

1 **STATE COMMISSION AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Margaret Dayton**

5 House Sponsor: Gregory H. Hughes

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to certain state commissions.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the duties of the Utah Tax Review Commission;
- 13 ▶ transfers some duties of the Utah Tax Review Commission to the Revenue and
14 Taxation Interim Committee;
- 15 ▶ modifies the duties of the Utah Constitutional Revision Commission;
- 16 ▶ modifies a provision relating to the staffing of the Utah Constitutional Revision
17 Commission; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **59-1-903**, as last amended by Laws of Utah 2002, Chapter 144

26 **59-1-904**, as enacted by Laws of Utah 1990, Chapter 237

27 **59-1-905**, as last amended by Laws of Utah 2010, Chapter 286

28 **59-5-102**, as last amended by Laws of Utah 2010, Chapter 323

29 **59-7-612**, as last amended by Laws of Utah 2008, Chapters 4 and 382

- 30 **59-7-613**, as last amended by Laws of Utah 2008, Chapters 4 and 382
- 31 **59-7-614**, as last amended by Laws of Utah 2009, Chapter 344
- 32 **59-7-614.2**, as last amended by Laws of Utah 2010, Chapter 164
- 33 **59-7-614.3**, as enacted by Laws of Utah 2008, Chapter 389
- 34 **59-7-614.5**, as last amended by Laws of Utah 2010, Chapter 278
- 35 **59-10-1012**, as last amended by Laws of Utah 2008, Chapters 4 and 382
- 36 **59-10-1013**, as last amended by Laws of Utah 2008, Chapters 4 and 382
- 37 **59-10-1014**, as last amended by Laws of Utah 2009, Chapter 344
- 38 **59-10-1024**, as enacted by Laws of Utah 2008, Chapter 389
- 39 **59-10-1106**, as last amended by Laws of Utah 2009, Chapter 344
- 40 **59-10-1107**, as last amended by Laws of Utah 2010, Chapter 164
- 41 **59-10-1108**, as last amended by Laws of Utah 2010, Chapter 278
- 42 **59-12-103.1**, as last amended by Laws of Utah 2006, Chapter 253
- 43 **59-12-104.5**, as last amended by Laws of Utah 2009, Chapter 203
- 44 **63I-3-203**, as last amended by Laws of Utah 2010, Chapter 25
- 45 **63I-3-204**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 46 **63I-3-207**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 47 **63J-1-205**, as enacted by Laws of Utah 2008, Chapter 138
- 48 **63M-1-1805**, as last amended by Laws of Utah 2009, Chapter 135
- 49 **63M-1-2406**, as enacted by Laws of Utah 2008, Chapter 372
- 50 **63M-1-2806**, as last amended by Laws of Utah 2010, Chapter 45



51
52 *Be it enacted by the Legislature of the state of Utah:*

53 Section 1. Section **59-1-903** is amended to read:

54 **59-1-903. Duties.**

55 [(1)] The review commission shall[: (a) ~~establish an ongoing and comprehensive~~

56 ~~review of: (i) the tax laws of this state and the political subdivisions of this state; and (ii) all~~

57 ~~issues related to revenue and taxation; and (b)] make recommendations to the governor and the~~

58 Legislature on~~[(+)]~~ specific tax issues~~[- and]~~, as requested by:

59 ~~[(ii) tax policy of the state and the political subdivisions.]~~

60 ~~[(2) The review commission may advise the governor, the Legislature, and political~~
61 ~~subdivisions on any proposed change of tax laws or tax policy.]~~

62 (1) the governor;

63 (2) the Legislature in a joint resolution of the Legislature; or

64 (3) the Legislative Management Committee.

65 Section 2. Section **59-1-904** is amended to read:

66 **59-1-904. Public hearings.**

67 The review commission may hold public hearings it considers advisable and in various
68 locations within the state so that all interested persons who are citizens of this state may be
69 afforded an opportunity to appear and present their views in respect to any subject relating to
70 the work of the review commission under Section 59-1-903.

71 Section 3. Section **59-1-905** is amended to read:

72 **59-1-905. Per diem and travel expenses.**

73 ~~[(+)]~~ A member may not receive compensation or benefits for the member's service,
74 but may receive per diem and travel expenses in accordance with:

75 ~~[(a)]~~ (1) Section 63A-3-106;

76 ~~[(b)]~~ (2) Section 63A-3-107; and

77 ~~[(c)]~~ (3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
78 63A-3-107.

79 ~~[(2) Prior to the convening of the Legislature in annual general session, the review~~
80 ~~commission shall submit its recommendations to the members of the Legislature and to the~~
81 ~~governor.]~~

82 Section 4. Section **59-5-102** is amended to read:

83 **59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit**
84 **-- Tax rate reduction -- Study by Revenue and Taxation Interim Committee.**

85 (1) Each person owning an interest, working interest, royalty interest, payments out of

86 production, or any other interest, in oil or gas produced from a well in the state, or in the
87 proceeds of the production, shall pay to the state a severance tax on the basis of the value
88 determined under Section 59-5-103.1 of the oil or gas:

- 89 (a) produced; and
- 90 (b) (i) saved;
- 91 (ii) sold; or
- 92 (iii) transported from the field where the substance was produced.

93 (2) (a) Subject to Subsection (2)(d), the severance tax rate for oil is as follows:

- 94 (i) 3% of the value of the oil up to and including the first \$13 per barrel for oil; and
- 95 (ii) 5% of the value of the oil from \$13.01 and above per barrel for oil.

96 (b) Subject to Subsection (2)(d), the severance tax rate for natural gas is as follows:

- 97 (i) 3% of the value of the natural gas up to and including the first \$1.50 per MCF for
98 gas; and

- 99 (ii) 5% of the value of the natural gas from \$1.51 and above per MCF for gas.

100 (c) Subject to Subsection (2)(d), the severance tax rate for natural gas liquids is 4% of
101 the value of the natural gas liquids.

102 (d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst
103 and the Governor's Office of Planning and Budget shall prepare a revenue forecast estimating
104 the amount of revenues that:

105 (A) would be generated by the taxes imposed by this part for the calendar year
106 beginning on January 1, 2004 had 2004 General Session S.B. 191 not taken effect; and

107 (B) will be generated by the taxes imposed by this part for the calendar year beginning
108 on January 1, 2004.

109 (ii) Effective on January 1, 2005, the tax rates described in Subsections (2)(a) through
110 (c) shall be:

111 (A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated
112 under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection
113 (2)(d)(i)(A); or

114 (B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated
115 under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under
116 Subsection (2)(d)(i)(A).

117 (iii) For purposes of Subsection (2)(d)(ii):

118 (A) subject to Subsection (2)(d)(iv)(B):

119 (I) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax
120 rates shall be by the amount necessary to generate for the calendar year beginning on January 1,
121 2005 revenues equal to the amount by which the revenues estimated under Subsection
122 (2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or

123 (II) if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the tax
124 rates shall be by the amount necessary to reduce for the calendar year beginning on January 1,
125 2005 revenues equal to the amount by which the revenues estimated under Subsection
126 (2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and

127 (B) an increase or decrease in each tax rate under Subsection (2)(d)(ii) shall be in
128 proportion to the amount of revenues generated by each tax rate under this part for the calendar
129 year beginning on January 1, 2003.

130 (iv) (A) The commission shall calculate any tax rate increase or decrease required by
131 Subsection (2)(d)(ii) using the best information available to the commission.

132 (B) If the tax rates described in Subsections (2)(a) through (c) are increased or
133 decreased as provided in this Subsection (2)(d), the commission shall mail a notice to each
134 person required to file a return under this part stating the tax rate in effect on January 1, 2005
135 as a result of the increase or decrease.

136 (3) If oil or gas is shipped outside the state:

137 (a) the shipment constitutes a sale; and

138 (b) the oil or gas is subject to the tax imposed by this section.

139 (4) (a) Except as provided in Subsection (4)(b), if the oil or gas is stockpiled, the tax is
140 not imposed until the oil or gas is:

141 (i) sold;

142 (ii) transported; or

143 (iii) delivered.

144 (b) Notwithstanding Subsection (4)(a), if oil or gas is stockpiled for more than two
145 years, the oil or gas is subject to the tax imposed by this section.

146 (5) A tax is not imposed under this section upon:

147 (a) stripper wells, unless the exemption prevents the severance tax from being treated
148 as a deduction for federal tax purposes;

149 (b) the first 12 months of production for wildcat wells started after January 1, 1990; or

150 (c) the first six months of production for development wells started after January 1,
151 1990.

152 (6) (a) Subject to Subsections (6)(b) and (c), a working interest owner who pays for all
153 or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit
154 equal to 20% of the amount paid.

155 (b) The tax credit under Subsection (6)(a) for each recompletion or workover may not
156 exceed \$30,000 per well during each calendar year.

157 (c) If any amount of tax credit a taxpayer is allowed under this Subsection (6) exceeds
158 the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims
159 the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar
160 year may be carried forward for the next three calendar years.

161 (7) A 50% reduction in the tax rate is imposed upon the incremental production
162 achieved from an enhanced recovery project.

163 (8) The taxes imposed by this section are:

164 (a) in addition to all other taxes provided by law; and

165 (b) delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year
166 when the oil or gas is:

167 (i) produced; and

168 (ii) (A) saved;

169 (B) sold; or

170 (C) transported from the field.

171 (9) With respect to the tax imposed by this section on each owner of oil or gas or in the
172 proceeds of the production of those substances produced in the state, each owner is liable for
173 the tax in proportion to the owner's interest in the production or in the proceeds of the
174 production.

175 (10) The tax imposed by this section shall be reported and paid by each producer that
176 takes oil or gas in kind pursuant to agreement on behalf of the producer and on behalf of each
177 owner entitled to participate in the oil or gas sold by the producer or transported by the
178 producer from the field where the oil or gas is produced.

179 (11) Each producer shall deduct the tax imposed by this section from the amounts due
180 to other owners for the production or the proceeds of the production.

181 (12) (a) The [~~Tax Review Commission~~] Revenue and Taxation Interim Committee
182 shall review the applicability of the tax provided for in this chapter to coal-to-liquids, oil shale,
183 and tar sands technology on or before the October 2011 interim meeting.

184 (b) The [~~Tax Review Commission~~] Revenue and Taxation Interim Committee shall
185 address in its review the cost and benefit of not applying the tax provided for in this chapter to
186 coal-to-liquids, oil shale, and tar sands technology.

187 (c) The [~~Tax Review Commission~~] Revenue and Taxation Interim Committee shall
188 report its findings and recommendations under this Subsection (12) to the [~~Revenue and~~
189 ~~Taxation Interim~~] Legislative Management Committee on or before the November 2011
190 interim meeting.

191 Section 5. Section **59-7-612** is amended to read:

192 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
193 **forward -- Commission to report modification or repeal of certain federal provisions --**
194 **Revenue and Taxation Interim Committee study.**

195 (1) (a) A taxpayer meeting the requirements of this section may claim the following
196 nonrefundable tax credits:

197 (i) a research tax credit of 5% of the taxpayer's qualified research expenses for the

198 current taxable year that exceed the base amount provided for under Subsection (4);
199 (ii) a tax credit for a payment to a qualified organization for basic research as provided
200 in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the
201 base amount provided for under Subsection (4); and
202 (iii) a tax credit equal to:
203 (A) for the taxable year beginning on or after January 1, 2008, but beginning on or
204 before December 31, 2008, 5% of the taxpayer's qualified research expenses for the current
205 taxable year;
206 (B) for the taxable year beginning on or after January 1, 2009, but beginning on or
207 before December 31, 2009, 6.3% of the taxpayer's qualified research expenses for the current
208 taxable year; or
209 (C) for taxable years beginning on or after January 1, 2010, 9.2% of the taxpayer's
210 qualified research expenses for the current taxable year.
211 (b) Subject to Subsection (5), a taxpayer may claim a tax credit under:
212 (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs
213 the qualified research expenses; or
214 (ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment
215 to the qualified organization.
216 (c) The tax credits provided for in this section do not include the alternative
217 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.
218 (2) For purposes of claiming a tax credit under this section, a unitary group as defined
219 in Section 59-7-101 is considered to be one taxpayer.
220 (3) Except as specifically provided for in this section:
221 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
222 Section 41, Internal Revenue Code; and
223 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
224 the tax credits authorized under Subsection (1).
225 (4) For purposes of this section:

226 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
227 Internal Revenue Code, except that:

228 (i) the base amount does not include the calculation of the alternative incremental
229 credit provided for in Section 41(c)(4), Internal Revenue Code;

230 (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources
231 within this state as provided in Part 3, Allocation and Apportionment of Income -- Utah
232 UDITPA Provisions; and

233 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
234 the base amount, a taxpayer:

235 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
236 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
237 and

238 (B) may not revoke an election to be treated as a start-up company under Subsection
239 (4)(a)(iii)(A);

240 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
241 that the term includes only basic research conducted in this state;

242 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
243 that the term includes only qualified research conducted in this state;

244 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
245 Revenue Code, except that the term includes only:

246 (i) in-house research expenses incurred in this state; and

247 (ii) contract research expenses incurred in this state; and

248 (e) a tax credit provided for in this section is not terminated if a credit terminates under
249 Section 41, Internal Revenue Code.

250 (5) (a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or
251 (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the
252 tax credit exceeding the tax liability:

253 (i) may be carried forward for a period that does not exceed the next 14 taxable years;

254 and

255 (ii) may not be carried back to a taxable year preceding the current taxable year.

256 (b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

257 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
258 commission may make rules for purposes of this section prescribing a certification process for
259 qualified organizations to ensure that amounts paid to the qualified organizations are for basic
260 research conducted in this state.

261 (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
262 commission shall report the modification or repeal to the [~~Utah Tax Review Commission~~]
263 Revenue and Taxation Interim Committee within 60 days after the day on which the
264 modification or repeal becomes effective.

265 (8) (a) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
266 shall review the tax credits provided for in this section on or before October 1 of the year after
267 the year in which the commission reports under Subsection (7) a modification or repeal of a
268 provision of Section 41, Internal Revenue Code.

269 (b) Notwithstanding Subsection (8)(a), the [~~Utah Tax Review Commission~~] Revenue
270 and Taxation Interim Committee is not required to review the tax credits provided for in this
271 section if the only modification to a provision of Section 41, Internal Revenue Code, is the
272 extension of the termination date provided for in Section 41(h), Internal Revenue Code.

273 (c) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
274 shall address in a review under this section:

- 275 (i) the cost of the tax credits provided for in this section;
- 276 (ii) the purpose and effectiveness of the tax credits provided for in this section;
- 277 (iii) whether the tax credits provided for in this section benefit the state; and
- 278 (iv) whether the tax credits provided for in this section should be:
 - 279 (A) continued;
 - 280 (B) modified; or
 - 281 (C) repealed.

282 (d) If the [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
 283 reviews the tax credits provided for in this section, the [~~Utah Tax Review Commission~~]
 284 committee shall report its findings to the [~~Revenue and Taxation Interim~~] Legislative
 285 Management Committee on or before the November interim meeting of the year in which the
 286 [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee reviews the tax
 287 credits.

288 Section 6. Section **59-7-613** is amended to read:

289 **59-7-613. Tax credits for machinery, equipment, or both primarily used for**
 290 **conducting qualified research or basic research -- Carry forward -- Commission to report**
 291 **modification or repeal of certain federal provisions -- Revenue and Taxation Interim**
 292 **Committee study.**

293 (1) As used in this section:

294 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
 295 that the term includes only basic research conducted in this state.

296 (b) "Equipment" includes:

- 297 (i) a computer;
- 298 (ii) computer equipment; and
- 299 (iii) computer software.

300 (c) "Purchase price":

- 301 (i) includes the cost of installing an item of machinery or equipment; and
- 302 (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an
 303 item of machinery or equipment.

304 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

305 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
 306 that the term includes only qualified research conducted in this state.

