

**Senator Howard A. Stephenson** proposes the following substitute bill:

**TAX CREDITS FOR ALTERNATE POWER**

**GENERATION**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

House Sponsor: Michael E. Noel

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**LONG TITLE**

**General Description:**

This bill amends and extends the renewable energy tax credit.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ extends the availability of the renewable energy tax credit;
- ▶ provides for the Tax Review Commission to review the renewable energy tax credit;
- ▶ expands the renewable energy tax credit to include some geothermal sources;
- ▶ makes the renewable energy tax credit on some commercial energy systems a

refundable credit;

- ▶ changes the calculation of the tax credit for commercial energy systems;
- ▶ removes language reimbursing the Uniform School Fund for renewable energy tax

credits taken; and

- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**



26 This bill provides retrospective operation.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **59-10-1014**, as renumbered and amended by Chapter 223, Laws of Utah 2006

30 ENACTS:

31 **59-10-1106**, Utah Code Annotated 1953

32 REPEALS AND REENACTS:

33 **59-7-614**, as last amended by Chapter 223, Laws of Utah 2006



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

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 Section **59-7-614** is repealed and reenacted to read:

37 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**  
38 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**  
39 **authority.**

40 (1) As used in this section:

41 (a) "Active solar system":

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

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

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

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

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

56 (e) "Commercial enterprise" means a business entity whose purpose is to produce

57 electrical, mechanical, or thermal energy for sale from a commercial energy system.

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

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

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

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

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

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

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

76 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
77 59-10-103 and an individual as defined in Section 59-10-103.

78 (l) "Passive solar system":

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

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

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

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

91 (i) Section 59-2-404;

92 (ii) Section 59-2-405;

93 (iii) Section 59-2-405.1;

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

95 (v) Section 59-2-405.3.

96 (o) "Utah Geological Survey" means the Utah Geological Survey established in Section  
97 63-73-5.

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

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

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

110 (B) The total amount of each credit under this Subsection (2)(a) may not exceed \$2,000  
111 per residential unit, except that the credit may not exceed \$1,000 per residential unit for a  
112 geothermal heat-pump system.

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

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

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

118 (B) if the business entity assigns its right to the tax credit to an individual taxpayer

119 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the  
120 individual taxpayer had completed or participated in the costs of the residential energy system  
121 under Section 59-10-1014.

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

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

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

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

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

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

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

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

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

148 (c) (i) For taxable years beginning on or after January 1, 2007, a business entity that  
149 owns a commercial energy system situated in Utah using wind, geothermal electricity, or

150 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is  
151 entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

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

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

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

158 (I) 0.35 cents; and

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

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

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

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

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

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

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

175 (iii) If the amount of a tax credit under Subsection (2)(a) or (b) exceeds a business  
176 entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the  
177 liability may be carried over for a period which does not exceed the next four taxable years.

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

180 (b) (i) The Utah Geological Survey may set standards for residential and commercial

181 energy systems claiming a credit under Subsections (2)(a) and (b) that cover the safety,  
182 reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems  
183 eligible for the tax credit use the state's renewable and nonrenewable energy resources in an  
184 appropriate and economic manner.

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

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

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

194 (4) (a) On or before October 1, 2012, and every five years thereafter, the Tax Review  
195 Commission shall review the tax credits provided by this section and make recommendations  
196 to the Revenue and Taxation Interim Committee concerning whether the credit should be  
197 continued, modified, or repealed.

198 (b) The Tax Review Commission's report under Subsection (4)(a) shall include  
199 information concerning the cost of the credit, the purpose and effectiveness of the credit, and  
200 the state's benefit from the credit.

