

TAX CREDIT FOR SOLAR PROJECTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: John W. Hickman

LONG TITLE

General Description:

This bill amends the Corporate Franchise and Income Taxes chapter and the Individual Income Tax Act to address tax credits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ enacts nonrefundable tax credits for certain solar projects;
 - ▶ provides that a person may not claim a renewable energy systems tax credit for certain purchases for which the person claims a tax credit for certain solar projects;
- and
- ▶ requires the Utah Tax Review Commission to study the tax credits.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation for taxable years beginning on or after January 1, 2008.

This bill coordinates with S.B. 31, Income Tax Amendments, to provide for apportionment of a tax credit.

Utah Code Sections Affected:

AMENDS:



28 **59-7-614**, as repealed and reenacted by Laws of Utah 2007, Chapter 288

29 **59-10-1014**, as last amended by Laws of Utah 2007, Chapters 122 and 288

30 ENACTS:

31 **59-7-614.2**, Utah Code Annotated 1953

32 **59-10-1017**, Utah Code Annotated 1953



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

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

36 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**
37 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**
38 **authority.**

39 (1) As used in this section:

40 (a) "Active solar system":

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

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

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

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

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

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

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

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

60 (A) in the case of an active solar system used for agricultural water pumping or a wind
61 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

147 (vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or
148 carried back.

149 (c) (i) For taxable years beginning on or after January 1, 2007, a business entity that
150 owns a commercial energy system situated in Utah using wind, geothermal electricity, or
151 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is

152 entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

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

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

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

159 (I) 0.35 cents; and

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

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

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

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

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

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

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

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

179 (3) (a) [The] Except as provided in Subsection (3)(b), the tax credits provided for
180 under Subsection (2) are in addition to any tax credits provided under the laws or rules and
181 regulations of the United States.

182 (b) A purchaser of one or more solar units that claims a tax credit under Section

183 59-7-614.2 for the purchase of the one or more solar units may not claim a tax credit under this
184 section for that purchase.

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

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

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

196 ~~[(c)]~~ (d) The Utah Geological Survey and the commission may make rules in
197 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are
198 necessary to implement this section.

199 (4) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
200 Review Commission shall review each tax credit provided by this section and make
201 recommendations to the Revenue and Taxation Interim Committee concerning whether the
202 credit should be continued, modified, or repealed.

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

206 Section 2. Section **59-7-614.2** is enacted to read:

207 **59-7-614.2. Nonrefundable tax credit for qualifying solar projects.**

208 (1) As used in this section:

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

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

212 (c) "Qualifying political subdivision" means:

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

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

215 or

216 (iii) a special service district created under Title 17A, Chapter 2, Part 13, Utah Special
217 Service District Act.

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

219 (i) that a qualifying political subdivision:

220 (A) constructs;

221 (B) controls; or

222 (C) owns;

223 (ii) with respect to which the qualifying political subdivision described in Subsection

224 (1)(c)(i) sells one or more solar units; and

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

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

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

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

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

230 (i) of a qualifying solar project;

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

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

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

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

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

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

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

242 (b) 25%.

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

244 (4) A purchaser may carry forward a tax credit under this section for a period that does

245 not exceed the next four taxable years if:

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

247 and

248 (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter

249 for that taxable year.

250 (5) A tax credit under this section is in addition to any other tax credit allowed by this

251 chapter.

252 (6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the

253 Utah Tax Review Commission shall review the tax credit allowed by this section and make

254 recommendations to the Revenue and Taxation Interim Committee concerning whether the tax

255 credit should be continued, modified, or repealed.

256 (b) The Utah Tax Review Commission's report under Subsection (6)(a) shall include

257 information concerning the cost of the tax credit, the purpose and effectiveness of the tax

258 credit, and the state's benefit from the tax credit.

259 Section 3. Section **59-10-1014** is amended to read:

260 **59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations --**

261 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**

262 **authority.**

263 (1) As used in this part:

264 (a) "Active solar system":

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

266 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy

267 by a separate apparatus to storage or to the point of use; and

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

269 energy generation.

270 (b) "Biomass system" means any system of apparatus and equipment for use in

271 converting material into biomass energy, as defined in Section 59-12-102, and transporting that

272 energy by separate apparatus to the point of use or storage.

