

RENEWABLE ENERGY TAX CREDIT

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheryl L. Allen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends and extends the renewable energy tax credit.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ extends the availability of the renewable energy tax credit until 2012;
- ▶ expands the renewable energy tax credit to include some geothermal sources; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-1014, as renumbered and amended by Chapter 223, Laws of Utah 2006

REPEALS AND REENACTS:

59-7-614, as last amended by Chapter 223, Laws of Utah 2006

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

Section 1. Section **59-7-614** is repealed and reenacted to read:



28 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**
29 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**
30 **authority -- Reimbursement of Uniform School Fund.**

31 (1) As used in this section:

32 (a) "Active solar system":

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

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

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

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

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

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

49 (f) (i) "Commercial unit" means any building or structure that a business entity uses to
50 transact its business except as provided in Subsection (1)(f)(ii); and

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

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

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

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

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

64 (j) "Individual taxpayer" means any person who is a taxpayer as defined in Section
65 59-10-103 and an individual as defined in Section 59-10-103.

66 (k) "Passive solar system":

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

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

73 (l) "Residential energy system" means any active solar, passive solar, biomass,
74 direct-use geothermal, wind, or hydroenergy system used to supply energy to or for any
75 residential unit.

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

79 (i) Section 59-2-404;

80 (ii) Section 59-2-405;

81 (iii) Section 59-2-405.1;

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

83 (v) Section 59-2-405.3.

84 (n) "Utah Geological Survey" means the Utah Geological Survey established in Section
85 63-73-5.

86 (o) "Wind system" means a system of apparatus and equipment capable of intercepting
87 and converting wind energy into mechanical or electrical energy and transferring these forms of
88 energy by a separate apparatus to the point of use or storage.

89 (2) (a) (i) For taxable years beginning on or after January 1, 2007, but beginning on or

90 before December 31, 2012, a business entity that purchases and completes or participates in the
91 financing of a residential energy system to supply all or part of the energy required for a
92 residential unit owned or used by the business entity and situated in Utah is entitled to a tax
93 credit as provided in this Subsection (2)(a).

94 (ii) (A) A business entity is entitled to a tax credit equal to up to 25% of the reasonable
95 costs of a residential energy system installed with respect to each residential unit it owns or
96 uses, including installation costs, against any tax due under this chapter for the taxable year in
97 which the energy system is completed and placed in service.

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

100 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
101 completed and placed in service on or after January 1, 2007, but on or before December 31,
102 2012.

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

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

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

110 (b) (i) For taxable years beginning on or after January 1, 2007, but beginning on or
111 before December 31, 2012, a business entity that purchases or participates in the financing of a
112 commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

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

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

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

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

123 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy
124 system completed and placed in service on or after January 1, 2007, but on or before December
125 31, 2012.

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

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

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

135 (c) (i) A tax credit under this section may be claimed for the taxable year in which the
136 energy system is completed and placed in service.

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

139 (iii) If the amount of a tax credit under this section exceeds a business entity's tax
140 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
141 may be carried over for a period which does not exceed the next four taxable years.

142 (3) (a) The tax credits provided for under Subsection (2) are in addition to any tax
143 credits provided under the laws or rules and regulations of the United States.

144 (b) (i) The Utah Geological Survey may set standards for residential and commercial
145 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
146 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
147 nonrenewable energy resources in an appropriate and economic manner.

148 (ii) The Utah Geological Survey may set standards for residential and commercial
149 energy systems that establish the reasonable costs of an energy system, as used in Subsections
150 (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production capacity.

151 (iii) A tax credit may not be taken under Subsection (2) until the Utah Geological

152 Survey has certified that the energy system has been completely installed and is a viable system
153 for saving or production of energy from renewable resources.

154 (c) The Utah Geological Survey and the commission may make rules in accordance
155 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are necessary to
156 implement this section.

157 (d) The Uniform School Fund shall be reimbursed by transfers from the General Fund
158 for any credits taken under this section.

159 Section 2. Section 59-10-1014 is amended to read:

160 **59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations --**
161 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**
162 **authority -- Reimbursement of Uniform School Fund.**

163 (1) As used in this part:

164 (a) "Active solar system":

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

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

170 (b) "Biomass system" means any system of apparatus and equipment [~~capable of~~
171 ~~converting organic plant, wood, or waste products into electrical and thermal energy and~~
172 ~~transferring these forms of energy by a separate apparatus to the point of use or storage]~~ for use
173 in converting material into biomass energy, as defined in Section 59-12-102, and transporting
174 that energy by separate apparatus to the point of use or storage.

