit under  
480 this Subsection (2)(b) may not exceed \$50,000 per commercial unit.

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

483 (iii) A business entity that leases a commercial energy system installed on a  
484 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can  
485 confirm that the lessor irrevocably elects not to claim the tax credit.

486 (iv) Only the principal recovery portion of the lease payments, which is the cost  
487 incurred by a business entity in acquiring a commercial energy system, excluding interest  
488 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

489 (v) A business entity that leases a commercial energy system is eligible to use the tax  
490 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation  
491 of the lease.

492 (vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or  
493 carried back.

494 (c) (i) A business entity that owns a commercial energy system located in the state  
495 using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or  
496 more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection

497 (2)(c) if:

498 (A) the commercial energy system supplies all or part of the energy required by  
499 commercial units owned or used by the business entity; or

500 (B) the business entity sells all or part of the energy produced by the commercial  
501 energy system as a commercial enterprise.

502 (ii) (A) A business entity may claim a tax credit under this section equal to the product  
503 of:

504 (I) 0.35 cents; and

505 (II) the kilowatt hours of electricity produced and either used or sold during the taxable  
506 year.

507 (B) (I) The tax credit calculated under Subsection (2)(c)(ii)(A) may be claimed for  
508 production occurring during a period of 48 months beginning with the month in which the  
509 commercial energy system is placed in commercial service.

510 (II) The tax credit allowed by this Subsection (2)(c) for each year may not be carried  
511 forward or carried back.

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

514 (iii) A business entity that leases a commercial energy system installed on a  
515 commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can  
516 confirm that the lessor irrevocably elects not to claim the tax credit.

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

519 (ii) Additional energy systems or parts of energy systems may be claimed for  
520 subsequent years.

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

524 (3) (a) A business entity that owns a commercial energy system located in the state that  
525 uses solar equipment capable of producing a total of 660 or more kilowatts of electricity may  
526 claim a refundable tax credit as provided in this Subsection (3) if:

527 (i) (A) the commercial energy system supplies all or part of the energy required by

528 commercial units owned or used by the business entity; or

529 (B) the business entity sells all or part of the energy produced by the commercial

530 energy system as a commercial enterprise; and

531 (ii) the business entity does not claim a tax credit under Subsection (2)(b).

532 (b) A business entity may claim a tax credit under this section equal to the product of:

533 (i) 0.35 cents; and

534 (ii) the kilowatt hours of electricity produced and either used or sold during the taxable  
535 year.

536 (c) The tax credit under this Subsection (3) may be claimed for production occurring  
537 during a period of 48 months beginning with the month in which the commercial energy  
538 system is placed in commercial service.

539 (d) The tax credit under this Subsection (3) may not be carried forward or carried back.

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

542 (f) A business entity that leases a commercial energy system installed on a commercial  
543 unit may claim a tax credit under this Subsection (3) if the business entity that is the lessee can  
544 confirm that the lessor irrevocably elects not to claim the tax credit.

545 (4) (a) [~~Except as provided in Subsection (4)(b), the~~] The tax credits provided for  
546 under Subsection (2) or (3) are in addition to any tax credits provided under the laws or rules  
547 and regulations of the United States.

548 [~~(b) A purchaser of one or more solar units that claims a tax credit under Section  
549 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this  
550 section for that purchase.~~]

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

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

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

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

564 (5) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and  
565 Taxation Interim Committee shall review each tax credit provided by this section and report its  
566 recommendations to the Legislative Management Committee concerning whether the tax credit  
567 should be continued, modified, or repealed.

568 (b) The Revenue and Taxation Interim Committee's report under Subsection (5)(a)  
569 shall include information concerning the cost of the tax credit, the purpose and effectiveness of  
570 the tax credit, and the state's benefit from the tax credit.

571 Section 6. Section **59-7-614.9** is amended to read:

572 **59-7-614.9. Nonrefundable tax credit for employing a recently deployed veteran.**

573 (1) As used in this section, "recently deployed veteran" means an individual who:

574 (a) was mobilized to active federal military service in:

575 (i) an active component of the United States Armed Forces as defined in Section

576 ~~[59-10-1027]~~ 59-2-1104; or

577 (ii) a reserve component of the United States Armed Forces as defined in Section

578 ~~[59-10-1027]~~ 59-2-1104; and

579 (b) received an honorable or general discharge from active federal military service  
580 under Subsection (1)(a) within the two-year period before the date the employment begins.

581 (2) A corporation may claim a nonrefundable tax credit as provided in this section  
582 against a tax under this chapter if the corporation employs a recently deployed veteran on or  
583 after January 1, 2012, who:

584 (a) (i) is collecting or is eligible to collect unemployment benefits under Title 35A,  
585 Chapter 4, Part 4, Benefits and Eligibility; or

586 (ii) within the last two years, has exhausted the unemployment benefits under  
587 Subsection (2)(a)(i); and

588 (b) works for the corporation at least 35 hours per week for not less than 45 of the 52  
589 weeks following the recently deployed veteran's start date for the employment.

