

**INDIVIDUAL INCOME TAX AND CORPORATE
FRANCHISE AND INCOME TAX - ENERGY
SAVING SYSTEMS CREDITS**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: A. Lamont Tyler

This act amends the Individual Income Tax Act and Corporate Franchise and Income Taxes by reinstating for a five-year period the energy saving systems tax credits, and makes technical changes. This act has retrospective operation for taxable years beginning on or after January 1, 2001.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

63-55b-159, as renumbered and amended by Chapter 21, Laws of Utah 1999

ENACTS:

59-7-614, Utah Code Annotated 1953

59-10-133, Utah Code Annotated 1953

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

Section 1. Section **59-7-614** is enacted to read:

59-7-614. Energy saving systems tax credit -- Limitations -- Definitions -- Tax credit in addition to other credits -- Certification -- Rulemaking authority -- Reimbursement of Uniform School Fund.

(1) As used in this section:

(a) "Active solar system":

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

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy



28 generation.

29 (b) "Biomass system" means any system of apparatus and equipment capable of converting
30 organic plant, wood, or waste products into electrical and thermal energy and transferring these
31 forms of energy by a separate apparatus to the point of use or storage.

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

34 (d) "Commercial energy system" means any active solar, passive solar, wind, hydroenergy,
35 or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

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

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

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

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

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

47 (h) "Individual taxpayer" means any person who is a taxpayer as defined in Section
48 59-10-103 and a resident individual as defined in Section 59-10-103.

49 (i) "Office of Energy and Resource Planning" means the Office of Energy and Resource
50 Planning, Department of Natural Resources.

51 (j) "Passive solar system":

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

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

57 (k) "Residential energy system" means any active solar, passive solar, wind, or
58 hydroenergy system used to supply energy to or for any residential unit.

59 (l) "Residential unit" means any house, condominium, apartment, or similar dwelling unit
60 which serves as a dwelling for a person, group of persons, or a family but does not include property
61 subject to the fees in lieu of the ad valorem tax under:

62 (i) Section 59-2-404;

63 (ii) Section 59-2-405; or

64 (iii) Section 59-2-405.1.

65 (m) "Wind system" means a system of apparatus and equipment capable of intercepting
66 and converting wind energy into mechanical or electrical energy and transferring these forms of
67 energy by a separate apparatus to the point of use or storage.

68 (2) (a) (i) For taxable years beginning on or after January 1, 2001, but beginning on or
69 before December 31, 2006, a business entity that purchases and completes or participates in the
70 financing of a residential energy system to supply all or part of the energy required for a residential
71 unit owned or used by the business entity and situated in Utah is entitled to a tax credit as provided
72 in this Subsection (2)(a).

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

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

79 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
80 completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

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

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

84 (B) if the business entity assigns its right to the tax credit to an individual taxpayer under
85 Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual
86 taxpayer had completed or participated in the costs of the residential energy system under Section
87 59-10-133.

88 (b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or before
89 December 31, 2006, a business entity that purchases or participates in the financing of a

90 commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

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

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

95 (ii) (A) A business entity is entitled to a tax credit equal to 10% of the costs of any
96 commercial energy system installed, including installation costs, against any tax due under this
97 chapter for the taxable year in which the commercial energy system is completed and placed in
98 service.

99 (B) The total amount of the credit under this Subsection (2)(b) may not exceed \$50,000
100 per commercial unit.

101 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy system
102 completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

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

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

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

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

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

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

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

120 (b) (i) The Office of Energy and Resource Planning may promulgate standards for

121 residential and commercial energy systems that cover the safety, reliability, efficiency, leasing, and
122 technical feasibility of the systems to ensure that the systems eligible for the tax credit use the
123 state's renewable and nonrenewable energy resources in an appropriate and economic manner.

124 (ii) A tax credit may not be taken under Subsection (2) until the Office of Energy and
125 Resource Planning has certified that the energy system has been completely installed and is a
126 viable system for saving or production of energy from renewable resources.