175 (c) "Business entity" means any entity under which business is conducted or transacted.

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

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

181 (f) (i) "Commercial unit" means any building or structure [~~which~~] that a business entity
182 uses to transact its business, except as provided in Subsection (1)(f)(ii); and

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

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

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

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

193 [~~(g)~~] (i) "Hydroenergy system" means a system of apparatus and equipment capable of
194 intercepting and converting kinetic water energy into electrical or mechanical energy and
195 transferring this form of energy by separate apparatus to the point of use or storage.

196 [~~(h)~~] (j) "Passive solar system":

197 (i) means a direct thermal system [~~which~~] that utilizes the structure of a building and its
198 operable components to provide for collection, storage, and distribution of heating or cooling
199 during the appropriate times of the year by utilizing the climate resources available at the site;
200 and

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

203 [~~(i)~~] (k) "Residential energy system" means any active solar, passive solar, biomass,
204 direct-use geothermal, wind, or hydroenergy system used to supply energy to or for any
205 residential unit.

206 [~~(j)~~] (l) "Residential unit" means any house, condominium, apartment, or similar
207 dwelling unit [~~which~~] that serves as a dwelling for a person, group of persons, or a family but
208 does not include property subject to a fee under:

209 (i) Section 59-2-404;

210 (ii) Section 59-2-405;

211 (iii) Section 59-2-405.1;

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

213 (v) Section 59-2-405.3.

214 ~~[(k)]~~ (m) "Utah Geological Survey" means the Utah Geological Survey established in
215 Section 63-73-5.

216 ~~[(t)]~~ (n) "Wind system" means a system of apparatus and equipment capable of
217 intercepting and converting wind energy into mechanical or electrical energy and transferring
218 these forms of energy by a separate apparatus to the point of use or storage.

219 (2) For taxable years beginning on or after January 1, ~~[2007]~~ 2007, but beginning on or
220 before December 31, ~~[2006]~~ 2012, a claimant, estate, or trust may claim a nonrefundable tax
221 credit as provided in this section if:

222 (a) a claimant, estate, or trust that is not a business entity purchases and completes or
223 participates in the financing of a residential energy system to supply all or part of the energy for
224 the claimant's, estate's, or trust's residential unit in the state; or

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

228 (ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit
229 to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(c) or
230 Subsection 59-7-614(2)(a)(iii).

231 (3) (a) The tax credit described in Subsection (2) is equal to up to 25% of the
232 reasonable costs of the energy system, including installation costs, against any income tax
233 liability of the claimant, estate, or trust under this chapter for the taxable year in which the
234 residential energy system is completed and placed in service.

235 (b) ~~[The]~~ Notwithstanding Subsection (3)(a), the total amount of the tax credit under
236 this section may not exceed \$2,000 per residential unit.

237 (c) The tax credit under this section is allowed for any residential energy system
238 completed and placed in service on or after January 1, ~~[2007]~~ 2007, but on or before December
239 31, ~~[2006]~~ 2012.

240 (4) (a) The tax credit provided for in this section shall be claimed in the return for the
241 taxable year in which the energy system is completed and placed in service.

242 (b) Additional residential energy systems or parts of residential energy systems may be
243 similarly claimed in returns for subsequent taxable years as long as the total amount claimed
244 does not exceed \$2,000 per residential unit.

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

249 (5) (a) A claimant, estate, or trust that is not a business entity that leases a residential
250 energy system installed on a residential unit is eligible for the residential energy tax credits if
251 that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax
252 credit.

253 (b) Only the principal recovery portion of the lease payments, which is the cost
254 incurred by the claimant, estate, or trust in acquiring the residential energy system excluding
255 interest charges and maintenance expenses, is eligible for the tax credits.

256 (c) A claimant, estate, or trust described in this Subsection (5) may use the tax credits
257 for a period that does not exceed seven years from the initiation of the lease.