- 590 (3) A tax credit:
- 591 (a) earned under this section shall be claimed beginning in the year the requirements of
- 592 Subsection (2) are met;
- 593 (b) for the first taxable year, is equal to \$200 for each month of employment not to
- 594 exceed \$2,400 for the taxable year for each recently deployed veteran; and
- 595 (c) for the second taxable year, is equal to \$400 for each month of employment not to
- 596 exceed \$4,800 for the taxable year for each recently deployed veteran.
- 597 (4) A corporation that claims a tax credit under this section shall retain the following
- 598 for each recently deployed veteran for which a tax credit is claimed under this section:
- 599 (a) the recently deployed veteran's:
- 600 (i) name;
- 601 (ii) taxpayer identification number;
- 602 (iii) last known address;
- 603 (iv) start date for the employment; and
- 604 (v) documentation establishing that the recently deployed veteran was employed as
- 605 required under Subsection (2)(b);
- 606 (b) documentation provided by the recently deployed veteran's military service unit
- 607 establishing that the recently deployed veteran is a recently deployed veteran; and
- 608 (c) a signed statement from the Department of Workforce Services that the recently
- 609 deployed veteran meets the requirements of Subsection (2)(a) regarding unemployment
- 610 benefits.
- 611 (5) A corporation shall provide the information described in Subsection (4) to the
- 612 commission at the request of the commission.
- 613 (6) A corporation may carry forward a tax credit under this section for a period that
- 614 does not exceed the next five taxable years if:
- 615 (a) the corporation is allowed to claim a tax credit under this section for a taxable year;
- 616 and
- 617 (b) the amount of the tax credit exceeds the corporation's tax liability under this chapter
- 618 for that taxable year.

619 Section 7. Section **59-10-1031** is amended to read:

620 **59-10-1031. Nonrefundable tax credit for employing a recently deployed veteran.**

- 621 (1) As used in this section, "recently deployed veteran" means an individual who:  
622 (a) was mobilized to active federal military service in:  
623 (i) an active component of the United States Armed Forces as defined in Section  
624 ~~[59-10-1027]~~ 59-2-1104; or  
625 (ii) a reserve component of the United States Armed Forces as defined in Section  
626 ~~[59-10-1027]~~ 59-2-1104; and  
627 (b) received an honorable or general discharge from active federal military service  
628 under Subsection (1)(a) within the two-year period before the date the employment begins.
- 629 (2) A claimant, estate, or trust may claim a nonrefundable tax credit as provided in this  
630 section against a tax under this chapter if the claimant, estate, or trust employs a recently  
631 deployed veteran, on or after January 1, 2012, who:  
632 (a) (i) is collecting or is eligible to collect unemployment benefits under Title 35A,  
633 Chapter 4, Part 4, Benefits and Eligibility; or  
634 (ii) within the last two years, has exhausted the unemployment benefits under  
635 Subsection (2)(a)(i); and  
636 (b) works for the claimant, estate, or trust at least 35 hours per week for not less than  
637 45 of the 52 weeks following the recently deployed veteran's start date for the employment.
- 638 (3) A tax credit:  
639 (a) earned under this section shall be claimed beginning in the year the requirements of  
640 Subsection (2) are met;  
641 (b) for the first taxable year, is equal to \$200 for each month of employment not to  
642 exceed \$2,400 for the taxable year for each recently deployed veteran; and  
643 (c) for the second taxable year, is equal to \$400 for each month of employment not to  
644 exceed \$4,800 for the taxable year for each recently deployed veteran.
- 645 (4) A claimant, estate, or trust that claims a tax credit under this section shall retain the  
646 following for each recently deployed veteran for which a tax credit is claimed under this  
647 section:  
648 (a) the recently deployed veteran's:  
649 (i) name;  
650 (ii) taxpayer identification number;  
651 (iii) last known address;

652 (iv) start date of the employment; and  
 653 (v) documentation establishing that the recently deployed veteran was employed as  
 654 required under Subsection (2)(b);

655 (b) documentation provided by the recently deployed veteran's military service unit  
 656 establishing that the recently deployed veteran is a recently deployed veteran; and

657 (c) a signed statement from the Department of Workforce Services that the recently  
 658 deployed veteran meets the requirements of Subsection (2)(a) regarding unemployment  
 659 benefits.

660 (5) At the request of the commission, a claimant, estate, or trust shall provide the  
 661 information described in Subsection (4) to the commission.

662 (6) A claimant, estate, or trust may carry forward a tax credit under this section for a  
 663 period that does not exceed the next five taxable years if:

664 (a) the claimant, estate, or trust is allowed to claim a tax credit under this section for a  
 665 taxable year; and

666 (b) the amount of the tax credit exceeds the claimant, estate, or trust's tax liability  
 667 under this chapter for that taxable year.