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

202 **59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations --**  
203 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**  
204 **authority.**

205 (1) As used in this part:

206 (a) "Active solar system":

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

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

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

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

218 [~~(d) "Commercial energy system" means any active solar, passive solar, wind,~~  
219 ~~hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial~~  
220 ~~enterprise.]~~

221 [~~(e) "Commercial enterprise" means a business entity whose purpose is to produce~~  
222 ~~electrical, mechanical, or thermal energy for sale from a commercial energy system.]~~

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

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

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

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

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

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

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

241 (h) "Passive solar system":

242 (i) means a direct thermal system [~~which~~] that utilizes the structure of a building and its



243 operable components to provide for collection, storage, and distribution of heating or cooling  
244 during the appropriate times of the year by utilizing the climate resources available at the site;  
245 and

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

248 (i) "Residential energy system" means any active solar, passive solar, biomass,  
249 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to  
250 supply energy to or for any residential unit.

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

254 (i) Section 59-2-404;

255 (ii) Section 59-2-405;

256 (iii) Section 59-2-405.1;

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

258 (v) Section 59-2-405.3.

259 (k) "Utah Geological Survey" means the Utah Geological Survey established in Section  
260 63-73-5.

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

264 (2) For taxable years beginning on or after January 1, [~~2001~~] 2007, [~~but beginning on~~  
265 ~~or before December 31, 2006;~~] a claimant, estate, or trust may claim a nonrefundable tax credit  
266 as provided in this section if:

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

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

273 (ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit

274 to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(c) or  
275 Subsection 59-7-614(2)(a)(iii).

276 (3) (a) The tax credit described in Subsection (2) is equal to 25% of the reasonable  
277 costs of ~~[the]~~ each residential energy system, including installation costs, against any income  
278 tax liability of the claimant, estate, or trust under this chapter for the taxable year in which the  
279 residential energy system is completed and placed in service.

280 (b) The total amount of ~~[the]~~ each tax credit under this section may not exceed \$2,000  
281 per residential unit, except that the credit may not exceed \$1,000 per residential unit for a  
282 geothermal heat-pump system.

283 (c) The tax credit under this section is allowed for any residential energy system  
284 completed and placed in service on or after January 1, ~~[2001]~~ 2007~~[, but on or before~~  
285 ~~December 31, 2006]~~.

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

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

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

295 (5) (a) A claimant, estate, or trust that is not a business entity that leases a residential  
296 energy system installed on a residential unit is eligible for the residential energy tax ~~[credits]~~  
297 credit if that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the  
298 tax credit.

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

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

304 (6) (a) A claimant, estate, or trust that is a business entity that purchases and completes

305 or participates in the financing of a residential energy system to supply all or part of the energy  
306 required for a residential unit owned or used by the claimant, estate, or trust that is a business  
307 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this  
308 Subsection (6).

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

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

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

320 (c) If a claimant, estate, or trust that is a business entity sells a residential unit to a  
321 claimant, estate, or trust that is not a business entity ~~[prior to]~~ before making a claim for the tax  
322 credit under this Subsection (6), the claimant, estate, or trust that is a business entity may:

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

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

330 ~~[(7)(a) A claimant, estate, or trust that is a business entity that purchases or~~  
331 ~~participates in the financing of a commercial energy system is entitled to a nonrefundable tax~~  
332 ~~credit as provided in this Subsection (7) if:]~~

333 ~~[(i) the commercial energy system supplies all or part of the energy required by~~  
334 ~~commercial units owned or used by the claimant, estate, or trust that is a business entity; or]~~

335 ~~[(ii) the claimant, estate, or trust that is a business entity sells all or part of the energy~~

336 produced by the commercial energy system as a commercial enterprise.]