127 (c) The Office of Energy and Resource Planning and the commission are authorized to
128 promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
129 which are necessary to implement this section.

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

132 Section 2. Section **59-10-133** is enacted to read:

133 **59-10-133. Definitions -- Individual tax credit -- Limitations -- Business tax credit --**
134 **Limitations -- Tax credit in addition to other credits -- Certification -- Rulemaking authority**
135 **-- Reimbursement of Uniform School Fund.**

136 (1) As used in this part:

137 (a) "Active solar system":

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

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

143 (b) "Biomass system" means any system of apparatus and equipment capable of converting
144 organic plant, wood, or waste products into electrical and thermal energy and transferring these
145 forms of energy by a separate apparatus to the point of use or storage.

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

148 (d) "Commercial energy system" means any active solar, passive solar, wind, hydroenergy,
149 or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

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

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

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

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

158 (g) "Office of Energy and Resource Planning" means the Office of Energy and Resource
159 Planning, Department of Natural Resources.

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

163 (i) "Individual taxpayer" means any person who is a taxpayer as defined in Section
164 59-10-103 and a resident individual as defined in Section 59-10-103.

165 (j) "Passive solar system":

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

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

171 (k) "Residential energy system" means any active solar, passive solar, wind, or
172 hydroenergy system used to supply energy to or for any residential unit.

173 (l) "Residential unit" means any house, condominium, apartment, or similar dwelling unit
174 which serves as a dwelling for a person, group of persons, or a family but does not include property
175 subject to the fees in lieu of the ad valorem tax under:

176 (i) Section 59-2-404;

177 (ii) Section 59-2-405; or

178 (iii) Section 59-2-405.1.

179 (m) "Wind system" means a system of apparatus and equipment capable of intercepting
180 and converting wind energy into mechanical or electrical energy and transferring these forms of
181 energy by a separate apparatus to the point of use or storage.

182 (2) For taxable years beginning on or after January 1, 2001, but beginning on or before

183 December 31, ~~h [2005] 2006 h~~, any individual taxpayer may claim a tax credit as provided in this
183a section if:

184 (a) the individual taxpayer purchases and completes or participates in the financing of a
185 residential energy system to supply all or part of the energy for the individual taxpayer's residential
186 unit in the state; or

187 (b) (i) a business entity sells a residential unit to an individual taxpayer prior to making
188 a claim for a tax credit under Subsection (6) or Section 59-7-614; and

189 (ii) the business entity assigns its right to the tax credit to the individual taxpayer as
190 provided in Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

191 (3) (a) An individual taxpayer meeting the requirements of Subsection (2) is entitled to a
192 tax credit equal to 25% of the costs of the energy system, including installation costs, against any
193 income tax liability of the individual taxpayer under this chapter for the taxable year in which the
194 residential energy system is completed and placed in service.

195 (b) The total amount of the credit under this section may not exceed \$2,000 per residential
196 unit.

197 (c) The credit under this section is allowed for any residential energy system completed
198 and placed in service on or after January 1, 2001, but on or before December 31, 2006.

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

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

204 (c) If the amount of the tax credit under this section exceeds the income tax liability of the
205 individual taxpayer for that taxable year, then the amount not used may be carried over for a period
206 which does not exceed the next four taxable years.

207 (5) (a) Individual taxpayers who lease a residential energy system installed on a residential
208 unit are eligible for the residential energy tax credits if the lessee can confirm that the lessor
209 irrevocably elects not to claim the state tax credit.

210 (b) Only the principal recovery portion of the lease payments, which is the cost incurred
211 by the taxpayer in acquiring the residential energy system excluding interest charges and
212 maintenance expenses, is eligible for the tax credits.

213 (c) Individual taxpayers who lease residential energy systems are eligible to use the tax

214 credits for a period no greater than seven years from the initiation of the lease.