307 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
 308 January 1, 1999, but beginning before December 31, 2010, a taxpayer meeting the requirements
 309 of this section may claim the following nonrefundable tax credits:

- 310 (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:
- 311 (A) purchased by the taxpayer during the taxable year;
- 312 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and
- 313 (C) that is primarily used to conduct qualified research in this state; and
- 314 (ii) a tax credit of 6% of the purchase price of machinery, equipment, or both:
- 315 (A) purchased by the taxpayer during the taxable year;
- 316 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;
- 317 (C) that is donated to a qualified organization; and
- 318 (D) that is primarily used to conduct basic research in this state.
- 319 (b) Subject to Subsection (5), a taxpayer may claim a tax credit under this section for
- 320 the taxable year for which the taxpayer purchases the machinery, equipment, or both.
- 321 (c) If a taxpayer qualifies for a tax credit under Subsection (2)(a) for a purchase of
- 322 machinery, equipment, or both, the taxpayer may not claim the tax credit or carry the tax credit
- 323 forward if the machinery, equipment, or both, is primarily used to conduct qualified research in
- 324 the state for a time period that is less than 12 consecutive months.
- 325 (3) For purposes of claiming a tax credit under this section, a unitary group as defined
- 326 in Section 59-7-101 is considered to be one taxpayer.
- 327 (4) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in
- 328 this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.
- 329 (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the
- 330 taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit
- 331 exceeding the tax liability:
- 332 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
- 333 and
- 334 (b) may not be carried back to a taxable year preceding the current taxable year.
- 335 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 336 commission may make rules for purposes of this section prescribing a certification process for
- 337 qualified organizations to ensure that machinery, equipment, or both provided to the qualified

338 organization is to be primarily used to conduct basic research in this state.

339 (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
340 commission shall report the modification or repeal to the [~~Utah Tax Review Commission~~]
341 Revenue and Taxation Interim Committee within 60 days after the day on which the
342 modification or repeal becomes effective.

343 (8) (a) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
344 shall review the tax credits provided for in this section on or before October 1 of the year after
345 the year in which the commission reports under Subsection (7) a modification or repeal of a
346 provision of Section 41, Internal Revenue Code.

347 (b) Notwithstanding Subsection (8)(a), the [~~Utah Tax Review Commission~~] Revenue
348 and Taxation Interim Committee is not required to review the tax credits provided for in this
349 section if the only modification to a provision of Section 41, Internal Revenue Code, is the
350 extension of the termination date provided for in Section 41(h), Internal Revenue Code.

351 (c) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
352 shall address in a review under this section the:

- 353 (i) cost of the tax credits provided for in this section;
- 354 (ii) purpose and effectiveness of the tax credits provided for in this section;
- 355 (iii) whether the tax credits provided for in this section benefit the state; and
- 356 (iv) whether the tax credits provided for in this section should be:
 - 357 (A) continued;
 - 358 (B) modified; or
 - 359 (C) repealed.

360 (d) If the [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
361 reviews the tax credits provided for in this section, the [~~Utah Tax Review Commission~~]
362 committee shall report its findings to the [~~Revenue and Taxation Interim~~] Legislative
363 Management Committee on or before the November interim meeting of the year in which the
364 [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee reviews the tax
365 credits.

366 Section 7. Section **59-7-614** is amended to read:

367 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**
368 **Certification -- Rulemaking authority.**

369 (1) As used in this section:

370 (a) "Active solar system":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

406 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section
407 59-10-103 and an individual as defined in Section 59-10-103.

408 (l) "Passive solar system":

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

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

415 (m) "Residential energy system" means any active solar, passive solar, biomass,
416 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to
417 supply energy to or for any residential unit.

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

421 (i) Section 59-2-404;

422 (ii) Section 59-2-405;

423 (iii) Section 59-2-405.1;

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

425 (v) Section 59-2-405.3.

426 (o) "Utah Geological Survey" means the Utah Geological Survey established in Section
427 79-3-201.

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

431 (2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that
432 purchases and completes or participates in the financing of a residential energy system to
433 supply all or part of the energy required for a residential unit owned or used by the business
434 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this
435 Subsection (2)(a).

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

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

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

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

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

447 (B) if the business entity assigns its right to the tax credit to an individual taxpayer
448 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the
449 individual taxpayer had completed or participated in the costs of the residential energy system

450 under Section 59-10-1014.

451 (b) (i) For taxable years beginning on or after January 1, 2007, a business entity that
452 purchases or participates in the financing of a commercial energy system situated in Utah is
453 entitled to a refundable tax credit as provided in this Subsection (2)(b) if the commercial
454 energy system does not use wind, geothermal electricity, or biomass equipment capable of
455 producing a total of 660 or more kilowatts of electricity, and:

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

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

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

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

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

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

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

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

477 (vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or

478 carried back.

479 (c) (i) For taxable years beginning on or after January 1, 2007, a business entity that
480 owns a commercial energy system situated in Utah using wind, geothermal electricity, or
481 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is
482 entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

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

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

487 (ii) (A) A business entity is entitled to a tax credit under this section equal to the
488 product of:

489 (I) 0.35 cents; and

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

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

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

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

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

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

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

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

509 (3) (a) Except as provided in Subsection (3)(b), the tax credits provided for under
510 Subsection (2) are in addition to any tax credits provided under the laws or rules and
511 regulations of the United States.

512 (b) A purchaser of one or more solar units that claims a tax credit under Section
513 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this
514 section for that purchase.

515 (c) (i) The Utah Geological Survey may set standards for residential and commercial
516 energy systems claiming a credit under Subsections (2)(a) and (b) that cover the safety,
517 reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems
518 eligible for the tax credit use the state's renewable and nonrenewable energy resources in an
519 appropriate and economic manner.

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

523 (iii) A tax credit may not be taken under Subsection (2) until the Utah Geological
524 Survey has certified that the energy system has been completely installed and is a viable system
525 for saving or production of energy from renewable resources.

526 (d) The Utah Geological Survey and the commission may make rules in accordance
527 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to
528 implement this section.

529 (4) (a) On or before October 1, 2012, and every five years thereafter, the [~~Utah Tax~~
530 ~~Review Commission~~] Revenue and Taxation Interim Committee shall review each tax credit
531 provided by this section and [~~make~~] report its recommendations to the [~~Revenue and Taxation~~
532 ~~Interim~~] Legislative Management Committee concerning whether the credit should be
533 continued, modified, or repealed.

534 (b) The [~~Utah Tax Review Commission's~~] Revenue and Taxation Interim Committee's
535 report under Subsection (4)(a) shall include information concerning the cost of the credit, the
536 purpose and effectiveness of the credit, and the state's benefit from the credit.

537 Section 8. Section **59-7-614.2** is amended to read:

538 **59-7-614.2. Refundable economic development tax credit.**

539 (1) As used in this section:

540 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as
541 defined in Section 63M-1-2403 or 63M-1-2803.

542 (b) "Community development and renewal agency" is as defined in Section 17C-1-102.

543 (c) "Local government entity" is as defined in Section 63M-1-2403.

544 (d) "Office" means the Governor's Office of Economic Development.

545 (2) Subject to the other provisions of this section, a business entity, local government
546 entity, or community development and renewal agency may claim a refundable tax credit for
547 economic development.

548 (3) The tax credit under this section is the amount listed as the tax credit amount on the
549 tax credit certificate that the office issues to the business entity, local government entity, or
550 community development and renewal agency for the taxable year.

551 (4) A community development and renewal agency may claim a tax credit under this
552 section only if a local government entity assigns the tax credit to the community development
553 and renewal agency in accordance with Section 63M-1-2404.

554 (5) (a) In accordance with any rules prescribed by the commission under Subsection
555 (5)(b), the commission shall make a refund to the following that claim a tax credit under this
556 section:

557 (i) a local government entity;

558 (ii) a community development and renewal agency; or

559 (iii) a business entity if the amount of the tax credit exceeds the business entity's tax
560 liability for a taxable year.

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

562 commission may make rules providing procedures for making a refund to a business entity,
563 local government entity, or community development and renewal agency as required by
564 Subsection (5)(a).

565 (6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
566 [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee shall study the tax
567 credit allowed by this section and make recommendations to the [~~Revenue and Taxation~~
568 ~~Interim~~] Legislative Management Committee and the Workforce Services and Community and
569 Economic Development Interim Committee concerning whether the tax credit should be
570 continued, modified, or repealed.

