59-10-1106. Refundable renewable energy tax credit.

(1) As used in this section:

(a) "Active solar system" is as defined in Section 59-10-1014.

(b) "Biomass system" is as defined in Section 59-10-1014.

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

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

(e) "Commercial enterprise" means a business entity that:

(i) is a claimant, estate, or trust; and

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

(f) (i) "Commercial unit" means any building or structure that a business entity that is a claimant, estate, or trust uses to transact its business.

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

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

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

(g) "Direct-use geothermal system" is as defined in Section 59-10-1014.

(h) "Geothermal electricity" is as defined in Section 59-10-1014.

(i) "Geothermal heat-pump system" is as defined in Section 59-10-1014.

(j) "Hydroenergy system" is as defined in Section 59-10-1014.

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

(l) "Passive solar system" is as defined in Section 59-10-1014.

(m) "Wind system" is as defined in Section 59-10-1014.

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

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

(B) the business entity that is a claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

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

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

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

(iii) A business entity that is a claimant, estate, or trust that leases a commercial energy

system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(a) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

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

(v) A business entity that is a claimant, estate, or trust that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(a) for a period no greater than seven years from the initiation of the lease.

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

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

(B) the business entity that is a claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) A business entity that is a claimant, estate, or trust is entitled to a tax credit under this Subsection (2)(b) equal to the product of:

(A) 0.35 cents; and

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

(iii) The credit allowed by this Subsection (2)(b):

(A) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in service; and

(B) may not be carried forward or back.

(iv) A business entity that is a claimant, estate, or trust that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this section if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(3) The tax credits provided for under this section are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(4) (a) The office may set standards for commercial energy systems claiming a tax credit under Subsection (2)(a) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

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

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

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

(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a) shall

include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.