258 (6) (a) A claimant, estate, or trust that is a business entity that purchases and completes
259 or participates in the financing of a residential energy system to supply all or part of the energy
260 required for a residential unit owned or used by the claimant, estate, or trust that is a business
261 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this
262 Subsection (6).

263 (b) (i) For taxable years beginning on or after January 1, [~~2001~~] 2007, but beginning on
264 or before December 31, [~~2006~~] 2012, a claimant, estate, or trust that is a business entity is
265 entitled to a tax credit [~~equal~~] of up to 25% of the reasonable costs of a residential energy
266 system installed with respect to each residential unit it owns or uses, including installation
267 costs, against any tax due under this chapter for the taxable year in which the energy system is
268 completed and placed in service.

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

271 (iii) The tax credit under this Subsection (6) is allowed for any residential energy
272 system completed and placed in service on or after January 1, [~~2001~~] 2007, but on or before
273 December 31, [~~2006~~] 2012.

274 (c) If a claimant, estate, or trust that is a business entity sells a residential unit to a
275 claimant, estate, or trust that is not a business entity [~~prior to~~] before making a claim for the tax

276 credit under this Subsection (6), the claimant, estate, or trust that is a business entity may:

277 (i) assign its right to this tax credit to the claimant, estate, or trust that is not a business
278 entity; and

279 (ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax
280 credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the
281 claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant,
282 estate, or trust that is not a business entity had completed or participated in the costs of the
283 residential energy system under this section.

284 (7) (a) A claimant, estate, or trust that is a business entity that purchases or participates
285 in the financing of a commercial energy system is entitled to a nonrefundable tax credit as
286 provided in this Subsection (7) if:

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

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

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

295 (ii) ~~[The]~~ Notwithstanding Subsection (7)(b)(i), the total amount of the tax credit under
296 this Subsection (7) may not exceed \$50,000 per commercial unit.

297 (iii) The tax credit under this Subsection (7) is allowed for any commercial energy
298 system completed and placed in service on or after January 1, ~~[2007]~~ 2007, but on or before
299 December 31, ~~[2006]~~ 2012.

300 (c) A claimant, estate, or trust that is a business entity that leases a commercial energy
301 system installed on a commercial unit is eligible for the tax credit under this Subsection (7) if
302 the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax
303 credit.

304 (d) Only the principal recovery portion of the lease payments, which is the cost
305 incurred by a claimant, estate, or trust that is not a business entity in acquiring a commercial
306 energy system, excluding interest charges and maintenance expenses, is eligible for the tax

307 credit under this Subsection (7).

308 (e) A claimant, estate, or trust that is a business entity that leases a commercial energy
309 system is eligible to use the tax credit under this Subsection (7) for a period that does not
310 exceed seven years from the initiation of the lease.

311 (8) (a) A tax credit under this section may be claimed for the taxable year in which the
312 energy system is completed and placed in service.

313 (b) Additional energy systems or parts of energy systems may be claimed for
314 subsequent years.

315 (c) If the amount of a tax credit under this section exceeds the tax liability of the
316 claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount
317 of the tax credit exceeding the tax liability may be carried over for a period which does not
318 exceed the next four taxable years.

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

321 (10) (a) The Utah Geological Survey may set standards for residential and commercial
322 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
323 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
324 nonrenewable energy resources in an appropriate and economic manner.

325 (b) The Utah Geological Survey may set standards for residential and commercial
326 energy systems that establish the reasonable costs of an energy system, as used in Subsections
327 (3)(a), (6)(b)(i), and (7)(b)(i), as an amount per unit of energy production capacity.

328 ~~[(b)]~~ (c) A tax credit may not be taken under this section until the Utah Geological
329 Survey has certified that the energy system has been completely installed and is a viable system
330 for saving or production of energy from renewable resources.

331 (11) The Utah Geological Survey and the commission ~~[are authorized to promulgate]~~
332 may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
333 Act, ~~[which]~~ that are necessary to implement this section.

334 (12) The Uniform School Fund shall be reimbursed by transfers from the General Fund
335 for any tax credits taken under this section.

336 Section 3. **Retrospective operation.**

337 This bill has retrospective operation for taxable years beginning on or after January 1,

338 2007.

Legislative Review Note
as of 11-15-06 6:31 PM

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-14-06 8:24 AM

The Public Utilities and Technology Interim Committee recommended this bill.