571 (b) For purposes of the study required by this Subsection (6), the office shall provide
572 the following information to the [~~Utah Tax Review Commission~~] Revenue and Taxation
573 Interim Committee:

- 574 (i) the amount of tax credit that the office grants to each business entity, local
575 government entity, or community development and renewal agency for each calendar year;
- 576 (ii) the criteria that the office uses in granting a tax credit;
- 577 (iii) (A) for a business entity, the new state revenues generated by the business entity
578 for the calendar year; or
579 (B) for a local government entity, regardless of whether the local government entity
580 assigns the tax credit in accordance with Section 63M-1-2404, the new state revenues
581 generated as a result of a new commercial project within the local government entity for each
582 calendar year;
- 583 (iv) the information contained in the office's latest report to the Legislature under
584 Section 63M-1-2406 or 63M-1-2806; and
- 585 (v) any other information that the [~~Utah Tax Review Commission~~] Revenue and
586 Taxation Interim Committee requests.

587 (c) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
588 shall ensure that its recommendations under Subsection (6)(a) include an evaluation of:

- 589 (i) the cost of the tax credit to the state;

- 590 (ii) the purpose and effectiveness of the tax credit; and
- 591 (iii) the extent to which the state benefits from the tax credit.

592 Section 9. Section **59-7-614.3** is amended to read:

593 **59-7-614.3. Nonrefundable tax credit for qualifying solar projects.**

594 (1) As used in this section:

595 (a) "Active solar system" is as defined in Section 59-7-614.

596 (b) "Purchaser" means a taxpayer that purchases one or more solar units from a
597 qualifying political subdivision.

598 (c) "Qualifying political subdivision" means:

599 (i) a city or town in this state;

600 (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;

601 or

602 (iii) a special service district created under Title 17D, Chapter 1, Special Service
603 District Act.

604 (d) "Qualifying solar project" means the portion of an active solar system:

605 (i) that a qualifying political subdivision:

606 (A) constructs;

607 (B) controls; or

608 (C) owns;

609 (ii) with respect to which the qualifying political subdivision described in Subsection
610 (1)(c)(i) sells one or more solar units; and

611 (iii) that generates electrical output that is furnished:

612 (A) to one or more residential units; or

613 (B) for the benefit of one or more residential units.

614 (e) "Residential unit" is as defined in Section 59-7-614.

615 (f) "Solar unit" means a portion of the electrical output:

616 (i) of a qualifying solar project;

617 (ii) that a qualifying political subdivision sells to a purchaser; and

618 (iii) the purchase of which requires that the purchaser agree to bear a proportionate
619 share of the expense of the qualifying solar project:

620 (A) in accordance with a written agreement between the purchaser and the qualifying
621 political subdivision;

622 (B) in exchange for a credit on the purchaser's electrical bill; and

623 (C) as determined by a formula established by the qualifying political subdivision.

624 (2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2008, a
625 purchaser may claim a nonrefundable tax credit equal to the product of:

626 (a) the amount the purchaser pays to purchase one or more solar units during the
627 taxable year; and

628 (b) 25%.

629 (3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a
630 return.

631 (4) A purchaser may carry forward a tax credit under this section for a period that does
632 not exceed the next four taxable years if:

633 (a) the purchaser is allowed to claim a tax credit under this section for a taxable year;
634 and

635 (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter
636 for that taxable year.

637 (5) Subject to Section 59-7-614, a tax credit under this section is in addition to any
638 other tax credit allowed by this chapter.

639 (6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the
640 ~~[Utah Tax Review Commission]~~ Revenue and Taxation Interim Committee shall review the tax
641 credit allowed by this section and ~~[make]~~ report its recommendations to the ~~[Revenue and~~
642 ~~Taxation Interim]~~ Legislative Management Committee concerning whether the tax credit
643 should be continued, modified, or repealed.

644 (b) The ~~[Utah Tax Review Commission's]~~ Revenue and Taxation Interim Committee's
645 report under Subsection (6)(a) shall include information concerning the cost of the tax credit,

646 the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

647 Section 10. Section **59-7-614.5** is amended to read:

648 **59-7-614.5. Refundable motion picture tax credit.**

649 (1) As used in this section:

650 (a) "Motion picture company" means a taxpayer that meets the definition of a motion
651 picture company under Section 63M-1-1802.

652 (b) "Office" means the Governor's Office of Economic Development.

653 (c) "State-approved production" has the same meaning as defined in Subsection
654 63M-1-1802(10).

655 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
656 may claim a refundable tax credit for a state-approved production.

657 (3) The tax credit under this section is the amount listed as the tax credit amount on the
658 tax credit certificate that the office issues to a motion picture company under Section
659 63M-1-1803 for the taxable year.

660 (4) (a) In accordance with any rules prescribed by the commission under Subsection
661 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
662 credit under this section if the amount of the tax credit exceeds the motion picture company's
663 tax liability for a taxable year.

664 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
665 commission may make rules providing procedures for making a refund to a motion picture
666 company as required by Subsection (4)(a).

667 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
668 [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee shall study the tax
669 credit allowed by this section and make recommendations to the [~~Revenue and Taxation~~
670 ~~Interim~~] Legislative Management Committee and the Workforce Services and Community and
671 Economic Development Interim Committee concerning whether the tax credit should be
672 continued, modified, or repealed.

673 (b) For purposes of the study required by this Subsection (5), the office shall provide

674 the following information to the [~~Utah Tax Review Commission~~] Revenue and Taxation
675 Interim Committee:

676 (i) the amount of tax credit that the office grants to each motion picture company for
677 each calendar year;

678 (ii) the criteria that the office uses in granting the tax credit;

679 (iii) the dollars left in the state, as defined in Subsection 63M-1-1802(2), by each
680 motion picture company for each calendar year;

681 (iv) the information contained in the office's latest report to the Legislature under
682 Section 63M-1-1805; and

683 (v) any other information requested by the [~~Utah Tax Review Commission~~] Revenue
684 and Taxation Interim Committee.

685 (c) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
686 shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

687 (i) the cost of the tax credit to the state;

688 (ii) the effectiveness of the tax credit; and

689 (iii) the extent to which the state benefits from the tax credit.

690 Section 11. Section **59-10-1012** is amended to read:

691 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**
692 **forward -- Commission to report modification or repeal of certain federal provisions --**
693 **Revenue and Taxation Interim Committee study.**

694 (1) (a) A claimant, estate, or trust meeting the requirements of this section may claim
695 the following nonrefundable tax credits:

696 (i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research
697 expenses for the current taxable year that exceed the base amount provided for under
698 Subsection (3);

699 (ii) a tax credit for a payment to a qualified organization for basic research as provided
700 in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base
701 amount provided for under Subsection (3); and

702 (iii) a tax credit equal to:

703 (A) for the taxable year beginning on or after January 1, 2008, but beginning on or
704 before December 31, 2008, 5% of the claimant's, estate's, or trust's qualified research expenses
705 for the current taxable year;

706 (B) for the taxable year beginning on or after January 1, 2009, but beginning on or
707 before December 31, 2009, 6.3% of the claimant's, estate's, or trust's qualified research
708 expenses for the current taxable year; or

709 (C) for taxable years beginning on or after January 1, 2010, 9.2% of the claimant's,
710 estate's, or trust's qualified research expenses for the current taxable year.

711 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:

712 (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate,
713 or trust incurs the qualified research expenses; or

714 (ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust
715 makes the payment to the qualified organization.

716 (c) The tax credits provided for in this section do not include the alternative
717 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

718 (2) Except as specifically provided for in this section:

719 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
720 Section 41, Internal Revenue Code; and

721 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
722 the tax credits authorized under Subsection (1).