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

341 ~~[(ii) The total amount of the tax credit under this Subsection (7) may not exceed~~  
342 ~~\$50,000 per commercial unit.]~~

343 ~~[(iii) The tax credit under this Subsection (7) is allowed for any commercial energy~~  
344 ~~system completed and placed in service on or after January 1, 2001, but on or before~~  
345 ~~December 31, 2006.]~~

346 ~~[(c) A claimant, estate, or trust that is a business entity that leases a commercial energy~~  
347 ~~system installed on a commercial unit is eligible for the tax credit under this Subsection (7) if~~  
348 ~~the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax~~  
349 ~~credit.]~~

350 ~~[(d) Only the principal recovery portion of the lease payments, which is the cost~~  
351 ~~incurred by a claimant, estate, or trust that is not a business entity in acquiring a commercial~~  
352 ~~energy system, excluding interest charges and maintenance expenses, is eligible for the tax~~  
353 ~~credit under this Subsection (7).]~~

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

357 ~~[(8)] (7) (a) A tax credit under this section may be claimed for the taxable year in~~  
358 ~~which the residential energy system is completed and placed in service.~~

359 ~~(b) Additional residential energy systems or parts of residential energy systems may be~~  
360 ~~claimed for subsequent years.~~

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

365 ~~[(9)] (8) The tax credits provided for under this section are in addition to any tax~~  
366 ~~credits provided under the laws or rules and regulations of the United States.~~

367 ~~[(H)]~~ (9) (a) The Utah Geological Survey may set standards for residential [~~and~~  
 368 ~~commercial~~] energy systems that cover the safety, reliability, efficiency, leasing, and technical  
 369 feasibility of the systems to ensure that the systems eligible for the tax credit use the state's  
 370 renewable and nonrenewable energy resources in an appropriate and economic manner.

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

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

377 ~~[(H)]~~ (10) The Utah Geological Survey and the commission [~~are authorized to~~  
 378 ~~promulgate~~] may make rules in accordance with Title 63, Chapter 46a, Utah Administrative  
 379 Rulemaking Act, [~~which~~] that are necessary to implement this section.

380 ~~[(12) The Uniform School Fund shall be reimbursed by transfers from the General~~  
 381 ~~Fund for any tax credits taken under this section.]~~

382 (11) (a) On or before October 1, 2012, and every five years thereafter, the Tax Review  
 383 Commission shall review the tax credits provided by this section and make recommendations  
 384 to the Revenue and Taxation Interim Committee concerning whether the credit should be  
 385 continued, modified, or repealed.

386 (b) The Tax Review Commission's report under Subsection (11)(a) shall include  
 387 information concerning the cost of the credit, the purpose and effectiveness of the credit, and  
 388 the state's benefit from the credit.

389 Section 3. Section **59-10-1106** is enacted to read:

390 **59-10-1106. Renewable energy tax credit.**

391 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

410 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
411 59-10-103 and an individual as defined in Section 59-10-103.

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

413 (m) "Utah Geological Survey" means the Utah Geological Survey established in  
414 Section 63-73-5.

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

416 (2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that  
417 purchases or participates in the financing of a commercial energy system situated in Utah is  
418 entitled to a tax credit as provided in this Subsection (2)(a) if the commercial energy system  
419 does not use wind, geothermal electricity, or biomass equipment capable of producing a total of  
420 660 or more kilowatts of electricity and:

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

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

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

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

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

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

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

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

442 (b) (i) For taxable years beginning on or after January 1, 2007, but beginning on or  
443 before December 31, 2012, a business entity that owns a commercial energy system situated in  
444 Utah using wind, geothermal electricity, or biomass equipment capable of producing a total of  
445 660 or more kilowatts of electricity is entitled to a refundable tax credit as provided in this  
446 section if:

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

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

451 (ii) A business entity is entitled to a tax credit under Subsection (2)(b) equal to the  
452 product of:

453 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

476 (6) (a) On or before October 1, 2012, and every five years thereafter, the Tax Review  
477 Commission shall review the tax credits provided by this section and make recommendations  
478 to the Revenue and Taxation Interim Committee concerning whether the credit should be  
479 continued, modified, or repealed.

480 (b) The Tax Review Commission's report under Subsection (6)(a) shall include  
481 information concerning the cost of the credit, the purpose and effectiveness of the credit, and  
482 the state's benefit from the credit.

483 **Section 4. Retrospective operation.**

484 This bill has retrospective operation for taxable years beginning on or after January 1,  
485 2007.