668 Section 8. Section **59-10-1304** is amended to read:

669 **59-10-1304. Removal of designation and prohibitions on collection for certain**  
 670 **contributions on income tax return -- Conditions for removal and prohibitions on**  
 671 **collection -- Commission reporting requirements.**

672 (1) (a) If a contribution or combination of contributions described in Subsection (1)(b)  
 673 generate less than \$30,000 per year for three consecutive years, the commission shall remove  
 674 the designation for the contribution from the individual income tax return and may not collect  
 675 the contribution from a resident or nonresident individual beginning two taxable years after the  
 676 three-year period for which the contribution generates less than \$30,000 per year.

677 (b) The following contributions apply to Subsection (1)(a):

678 [~~(i) the contribution provided for in Section 59-10-1305;~~]

679 [~~(ii)~~] (i) the contribution provided for in Section 59-10-1306;

680 [~~(iii)~~] (ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

681 [~~(iv)~~] (iii) the contribution provided for in Section 59-10-1308;

682 [~~(v)~~] (iv) the contribution provided for in Section 59-10-1310;

683 [~~(v)~~] (v) the contribution provided for in Section 59-10-1315;

684 [~~(vi)~~] (vi) the sum of the contributions provided for in:

685 (A) Section 59-10-1316; and

686 (B) Section 59-10-1317; or

687 [~~(vii)~~] (vii) the contribution provided for in Section 59-10-1318.

688 (2) If the commission removes the designation for a contribution under Subsection (1),  
689 the commission shall report to the Revenue and Taxation Interim Committee that the  
690 commission removed the designation on or before the November interim meeting of the year in  
691 which the commission determines to remove the designation.

692 Section 9. Section **63M-1-1102** is amended to read:

693 **63M-1-1102. Definitions.**

694 As used in this part:

695 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and  
696 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other  
697 organisms.

698 (2) "Postconsumer waste material" means any product generated by a business or  
699 consumer that has served its intended end use, and that has been separated from solid waste for  
700 the purposes of collection, recycling, and disposition and that does not include secondary waste  
701 material.

702 (3) (a) "Recovered materials" means waste materials and by-products that have been  
703 recovered or diverted from solid waste.

704 (b) "Recovered materials" does not include those materials and by-products generated  
705 from, and commonly reused within, an original manufacturing process.

706 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and  
707 the beneficial use of the materials and includes a series of activities by which materials that  
708 would become or otherwise remain waste are diverted from the waste stream for collection,  
709 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition  
710 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of  
711 the materials as substitutes for goods made from virgin materials.

712 (b) "Recycling" does not include burning municipal solid waste for energy recovery.

713 (5) "Recycling market development zone" or "zone" means an area designated by the

714 office as meeting the requirements of this part.

715 (6) (a) "Secondary waste material" means industrial by-products that go to disposal  
716 facilities and waste generated after completion of a manufacturing process.

717 (b) "Secondary waste material" does not include internally generated scrap commonly  
718 returned to industrial or manufacturing processes, such as home scrap and mill broke.

719 (7) [~~"State tax incentives," "tax incentives," or "tax benefits"~~] "Tax incentive" means  
720 ~~[the] a~~ nonrefundable tax ~~[credits]~~ credit available under ~~[Sections 59-7-608 and]~~ Section  
721 59-7-610 or 59-10-1007.

722 Section 10. **Repealer.**

723 This bill repeals:

724 Section **59-7-602, Credit for cash contributions to sheltered workshops.**

725 Section **59-7-603, Credit for sophisticated technological equipment donated to**  
726 **schools.**

727 Section **59-7-608, Targeted jobs tax credit.**

728 Section **59-7-609, Historic preservation credit.**

729 Section **59-7-614.3, Nonrefundable tax credit for qualifying solar projects.**

730 Section **59-10-1011, Tutoring tax credits for dependents with a disability.**

731 Section **59-10-1027, Nonrefundable tax credit for combat related death.**

732 Section **59-10-1305, Nongame wildlife contribution -- Credit to Wildlife Resources**

733 **Account.**

734 Section 11. **Effective date.**

735 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

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

738 (a) Section 59-7-105;

739 (b) Section 59-7-106;

740 (c) Section 59-7-602;

741 (d) Section 59-7-603;

742 (e) Section 59-7-608;

743 (f) Section 59-7-609;

744 (g) Section 59-7-614 (Effective 01/01/15);

- 745            (h) Section 59-7-614.3;
- 746            (i) Section 59-7-614.9;
- 747            (j) Section 59-10-1011;
- 748            (k) Section 59-10-1027;
- 749            (l) Section 59-10-1031;
- 750            (m) Section 59-10-1304;
- 751            (n) Section 59-10-1305; and
- 752            (o) Section 63M-1-1102.