723 (3) For purposes of this section:

724 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
725 Internal Revenue Code, except that:

726 (i) the base amount does not include the calculation of the alternative incremental
727 credit provided for in Section 41(c)(4), Internal Revenue Code;

728 (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts
729 attributable to sources within this state as provided in Section 59-10-118; and

730 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
731 the base amount, a claimant, estate, or trust:

732 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
733 regardless of whether the claimant, estate, or trust meets the requirements of Section
734 41(c)(3)(B)(i)(I) or (II); and

735 (B) may not revoke an election to be treated as a start-up company under Subsection
736 (3)(a)(iii)(A);

737 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
738 that the term includes only basic research conducted in this state;

739 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
740 that the term includes only qualified research conducted in this state;

741 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
742 Revenue Code, except that the term includes only:

743 (i) in-house research expenses incurred in this state; and

744 (ii) contract research expenses incurred in this state; and

745 (e) a tax credit provided for in this section is not terminated if a credit terminates under
746 Section 41, Internal Revenue Code.

747 (4) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under
748 Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this
749 chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

750 (i) may be carried forward for a period that does not exceed the next 14 taxable years;
751 and

752 (ii) may not be carried back to a taxable year preceding the current taxable year.

753 (b) A claimant, estate, or trust may not carry forward the tax credit allowed by
754 Subsection (1)(a)(iii).

755 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
756 commission may make rules for purposes of this section prescribing a certification process for
757 qualified organizations to ensure that amounts paid to the qualified organizations are for basic

758 research conducted in this state.

759 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
760 commission shall report the modification or repeal to the [~~Utah Tax Review Commission~~]
761 Revenue and Taxation Interim Committee within 60 days after the day on which the
762 modification or repeal becomes effective.

763 (7) (a) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
764 shall review the tax credits provided for in this section on or before October 1 of the year after
765 the year in which the commission reports under Subsection (6) a modification or repeal of a
766 provision of Section 41, Internal Revenue Code.

767 (b) Notwithstanding Subsection (7)(a), the [~~Utah Tax Review Commission~~] Revenue
768 and Taxation Interim Committee is not required to review the tax credits provided for in this
769 section if the only modification to a provision of Section 41, Internal Revenue Code, is the
770 extension of the termination date provided for in Section 41(h), Internal Revenue Code.

771 (c) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
772 shall address in a review under this section:

- 773 (i) the cost of the tax credits provided for in this section;
774 (ii) the purpose and effectiveness of the tax credits provided for in this section;
775 (iii) whether the tax credits provided for in this section benefit the state; and
776 (iv) whether the tax credits provided for in this section should be:
777 (A) continued;
778 (B) modified; or
779 (C) repealed.

780 (d) If the [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
781 reviews the tax credits provided for in this section, the [~~Utah Tax Review Commission~~]
782 committee shall report its findings to the [~~Revenue and Taxation Interim~~] Legislative
783 Management Committee on or before the November interim meeting of the year in which the
784 [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee reviews the tax
785 credits.

786 Section 12. Section **59-10-1013** is amended to read:

787 **59-10-1013. Tax credits for machinery, equipment, or both primarily used for**
788 **conducting qualified research or basic research -- Carry forward -- Commission to report**
789 **modification or repeal of certain federal provisions -- Revenue and Taxation Interim**
790 **Committee study.**

791 (1) As used in this section:

792 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
793 that the term includes only basic research conducted in this state.

794 (b) "Equipment" includes:

795 (i) a computer;

796 (ii) computer equipment; and

797 (iii) computer software.

798 (c) "Purchase price":

799 (i) includes the cost of installing an item of machinery or equipment; and

800 (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an
801 item of machinery or equipment.

802 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

803 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
804 that the term includes only qualified research conducted in this state.

805 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
806 January 1, 1999, but beginning before December 31, 2010, a claimant, estate, or trust meeting
807 the requirements of this section may claim the following nonrefundable tax credits:

808 (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

809 (A) purchased by the claimant, estate, or trust during the taxable year;

810 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

811 (C) that is primarily used to conduct qualified research in this state; and

812 (ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for
813 machinery, equipment, or both:

814 (A) purchased by the claimant, estate, or trust during the taxable year;

815 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

816 (C) that is donated to a qualified organization; and

817 (D) that is primarily used to conduct basic research in this state.

818 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under
819 this section for the taxable year for which the claimant, estate, or trust purchases the machinery,
820 equipment, or both.

821 (c) If a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a
822 purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax
823 credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to
824 conduct qualified research in the state for a time period that is less than 12 consecutive months.

825 (3) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in
826 this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

827 (4) If the amount of a tax credit claimed by a claimant, estate, or trust under this section
828 exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the
829 amount of the tax credit exceeding the tax liability:

830 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
831 and

832 (b) may not be carried back to a taxable year preceding the current taxable year.

833 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
834 commission may make rules for purposes of this section prescribing a certification process for
835 qualified organizations to ensure that machinery, equipment, or both provided to the qualified
836 organization is to be primarily used to conduct basic research in this state.

837 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
838 commission shall report the modification or repeal to the ~~[Utah Tax Review Commission]~~
839 Revenue and Taxation Interim Committee within 60 days after the day on which the
840 modification or repeal becomes effective.

841 (7) (a) The ~~[Utah Tax Review Commission]~~ Revenue and Taxation Interim Committee

842 shall review the tax credits provided for in this section on or before October 1 of the year after
843 the year in which the commission reports under Subsection (6) a modification or repeal of a
844 provision of Section 41, Internal Revenue Code.

845 (b) Notwithstanding Subsection (7)(a), the [~~Utah Tax Review Commission~~] Revenue
846 and Taxation Interim Committee is not required to review the tax credits provided for in this
847 section if the only modification to a provision of Section 41, Internal Revenue Code, is the
848 extension of the termination date provided for in Section 41(h), Internal Revenue Code.

849 (c) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
850 shall address in a review under this section the:

- 851 (i) cost of the tax credits provided for in this section;
- 852 (ii) purpose and effectiveness of the tax credits provided for in this section;
- 853 (iii) whether the tax credits provided for in this section benefit the state; and
- 854 (iv) whether the tax credits provided for in this section should be:
 - 855 (A) continued;
 - 856 (B) modified; or
 - 857 (C) repealed.

858 (d) If the [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
859 reviews the tax credits provided for in this section, the [~~Utah Tax Review Commission~~]
860 committee shall report its findings to the [~~Revenue and Taxation Interim~~] Legislative
861 Management Committee on or before the November interim meeting of the year in which the
862 [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee reviews the tax
863 credits.

864 Section 13. Section **59-10-1014** is amended to read:

865 **59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations --**
866 **Certification -- Rulemaking authority.**

867 (1) As used in this part:

868 (a) "Active solar system":

869 (i) means a system of equipment capable of collecting and converting incident solar

870 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
871 by a separate apparatus to storage or to the point of use; and

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

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

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

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

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

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

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

890 (h) "Passive solar system":

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

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

897 (i) "Residential energy system" means any active solar, passive solar, biomass,

898 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to
899 supply energy to or for any residential unit.

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

- 903 (i) Section 59-2-404;
- 904 (ii) Section 59-2-405;
- 905 (iii) Section 59-2-405.1;
- 906 (iv) Section 59-2-405.2; or
- 907 (v) Section 59-2-405.3.

908 (k) "Utah Geological Survey" means the Utah Geological Survey established in Section
909 79-3-201.

910 (l) "Wind system" means a system of apparatus and equipment capable of intercepting
911 and converting wind energy into mechanical or electrical energy and transferring these forms of
912 energy by a separate apparatus to the point of use or storage.

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

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

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

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

924 (3) (a) The tax credit described in Subsection (2) is equal to 25% of the reasonable
925 costs of each residential energy system, including installation costs, against any income tax

926 liability of the claimant, estate, or trust under this chapter for the taxable year in which the
927 residential energy system is completed and placed in service.

928 (b) The total amount of each tax credit under this section may not exceed \$2,000 per
929 residential unit.

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

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

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

937 (c) If the amount of the tax credit under this section exceeds the income tax liability of
938 the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then
939 the amount not used may be carried over for a period that does not exceed the next four taxable
940 years.

941 (5) (a) A claimant, estate, or trust that is not a business entity that leases a residential
942 energy system installed on a residential unit is eligible for the residential energy tax credit if
943 that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax
944 credit.

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

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

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

954 Subsection (6).

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

960 (ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000
961 per residential unit.

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

964 (c) If a claimant, estate, or trust that is a business entity sells a residential unit to a
965 claimant, estate, or trust that is not a business entity before making a claim for the tax credit
966 under this Subsection (6), the claimant, estate, or trust that is a business entity may:

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

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

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

976 (b) Additional residential energy systems or parts of residential energy systems may be
977 claimed for subsequent years.