215 (6) (a) A business entity that purchases and completes or participates in the financing of
216 a residential energy system to supply all or part of the energy required for a residential unit owned
217 or used by the business entity and situated in Utah is entitled to a tax credit as provided in this
218 Subsection (6).

219 (b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or before
220 December 31, 2006, a business entity is entitled to a tax credit equal to 25% of the costs of a
221 residential energy system installed with respect to each residential unit it owns or uses, including
222 installation costs, against any tax due under this chapter for the taxable year in which the energy
223 system is completed and placed in service.

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

226 (iii) The credit under this Subsection (6) is allowed for any residential energy system
227 completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

228 (c) If a business entity sells a residential unit to an individual taxpayer prior to making a
229 claim for the tax credit under this Subsection (6), the business entity may:

230 (i) assign its right to this tax credit to the individual taxpayer; and

231 (ii) if the business entity assigns its right to the tax credit to an individual taxpayer under
232 Subsection (6)(c)(i), the individual taxpayer may claim the tax credit as if the individual taxpayer
233 had completed or participated in the costs of the residential energy system under this section.

234 (7) (a) A business entity that purchases or participates in the financing of a commercial
235 energy system is entitled to a tax credit as provided in this Subsection (7) if:

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

238 (ii) the business entity sells all or part of the energy produced by the commercial energy
239 system as a commercial enterprise.

240 (b) (i) A business entity is entitled to a tax credit equal to 10% of the costs of any
241 commercial energy system installed, including installation costs, against any tax due under this
242 chapter for the taxable year in which the commercial energy system is completed and placed in
243 service.

244 (ii) The total amount of the credit under this Subsection (7) may not exceed \$50,000 per

245 commercial unit.

246 (iii) The credit under this Subsection (7) is allowed for any commercial energy system
247 completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.

248 (c) A business entity that leases a commercial energy system installed on a commercial
249 unit is eligible for the tax credit under this Subsection (7) if the lessee can confirm that the lessor
250 irrevocably elects not to claim the credit.

251 (d) Only the principal recovery portion of the lease payments, which is the cost incurred
252 by a business entity in acquiring a commercial energy system, excluding interest charges and
253 maintenance expenses, is eligible for the tax credit under this Subsection (7).

254 (e) A business entity that leases a commercial energy system is eligible to use the tax credit
255 under this Subsection (7) for a period no greater than seven years from the initiation of the lease.

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

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

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

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

265 (10) (a) The Office of Energy and Resource Planning may promulgate standards for
266 residential and commercial energy systems that cover the safety, reliability, efficiency, leasing, and
267 technical feasibility of the systems to ensure that the systems eligible for the tax credit use the
268 state's renewable and nonrenewable energy resources in an appropriate and economic manner.

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

272 (11) The Office of Energy and Resource Planning and the commission are authorized to
273 promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
274 which are necessary to implement this **h [part] SECTION h** .

275 (12) The Uniform School Fund shall be reimbursed by transfers from the General Fund

276 for any credits taken under this ~~h~~ [part] SECTION ~~h~~ .

277 Section 3. Section **63-55b-159** is amended to read:

278 **63-55b-159. Repeal dates -- Title 59.**

279 (1) Section 59-7-604 is repealed January 1, 2002.

280 (2) Section 59-7-611 and Sections 59-10-601 through 59-10-604 are repealed January 1,
281 2001.

282 (3) Section 59-9-101.1 is repealed January 1, 2001, and the department may not impose
283 an assessment under Section 59-9-101.1 after December 31, 2000.

284 (4) Section 59-7-614 is repealed January 1, 2007.

285 (5) Section 59-10-133 is repealed January 1, 2007.

286 Section 4. **Retrospective operation.**

287 This act has retrospective operation for taxable years beginning on or after January 1, 2001.

Legislative Review Note
as of 2-13-01 8:44 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel