

**INCOME TAX AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

---

---

**LONG TITLE**

**General Description:**

This bill repeals and amends provisions related to income taxes.

**Highlighted Provisions:**

This bill:

- ▶ repeals provisions related to corporate and individual income tax credits;
- ▶ exempts a tax credit for a combat related death from certain provisions that require the State Tax Commission to remove a tax credit from a tax return and prohibit a taxpayer from claiming or carrying forward a tax credit;
- ▶ 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
- 59-7-105**, 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
- 59-10-1002.1**, as renumbered and amended by Laws of Utah 2008, Chapter 389
- 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

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

38

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 **59-7-105** is amended to read:

62           **59-7-105. Additions to unadjusted income.**

63           In computing adjusted income the following amounts shall be added to unadjusted

64 income:

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

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

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

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

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

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

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

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

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

82 [~~(8)~~ (6) charitable contributions, to the extent deducted on the federal return when  
83 determining federal taxable income;

84 [~~(9)~~ (7) the amount of gain or loss determined under Section 59-7-114 relating to a  
85 target corporation under Section 338, Internal Revenue Code, unless such gain or loss has  
86 already been included in the unadjusted income of the target corporation;

87 [~~(10)~~ (8) the amount of gain or loss determined under Section 59-7-115 relating to  
88 corporations treated for federal purposes as having disposed of its assets under Section 336(e),  
89 Internal Revenue Code, unless such gain or loss has already been included in the unadjusted  
90 income of the target corporation;

91 [~~(11)~~ (9) adjustments to gains, losses, depreciation expense, amortization expense, and  
92 similar items due to a difference between basis for federal purposes and basis as computed  
93 under Section 59-7-107;

94 [~~(12)~~ (10) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational

95 Savings Plan, from the account of a corporation that is an account owner as defined in Section  
 96 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn  
 97 from the account of the corporation that is the account owner:

98 (a) is not expended for:

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

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

103 (b) is subtracted by the corporation:

104 (i) that is the account owner; and

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

106 [~~(13)~~] (11) the amount of the deduction for dividends paid, as defined in Section 561,  
 107 Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in  
 108 computing the taxable income of a captive real estate investment trust, if that captive real estate  
 109 investment trust is subject to federal income taxation.

110 Section 3. Section **59-7-106** is amended to read:

111 **59-7-106. Subtractions from unadjusted income.**

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

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

116 (b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the  
 117 taxpayer elects to deduct the net capital loss on the return filed under this chapter for the  
 118 taxable year for which the net capital loss is incurred;

119 (c) the decrease in salary expense deduction for federal income tax purposes due to  
 120 claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

121 (d) the decrease in qualified research and basic research expense deduction for federal  
 122 income tax purposes due to claiming the federal credit for increasing research activities under  
 123 Section 41, Internal Revenue Code;

124 (e) the decrease in qualified clinical testing expense deduction for federal income tax  
 125 purposes due to claiming the federal credit for clinical testing expenses for certain drugs for

- 126 rare diseases or conditions under Section 45C, Internal Revenue Code;
- 127 (f) any decrease in any expense deduction for federal income tax purposes due to
- 128 claiming any other federal credit;
- 129 (g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and
- 130 (2)(b);
- 131 (h) any income on the federal corporation income tax return that has been previously
- 132 taxed by Utah;
- 133 (i) an amount included in federal taxable income that is due to a refund of a tax,
- 134 including a franchise tax, an income tax, a corporate stock and business tax, or an occupation
- 135 tax:
- 136 (i) if that tax is imposed for the privilege of:
- 137 (A) doing business; or
- 138 (B) exercising a corporate franchise;
- 139 (ii) if that tax is paid by the corporation to:
- 140 (A) Utah;
- 141 (B) another state of the United States;
- 142 (C) a foreign country;
- 143 (D) a United States possession; or
- 144 (E) the Commonwealth of Puerto Rico; and
- 145 (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;
- 146 (j) a charitable contribution, to the extent the charitable contribution is allowed as a
- 147 subtraction under Section 59-7-109;
- 148 (k) subject to Subsection (3), 50% of a dividend considered to be received or received
- 149 from a subsidiary that:
- 150 (i) is a member of the unitary group;
- 151 (ii) is organized or incorporated outside of the United States; and
- 152 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;
- 153 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a
- 154 foreign operating company;
- 155 (m) the amount of gain or loss that is included in unadjusted income but not recognized
- 156 for federal purposes on stock sold or exchanged by a member of a selling consolidated group as