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

982 (8) (a) Except as provided in Subsection (8)(b), tax credits provided for under this
983 section are in addition to any tax credits provided under the laws or rules and regulations of the
984 United States.

985 (b) A purchaser of one or more solar units that claims a tax credit under Section
986 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this
987 section for that purchase.

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

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

995 (c) A tax credit may not be taken under this section until the Utah Geological Survey
996 has certified that the energy system has been completely installed and is a viable system for
997 saving or production of energy from renewable resources.

998 (10) The Utah Geological Survey and the commission may make rules in accordance
999 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to
1000 implement this section.

1001 (11) (a) On or before October 1, 2012, and every five years thereafter, the [~~Utah Tax~~
1002 ~~Review Commission~~] Revenue and Taxation Interim Committee shall review each tax credit
1003 provided by this section and [~~make~~] report its recommendations to the [~~Revenue and Taxation~~
1004 ~~Interim~~] Legislative Management Committee concerning whether the credit should be
1005 continued, modified, or repealed.

1006 (b) The [~~Utah Tax Review Commission's~~] Revenue and Taxation Interim Committee's
1007 report under Subsection (11)(a) shall include information concerning the cost of the credit, the
1008 purpose and effectiveness of the credit, and the state's benefit from the credit.

1009 Section 14. Section **59-10-1024** is amended to read:

1010 **59-10-1024. Nonrefundable tax credit for qualifying solar projects.**
1011 (1) As used in this section:
1012 (a) "Active solar system" is as defined in Section 59-10-1014.
1013 (b) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units
1014 from a qualifying political subdivision.
1015 (c) "Qualifying political subdivision" means:
1016 (i) a city or town in this state;
1017 (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;
1018 or
1019 (iii) a special service district created under Title 17D, Chapter 1, Special Service
1020 District Act.
1021 (d) "Qualifying solar project" means the portion of an active solar system:
1022 (i) that a qualifying political subdivision:
1023 (A) constructs;
1024 (B) controls; or
1025 (C) owns;
1026 (ii) with respect to which the qualifying political subdivision described in Subsection
1027 (1)(c)(i) sells one or more solar units; and
1028 (iii) that generates electrical output that is furnished:
1029 (A) to one or more residential units; or
1030 (B) for the benefit of one or more residential units.
1031 (e) "Residential unit" is as defined in Section 59-10-1014.
1032 (f) "Solar unit" means a portion of the electrical output:
1033 (i) of a qualifying solar project;
1034 (ii) that a qualifying political subdivision sells to a purchaser; and
1035 (iii) the purchase of which requires that the purchaser agree to bear a proportionate
1036 share of the expense of the qualifying solar project:
1037 (A) in accordance with a written agreement between the purchaser and the qualifying

1038 political subdivision;

1039 (B) in exchange for a credit on the purchaser's electrical bill; and

1040 (C) as determined by a formula established by the qualifying political subdivision.

1041 (2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009, a
1042 purchaser may claim a nonrefundable tax credit equal to the product of:

1043 (a) the amount the purchaser pays to purchase one or more solar units during the
1044 taxable year; and

1045 (b) 25%.

1046 (3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a
1047 return.

1048 (4) A purchaser may carry forward a tax credit under this section for a period that does
1049 not exceed the next four taxable years if:

1050 (a) the purchaser is allowed to claim a tax credit under this section for a taxable year;
1051 and

1052 (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter
1053 for that taxable year.

1054 (5) Subject to Section 59-10-1014, a tax credit under this section is in addition to any
1055 other tax credit allowed by this chapter.

1056 (6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the
1057 ~~[Utah Tax Review Commission]~~ Revenue and Taxation Interim Committee shall review the tax
1058 credit allowed by this section and ~~[make]~~ report its recommendations to the ~~[Revenue and~~
1059 ~~Taxation Interim]~~ Legislative Management Committee concerning whether the tax credit
1060 should be continued, modified, or repealed.

1061 (b) The ~~[Utah Tax Review Commission's]~~ Revenue and Taxation Interim Committee's
1062 report under Subsection (6)(a) shall include information concerning the cost of the tax credit,
1063 the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

1064 Section 15. Section **59-10-1106** is amended to read:

1065 **59-10-1106. Refundable renewable energy tax credit.**

- 1066 (1) As used in this section:
- 1067 (a) "Active solar system" is as defined in Section 59-10-1014.
- 1068 (b) "Biomass system" is as defined in Section 59-10-1014.
- 1069 (c) "Business entity" is as defined in Section 59-10-1014.
- 1070 (d) "Commercial energy system" means any active solar, passive solar, geothermal
- 1071 electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or
- 1072 biomass system used to supply energy to a commercial unit or as a commercial enterprise.
- 1073 (e) "Commercial enterprise" means a business entity that:
- 1074 (i) is a claimant, estate, or trust; and
- 1075 (ii) has the purpose of producing electrical, mechanical, or thermal energy for sale from
- 1076 a commercial energy system.
- 1077 (f) (i) "Commercial unit" means any building or structure that a business entity that is a
- 1078 claimant, estate, or trust uses to transact its business.
- 1079 (ii) Notwithstanding Subsection (1)(f)(i):
- 1080 (A) in the case of an active solar system used for agricultural water pumping or a wind
- 1081 system, each individual energy generating device shall be a commercial unit; and
- 1082 (B) if an energy system is the building or structure that a business entity that is a
- 1083 claimant, estate, or trust uses to transact its business, a commercial unit is the complete energy
- 1084 system itself.
- 1085 (g) "Direct-use geothermal system" is as defined in Section 59-10-1014.
- 1086 (h) "Geothermal electricity" is as defined in Section 59-10-1014.
- 1087 (i) "Geothermal heat-pump system" is as defined in Section 59-10-1014.
- 1088 (j) "Hydroenergy system" is as defined in Section 59-10-1014.
- 1089 (k) "Passive solar system" is as defined in Section 59-10-1014.
- 1090 (l) "Utah Geological Survey" means the Utah Geological Survey established in Section
- 1091 79-3-201.
- 1092 (m) "Wind system" is as defined in Section 59-10-1014.
- 1093 (2) (a) (i) A business entity that is a claimant, estate, or trust that purchases or

1094 participates in the financing of a commercial energy system situated in Utah is entitled to a
1095 refundable tax credit as provided in this Subsection (2)(a) if the commercial energy system
1096 does not use wind, geothermal electricity, or biomass equipment capable of producing a total of
1097 660 or more kilowatts of electricity and:

1098 (A) the commercial energy system supplies all or part of the energy required by
1099 commercial units owned or used by the business entity that is a claimant, estate, or trust; or

1100 (B) the business entity that is a claimant, estate, or trust sells all or part of the energy
1101 produced by the commercial energy system as a commercial enterprise.

1102 (ii) (A) A business entity that is a claimant, estate, or trust is entitled to a tax credit of
1103 up to 10% of the reasonable costs of any commercial energy system installed, including
1104 installation costs, against any tax due under this chapter for the taxable year in which the
1105 commercial energy system is completed and placed in service.

1106 (B) Notwithstanding Subsection (2)(a)(ii)(A), the total amount of the credit under this
1107 Subsection (2)(a) may not exceed \$50,000 per commercial unit.

1108 (C) The credit under this Subsection (2)(a) is allowed for any commercial energy
1109 system completed and placed in service on or after January 1, 2007.

1110 (iii) A business entity that is a claimant, estate, or trust that leases a commercial energy
1111 system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(a)
1112 if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

1113 (iv) Only the principal recovery portion of the lease payments, which is the cost
1114 incurred by a business entity that is a claimant, estate, or trust in acquiring a commercial energy
1115 system, excluding interest charges and maintenance expenses, is eligible for the tax credit
1116 under this Subsection (2)(a).

1117 (v) A business entity that is a claimant, estate, or trust that leases a commercial energy
1118 system is eligible to use the tax credit under this Subsection (2)(a) for a period no greater than
1119 seven years from the initiation of the lease.