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

274 (d) "Direct-use geothermal system" means a system of apparatus and equipment

275 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,

276 that is contained in the earth to meet energy needs, including heating a building, an industrial
277 process, and aquaculture.

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

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

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

286 (h) "Passive solar system":

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

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

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

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

299 (i) Section 59-2-404;

300 (ii) Section 59-2-405;

301 (iii) Section 59-2-405.1;

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

303 (v) Section 59-2-405.3.

304 (k) "Utah Geological Survey" means the Utah Geological Survey established in Section
305 63-73-5.

306 (l) "Wind system" means a system of apparatus and equipment capable of intercepting

307 and converting wind energy into mechanical or electrical energy and transferring these forms of
308 energy by a separate apparatus to the point of use or storage.

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

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

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

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

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

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

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

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

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

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

337 (5) (a) A claimant, estate, or trust that is not a business entity that leases a residential

338 energy system installed on a residential unit is eligible for the residential energy tax credit if
339 that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax
340 credit.

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

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

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

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

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

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

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

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

365 (ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax
366 credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the
367 claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant,
368 estate, or trust that is not a business entity had completed or participated in the costs of the

369 residential energy system under this section.

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

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

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

378 (8) (a) ~~The~~ Except as provided in Subsection (8)(b), tax credits provided for under
379 this section are in addition to any tax credits provided under the laws or rules and regulations of
380 the United States.

381 (b) A purchaser of one or more solar units that claims a tax credit under Section
382 59-10-1017 for the purchase of the one or more solar units may not claim a tax credit under this
383 section for that purchase.

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

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

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

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

397 (11) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
398 Review Commission shall review each tax credit provided by this section and make
399 recommendations to the Revenue and Taxation Interim Committee concerning whether the

400 credit should be continued, modified, or repealed.

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

404 Section 4. Section **59-10-1017** is enacted to read:

405 **59-10-1017. Nonrefundable tax credit for qualifying solar projects.**

406 (1) As used in this section:

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

408 (b) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units
409 from a qualifying political subdivision.

410 (c) "Qualifying political subdivision" means:

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

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

413 or

414 (iii) a special service district created under Title 17A, Chapter 2, Part 13, Utah Special
415 Service District Act.

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

417 (i) that a qualifying political subdivision:

418 (A) constructs;

419 (B) controls; or

420 (C) owns;

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

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

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

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

426 (e) "Residential unit" is as defined in Section 59-10-1014.

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

428 (i) of a qualifying solar project;

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

430 (iii) the purchase of which requires that the purchaser agree to bear a proportionate

431 share of the expense of the qualifying solar project:

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

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

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

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

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

440 (b) 25%.

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

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

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

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

448 (5) A tax credit under this section is in addition to any other tax credit allowed by this
449 chapter.

450 (6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the
451 Utah Tax Review Commission shall review the tax credit allowed by this section and make
452 recommendations to the Revenue and Taxation Interim Committee concerning whether the tax
453 credit should be continued, modified, or repealed.

454 (b) The Utah Tax Review Commission's report under Subsection (6)(a) shall include
455 information concerning the cost of the tax credit, the purpose and effectiveness of the tax
456 credit, and the state's benefit from the tax credit.

457 **Section 5. Retrospective operation.**

458 This bill has retrospective operation for taxable years beginning on or after January 1,
459 2008.

460 **Section 6. Coordinating H.B. 201 with S.B. 31 -- Modifying substantive language.**

461 If this H.B. 201 and S.B. 31, Income Tax Amendments, both pass, it is the intent of the

462 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah
463 Code database for publication, modify Section 59-10-1002.2, which is renumbered and
464 amended in S.B. 31, so that a citation to the statutory section enacted in Section 4 in this H.B.
465 201 is included in the list of sections in:
466 (1) Subsection 59-10-1002.2(1) and
467 (2) Subsection 59-10-1002.2(2).

Legislative Review Note
as of 2-6-08 3:57 PM

Office of Legislative Research and General Counsel

H.B. 201 - Tax Credit for Solar Projects

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill could reduce the Education Fund by \$100,000 in FY 2009 and by \$250,000 in FY 2010.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Education Fund	\$0	\$0	\$0	\$0	(\$100,000)	(\$250,000)
Total	\$0	\$0	\$0	\$0	(\$100,000)	(\$250,000)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses, or local governments. Individuals could claim credits of up to \$2,000 annually for the cost of a solar project.