157 defined in Section 338, Internal Revenue Code, if an election has been made in accordance  
158 with Section 338(h)(10), Internal Revenue Code;

159 (n) the amount of gain or loss that is included in unadjusted income but not recognized  
160 for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance  
161 with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal  
162 Revenue Code, has been made for federal purposes;

163 (o) subject to Subsection (5), an adjustment to the following due to a difference  
164 between basis for federal purposes and basis as computed under Section 59-7-107:

165 (i) an amortization expense;

166 (ii) a depreciation expense;

167 (iii) a gain;

168 (iv) a loss; or

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

170 (p) an interest expense that is not deducted on a federal corporation income tax return  
171 under Section 265(b) or 291(e), Internal Revenue Code;

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

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

175 (ii) under common ownership;

176 (r) subject to Subsection 59-7-105[~~(12)~~](10), the amount of a qualified investment as  
177 defined in Section 53B-8a-102 that:

178 (i) a corporation that is an account owner as defined in Section 53B-8a-102 makes  
179 during the taxable year;

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

182 (iii) does not exceed the maximum amount of the qualified investment that may be  
183 subtracted from unadjusted income for a taxable year in accordance with Subsection  
184 53B-8a-106(1);

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

- 188 (t) the increase in income for federal income tax purposes due to claiming a:
- 189 (i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or
- 190 (ii) qualified zone academy bond under Section 1397E, Internal Revenue Code.
- 191 (2) For purposes of Subsection (1)(b):
- 192 (a) the subtraction shall be made by claiming the subtraction on a return filed:
- 193 (i) under this chapter for the taxable year for which the net capital loss is incurred; and
- 194 (ii) by the due date of the return, including extensions; and
- 195 (b) a net capital loss for a taxable year shall be:
- 196 (i) subtracted for the taxable year for which the net capital loss is incurred; or
- 197 (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue
- 198 Code.
- 199 (3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a
- 200 taxpayer shall first subtract from a dividend considered to be received or received an expense
- 201 directly attributable to that dividend.
- 202 (b) For purposes of Subsection (3)(a), the amount of an interest expense that is
- 203 considered to be directly attributable to a dividend is calculated by multiplying the interest
- 204 expense by a fraction:
- 205 (i) the numerator of which is the taxpayer's average investment in the dividend paying
- 206 subsidiaries; and
- 207 (ii) the denominator of which is the taxpayer's average total investment in assets.
- 208 (c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in
- 209 determining income apportionable to this state, a portion of the factors of a foreign subsidiary
- 210 that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the
- 211 combined report factors as provided in this Subsection (3)(c).
- 212 (ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign
- 213 subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be
- 214 included in the combined report factors is calculated by multiplying each factor of the foreign
- 215 subsidiary by a fraction:
- 216 (A) not to exceed 100%; and
- 217 (B) (I) the numerator of which is the amount of the dividend paid by the foreign
- 218 subsidiary that is included in adjusted income; and

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

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

223 (i) if the taxpayer elects to file a worldwide combined report as provided in Section  
224 59-7-403; or

225 (ii) for the following:

226 (A) income generated from intangible property; or

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

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

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

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

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

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

240 (i) income generated from intangible property; or

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

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

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

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

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



250 through (iv).

251 Section 4. Section **59-7-614 (Effective 01/01/15)** is amended to read:

252 **59-7-614 (Effective 01/01/15). Renewable energy systems tax credit -- Definitions**

253 **-- Limitations -- Certification -- Rulemaking authority.**

254 (1) As used in this section:

255 (a) "Active solar system":

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

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

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

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

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

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

272 (f) (i) "Commercial unit" means any building or structure that a business entity uses to  
273 transact its business.

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

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

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

279 (g) "Direct-use geothermal system" means a system of apparatus and equipment  
280 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,

281 that is contained in the earth to meet energy needs, including heating a building, an industrial  
282 process, and aquaculture.

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

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

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

291 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
292 59-10-103 and an individual as defined in Section 59-10-103.

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

294 (m) "Passive solar system":

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

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

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

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

307 (i) Section 59-2-404;

308 (ii) Section 59-2-405;

309 (iii) Section 59-2-405.1;

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

311 (v) Section 59-2-405.3.

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

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

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

323 (B) The total amount of each tax credit under this Subsection (2)(a) may not exceed  
324 \$2,000 per residential unit.