1120 (b) (i) A business entity that is a claimant, estate, or trust that owns a commercial
1121 energy system situated in Utah using wind, geothermal electricity, or biomass equipment

1122 capable of producing a total of 660 or more kilowatts of electricity is entitled to a refundable
1123 tax credit as provided in this section if:

1124 (A) the commercial energy system supplies all or part of the energy required by
1125 commercial units owned or used by the business entity that is a claimant, estate, or trust; or

1126 (B) the business entity that is a claimant, estate, or trust sells all or part of the energy
1127 produced by the commercial energy system as a commercial enterprise.

1128 (ii) A business entity that is a claimant, estate, or trust is entitled to a tax credit under
1129 this Subsection (2)(b) equal to the product of:

1130 (A) 0.35 cents; and

1131 (B) the kilowatt hours of electricity produced and either used or sold during the taxable
1132 year.

1133 (iii) The credit allowed by this Subsection (2)(b):

1134 (A) may be claimed for production occurring during a period of 48 months beginning
1135 with the month in which the commercial energy system is placed in service; and

1136 (B) may not be carried forward or back.

1137 (iv) A business entity that is a claimant, estate, or trust that leases a commercial energy
1138 system installed on a commercial unit is eligible for the tax credit under this section if the
1139 lessee can confirm that the lessor irrevocably elects not to claim the credit.

1140 (3) The tax credits provided for under this section are in addition to any tax credits
1141 provided under the laws or rules and regulations of the United States.

1142 (4) (a) The Utah Geological Survey may set standards for commercial energy systems
1143 claiming a tax credit under Subsection (2)(a) that cover the safety, reliability, efficiency,
1144 leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax
1145 credit use the state's renewable and nonrenewable energy resources in an appropriate and
1146 economic manner.

1147 (b) A tax credit may not be taken under this section until the Utah Geological Survey
1148 has certified that the commercial energy system has been completely installed and is a viable
1149 system for saving or production of energy from renewable resources.

1150 (5) The Utah Geological Survey and the commission may make rules in accordance
1151 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to
1152 implement this section.

1153 (6) (a) On or before October 1, 2012, and every five years thereafter, the [~~Utah Tax~~
1154 ~~Review Commission~~] Revenue and Taxation Interim Committee shall review each tax credit
1155 provided by this section and [~~make~~] report its recommendations to the [~~Revenue and Taxation~~
1156 ~~Interim~~] Legislative Management Committee concerning whether the credit should be
1157 continued, modified, or repealed.

1158 (b) The [~~Utah Tax Review Commission's~~] Revenue and Taxation Interim Committee's
1159 report under Subsection (6)(a) shall include information concerning the cost of the credit, the
1160 purpose and effectiveness of the credit, and the state's benefit from the credit.

1161 Section 16. Section **59-10-1107** is amended to read:

1162 **59-10-1107. Refundable economic development tax credit.**

1163 (1) As used in this section:

1164 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1165 "business entity" as defined in Section 63M-1-2403 or 63M-1-2803.

1166 (b) "Office" means the Governor's Office of Economic Development.

1167 (2) Subject to the other provisions of this section, a business entity may claim a
1168 refundable tax credit for economic development.

1169 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1170 tax credit certificate that the office issues to the business entity for the taxable year.

1171 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1172 (4)(b), the commission shall make a refund to a business entity that claims a tax credit under
1173 this section if the amount of the tax credit exceeds the business entity's tax liability for a
1174 taxable year.

1175 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1176 commission may make rules providing procedures for making a refund to a business entity as
1177 required by Subsection (4)(a).

1178 (5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
 1179 [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee shall study the tax
 1180 credit allowed by this section and make recommendations to the [~~Revenue and Taxation~~
 1181 ~~Interim~~] Legislative Management Committee and the Workforce Services and Community and
 1182 Economic Development Interim Committee concerning whether the tax credit should be
 1183 continued, modified, or repealed.

1184 (b) For purposes of the study required by this Subsection (5), the office shall provide
 1185 the following information to the [~~Utah Tax Review Commission~~] Revenue and Taxation
 1186 Interim Committee:

- 1187 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;
- 1188 (ii) the criteria the office uses in granting a tax credit;
- 1189 (iii) the new state revenues generated by each taxpayer for each calendar year;
- 1190 (iv) the information contained in the office's latest report to the Legislature under
 1191 Section 63M-1-2406 or 63M-1-2806; and

1192 (v) any other information that the [~~Utah Tax Review Commission~~] Revenue and
 1193 Taxation Interim Committee requests.

1194 (c) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
 1195 shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

- 1196 (i) the cost of the tax credit to the state;
- 1197 (ii) the purpose and effectiveness of the tax credit; and
- 1198 (iii) the extent to which the state benefits from the tax credit.

1199 Section 17. Section **59-10-1108** is amended to read:

1200 **59-10-1108. Refundable motion picture tax credit.**

1201 (1) As used in this section:

1202 (a) "Motion picture company" means a claimant, estate, or trust that meets the
 1203 definition of a motion picture company under Section 63M-1-1802.

1204 (b) "Office" means the Governor's Office of Economic Development.

1205 (c) "State-approved production" has the same meaning as defined in Subsection

1206 63M-1-1802(10).

1207 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
1208 may claim a refundable tax credit for a state-approved production.

1209 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1210 tax credit certificate that the office issues to a motion picture company under Section
1211 63M-1-1803 for the taxable year.

1212 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1213 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1214 credit under this section if the amount of the tax credit exceeds the motion picture company's
1215 tax liability for the taxable year.

1216 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1217 commission may make rules providing procedures for making a refund to a motion picture
1218 company as required by Subsection (4)(a).

1219 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
1220 ~~[Utah Tax Review Commission]~~ Revenue and Taxation Interim Committee shall study the tax
1221 credit allowed by this section and make recommendations to the ~~[Revenue and Taxation~~
1222 ~~Interim]~~ Legislative Management Committee and the Workforce Services and Community and
1223 Economic Development Interim Committee concerning whether the tax credit should be
1224 continued, modified, or repealed.

1225 (b) For purposes of the study required by this Subsection (5), the office shall provide
1226 the following information to the ~~[Utah Tax Review Commission]~~ Revenue and Taxation
1227 Interim Committee:

1228 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

1229 (ii) the criteria the office uses in granting a tax credit;

1230 (iii) the dollars left in the state, as defined in Subsection 63M-1-1802(2), by each
1231 motion picture company for each calendar year;

1232 (iv) the information contained in the office's latest report to the Legislature under
1233 Section 63M-1-1805; and

1234 (v) any other information requested by the [~~Utah Tax Review Commission~~] Revenue
1235 and Taxation Interim Committee.

1236 (c) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
1237 shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

- 1238 (i) the cost of the tax credit to the state;
- 1239 (ii) the effectiveness of the tax credit; and
- 1240 (iii) the extent to which the state benefits from the tax credit.

1241 Section 18. Section **59-12-103.1** is amended to read:

1242 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
1243 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
1244 **Collection of tax by commission -- Commission report to Revenue and Taxation Interim**
1245 **Committee -- Revenue and Taxation Interim Committee study.**

1246 (1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the
1247 commission as provided in Section 59-12-107 if:

1248 (a) the Supreme Court of the United States issues a decision authorizing a state to
1249 require a seller that does not meet one or more of the criteria described in Subsection
1250 59-12-107(1)(a) to collect a sales or use tax; or

1251 (b) Congress permits the state to require a seller that does not meet one or more of the
1252 criteria described in Subsection 59-12-107(1)(a) to collect a sales or use tax.

1253 (2) The commission shall:

1254 (a) collect the tax described in Subsection (1) from the seller:

1255 (i) to the extent:

1256 (A) authorized by the Supreme Court of the United States; or

1257 (B) permitted by Congress; and

1258 (ii) beginning on the first day of a calendar quarter as prescribed by the [~~Utah Tax~~
1259 ~~Review Commission~~] Revenue and Taxation Interim Committee; and

1260 (b) make a report to the [~~Utah Tax Review Commission~~] Revenue and Taxation
1261 Interim Committee:

1262 (i) regarding the actions taken by:
1263 (A) the Supreme Court of the United States; or
1264 (B) Congress; and
1265 (ii) at the [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
1266 meeting immediately following the day on which the Supreme Court of the United States' or
1267 Congress' actions become effective.