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

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

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

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

334 (b) (i) A business entity that purchases or participates in the financing of a commercial  
335 energy system situated in Utah may claim a refundable tax credit as provided in this Subsection  
336 (2)(b) if the commercial energy system does not use wind, geothermal electricity, solar, or  
337 biomass equipment capable of producing a total of 660 or more kilowatts of electricity or if the  
338 commercial energy system does not use solar equipment capable of producing 2,000 or more  
339 kilowatts of electricity, and:

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

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

343 energy system as a commercial enterprise.

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

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

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

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

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

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

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

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

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

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

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

373 (I) 0.35 cents; and

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

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

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

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

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

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

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

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

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

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

398 (B) the business entity sells all or part of the energy produced by the commercial  
399 energy system as a commercial enterprise; and

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

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

402 (i) 0.35 cents; and

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

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

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

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

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

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

417 ~~[(b) A purchaser of one or more solar units that claims a tax credit under Section~~  
418 ~~59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this~~  
419 ~~section for that purchase.]~~

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

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

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

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

433 (5) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and  
434 Taxation Interim Committee shall review each tax credit provided by this section and report its  
435 recommendations to the Legislative Management Committee concerning whether the tax credit

436 should be continued, modified, or repealed.

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

440 Section 5. Section **59-10-1002.1** is amended to read:

441 **59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming**  
442 **or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or**  
443 **carrying forward a tax credit -- Exception -- Commission reporting requirements.**

444 (1) As used in this section, "tax return" means a tax return filed in accordance with this  
445 chapter.

446 (2) ~~[Beginning]~~ Except as provided in Subsection (4), beginning two taxable years  
447 after the requirements of Subsection (3) are met:

448 (a) the commission shall remove a tax credit allowed under this part from each tax  
449 return on which the tax credit appears; and

450 (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax  
451 credit.

452 (3) ~~[The]~~ Except as provided in Subsection (4), the commission shall remove a tax  
453 credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return  
454 may not claim or carry forward the tax credit as provided in Subsection (2) if:

455 (a) the total amount of the tax credit claimed or carried forward by all claimants,  
456 estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable  
457 years beginning on or after January 1, 2002; and

458 (b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable  
459 years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax  
460 credit.

461 (4) This section does not apply to a tax credit under Section 59-10-1027.

462 ~~[(4)]~~ (5) The commission shall, on or before the November interim meeting of the year  
463 after the taxable year in which the requirements of Subsection (3) are met:

464 (a) report to the Revenue and Taxation Interim Committee that in accordance with this  
465 section:

466 (i) the commission is required to remove a tax credit from each tax return on which the

467 tax credit appears; and

468 (ii) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax  
469 credit; and

470 (b) notify each state agency required by statute to assist in the administration of the tax  
471 credit that in accordance with this section:

472 (i) the commission is required to remove a tax credit from each tax return on which the  
473 tax credit appears; and

474 (ii) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax  
475 credit.

476 Section 6. Section **59-10-1304** is amended to read:

477 **59-10-1304. Removal of designation and prohibitions on collection for certain**  
478 **contributions on income tax return -- Conditions for removal and prohibitions on**  
479 **collection -- Commission reporting requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

496 (2) If the commission removes the designation for a contribution under Subsection (1),  
497 the commission shall report to the Revenue and Taxation Interim Committee that the



498 commission removed the designation on or before the November interim meeting of the year in  
499 which the commission determines to remove the designation.

500 Section 7. Section **63M-1-1102** is amended to read:

501 **63M-1-1102. Definitions.**

502 As used in this part:

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

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

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

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

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

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

521 (5) "Recycling market development zone" or "zone" means an area designated by the  
522 office as meeting the requirements of this part.

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

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

527 (7) [~~"State tax incentives," "tax incentives," or "tax benefits"~~] "Tax incentive" means  
528 [~~the~~] a nonrefundable tax [~~credits~~] credit available under [~~Sections 59-7-608 and~~] Section

529 59-7-610 or 59-10-1007.

530 Section 8. **Repealer.**

531 This bill repeals:

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

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

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

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

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

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

539 Section **59-10-1305, Nongame wildlife contribution -- Credit to Wildlife Resources**  
540 **Account.**

541 Section 9. **Effective date.**

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

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

545 (a) Section 59-7-105;

546 (b) Section 59-7-106;

547 (c) Section 59-7-602;

548 (d) Section 59-7-603;

549 (e) Section 59-7-608;

550 (f) Section 59-7-609;

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

552 (h) Section 59-7-614.3;

553 (i) Section 59-10-1002.1;

554 (j) Section 59-10-1011;

555 (k) Section 59-10-1304;

556 (l) Section 59-10-1305; and

557 (m) Section 63M-1-1102.