1268 (3) The [~~Utah Tax Review Commission~~] Revenue and Taxation Interim Committee
1269 shall after hearing the commission's report under Subsection (2)(b):

1270 (a) review the actions taken by:
1271 (i) the Supreme Court of the United States; or
1272 (ii) Congress;
1273 (b) direct the commission regarding the day on which the commission is required to
1274 collect the tax described in Subsection (1); and

1275 (c) make recommendations to the [~~Revenue and Taxation Interim~~] Legislative
1276 Management Committee:

1277 (i) regarding whether as a result of the Supreme Court of the United States' or
1278 Congress' actions any provisions of this chapter should be amended or repealed; and
1279 (ii) within a one-year period after the day on which the commission makes a report
1280 under Subsection (2)(b).

1281 Section 19. Section **59-12-104.5** is amended to read:

1282 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
1283 **taxes.**

1284 [~~(1) The Utah Tax Review Commission, in cooperation with the governor's office and~~
1285 ~~the commission, shall review the sales and use tax system of the state as provided in this~~
1286 ~~section.]~~

1287 [~~(2) (a) Beginning with the 2009 interim, and one or more times every 10 years after~~
1288 ~~the 2009 interim, the Utah Tax Review Commission shall make findings and recommendations~~
1289 ~~as to whether:]~~

1290 ~~[(i) the sales and use tax is broadly based;]~~
1291 ~~[(ii) the sales and use tax base reflects the overall economy;]~~
1292 ~~[(iii) the sales and use tax mitigates regressive impacts;]~~
1293 ~~[(iv) the sales and use tax is administratively simple; and]~~
1294 ~~[(v) the sales and use tax promotes compliance.]~~
1295 ~~[(b) On or before the November interim meeting of the year in which the Utah Tax~~
1296 ~~Review Commission makes the findings and recommendations required by Subsection (2)(a);~~
1297 ~~the Utah Tax Review Commission shall report its findings and recommendations made in~~
1298 ~~accordance with Subsection (2)(a) to:]~~
1299 ~~[(i) the governor; and]~~
1300 ~~[(ii) the Revenue and Taxation Interim Committee:]~~
1301 ~~[(3) Notwithstanding Subsection (2):]~~
1302 ~~[(a) the Utah Tax Review Commission]~~ The Revenue and Taxation Interim Committee
1303 shall;
1304 (1) review Subsection 59-12-104(28) before October 1 of the year after the year in
1305 which Congress permits a state to participate in the special supplemental nutrition program
1306 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
1307 purchases of food under that program;
1308 ~~[(b) the Utah Tax Review Commission shall]~~ (2) review Subsection 59-12-104(21)
1309 before October 1 of the year after the year in which Congress permits a state to participate in
1310 the food stamp program under the Food Stamp Act, 7 U.S.C. Sec. 2011 et seq., even if state or
1311 local sales taxes are collected within the state on purchases of food under that program; and
1312 ~~[(c) the Utah Tax Review Commission shall]~~ (3) review Subsection 59-12-104(62)
1313 before the October 2011 interim meeting.
1314 Section 20. Section **63I-3-203** is amended to read:
1315 **63I-3-203. Duties.**
1316 ~~[(1) Subject to Subsection (2), the Utah Constitutional Revision Commission shall:]~~
1317 ~~[(a) conduct a comprehensive examination of the Utah Constitution, as amended, and~~

1318 ~~make recommendations to the governor and the Legislature as to specific proposed~~
 1319 ~~constitutional amendments to implement the commission's recommendations for changes in the~~
 1320 ~~constitution; and]~~

1321 ~~[(b) upon request of the governor, president of the Senate, speaker of the House of~~
 1322 ~~Representatives, minority leader of the Senate, minority leader of the House, or the legislative~~
 1323 ~~sponsor of a resolution to amend the Utah Constitution, advise the governor and the Legislature~~
 1324 ~~on any proposed constitutional amendment or revision.]~~

1325 ~~[(2) The commission may not make a recommendation on a proposed constitutional~~
 1326 ~~amendment after both houses of the Legislature have taken final action on it, unless requested~~
 1327 ~~to do so by the governor, the president of the Senate, or the speaker of the House of~~
 1328 ~~Representatives.]~~

1329 (1) The commission shall advise the governor and the Legislature on proposals to
 1330 amend the Utah Constitution, as requested by:

1331 (a) the governor;

1332 (b) the Legislature in a joint resolution of the Legislature; or

1333 (c) the Legislative Management Committee.

1334 ~~[(3)]~~ (2) The commission shall select a chair and a vice chair from among its members.

1335 Section 21. Section **63I-3-204** is amended to read:

1336 **63I-3-204. The commission may invite testimony.**

1337 In performing its duties ~~[and responsibilities]~~ under Subsection 63I-3-203(1), the
 1338 commission may invite testimony from the governor, state agencies, members of the Utah
 1339 Legislature, and responsible members of the public.

1340 Section 22. Section **63I-3-207** is amended to read:

1341 **63I-3-207. Appointment of staff.**

1342 The Office of Legislative Research and General Counsel shall, in consultation with the
 1343 chair and vice chair, provide staffing for the commission. ~~[The office shall employ other staff~~
 1344 ~~members as the commission considers desirable or necessary.]~~

1345 Section 23. Section **63J-1-205** is amended to read:

1346 **63J-1-205. Revenue volatility report.**

1347 (1) Beginning in 2011 and continuing every three years after 2011, the Legislative
1348 Fiscal Analyst and the Governor's Office of Planning and Budget shall, by December 20,
1349 submit a joint revenue volatility report to the Executive Appropriations Committee [~~and Tax~~
1350 ~~Review Commission~~].

1351 (2) The Legislative Fiscal Analyst and the Governor's Office of Planning and Budget
1352 shall ensure that the report:

1353 (a) discusses the tax base and the tax revenue volatility of the revenue streams that
1354 provide the source of funding for the state budget;

1355 (b) identifies the balances in the General Fund Budget Reserve Account and the
1356 Education Fund Budget Reserve Account; and

1357 (c) analyzes the adequacy of the balances in the General Fund Budget Reserve Account
1358 and the Education Fund Budget Reserve Account in relation to the volatility of the revenue
1359 streams.

1360 Section 24. Section **63M-1-1805** is amended to read:

1361 **63M-1-1805. Annual report.**

1362 The office shall report annually to the Legislature's Workforce Services and Community
1363 and Economic Development Interim Committee [~~and the Utah Tax Review Commission~~]
1364 describing:

1365 (1) its success in attracting within-the-state production of television series,
1366 made-for-television movies, and motion pictures, including feature films and independent
1367 films;

1368 (2) the amount of incentive commitments made by the office under this part and the
1369 period of time over which the incentives will be paid; and

1370 (3) the economic impact on the state related to:

1371 (a) dollars left in the state; and

1372 (b) providing motion picture incentives under this part.

1373 Section 25. Section **63M-1-2406** is amended to read:

1374 **63M-1-2406. Report to the Legislature.**

1375 The office shall report annually to the Legislature's Workforce Services and Community
1376 and Economic Development Interim Committee [~~and the Utah Tax Review Commission~~]
1377 describing:

1378 (1) its success in attracting new commercial projects to development zones under this
1379 part and the corresponding increase in new incremental jobs;

1380 (2) the estimated amount of tax credit commitments made by the office and the period
1381 of time over which tax credits will be paid; and

1382 (3) the economic impact on the state related to generating new state revenues and
1383 providing tax credits under this part.

1384 Section 26. Section **63M-1-2806** is amended to read:

1385 **63M-1-2806. Report to the Legislature.**

1386 The office shall report annually to the Legislature's Workforce Services and Community
1387 and Economic Development Interim Committee [~~and the Utah Tax Review Commission~~]
1388 describing:

1389 (1) its success in attracting alternative energy projects to alternative energy
1390 development zones under this part and the corresponding increase in new increment jobs;

1391 (2) the amount of tax credits promised and the period of time over which the tax credits
1392 will be paid; and

1393 (3) the economic impact on the state related to generating new state revenues and
1394 providing tax credits under this part.