

SB0044S01 compared with SB0044

~~{deleted text}~~ shows text that was in SB0044 but was deleted in SB0044S01.

inserted text shows text that was not in SB0044 but was inserted into SB0044S01.

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Senator Howard A. Stephenson proposes the following substitute bill:

STATE COMMISSION AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: ~~{~~ Gregory H. Hughes

LONG TITLE

General Description:

This bill modifies provisions relating to ~~{certain state commissions}~~ the Constitutional Revision Commission.

Highlighted Provisions:

This bill:

- ~~{~~ → ~~modifies the duties of the Utah Tax Review Commission;~~
- ~~transfers some duties of the Utah Tax Review Commission to the Revenue and Taxation Interim Committee;~~
- ‡
 - ▶ modifies the duties of the Utah Constitutional Revision Commission;
 - ▶ modifies a provision relating to the staffing of the Utah Constitutional Revision Commission; and
 - ▶ makes technical changes.

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Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- ~~{ 59-1-903, as last amended by Laws of Utah 2002, Chapter 144~~
- ~~59-1-904, as enacted by Laws of Utah 1990, Chapter 237~~
- ~~59-1-905, as last amended by Laws of Utah 2010, Chapter 286~~
- ~~59-5-102, as last amended by Laws of Utah 2010, Chapter 323~~
- ~~59-7-612, as last amended by Laws of Utah 2008, Chapters 4 and 382~~
- ~~59-7-613, as last amended by Laws of Utah 2008, Chapters 4 and 382~~
- ~~59-7-614, as last amended by Laws of Utah 2009, Chapter 344~~
- ~~59-7-614.2, as last amended by Laws of Utah 2010, Chapter 164~~
- ~~59-7-614.3, as enacted by Laws of Utah 2008, Chapter 389~~
- ~~59-7-614.5, as last amended by Laws of Utah 2010, Chapter 278~~
- ~~59-10-1012, as last amended by Laws of Utah 2008, Chapters 4 and 382~~
- ~~59-10-1013, as last amended by Laws of Utah 2008, Chapters 4 and 382~~
- ~~59-10-1014, as last amended by Laws of Utah 2009, Chapter 344~~
- ~~59-10-1024, as enacted by Laws of Utah 2008, Chapter 389~~
- ~~59-10-1106, as last amended by Laws of Utah 2009, Chapter 344~~
- ~~59-10-1107, as last amended by Laws of Utah 2010, Chapter 164~~
- ~~59-10-1108, as last amended by Laws of Utah 2010, Chapter 278~~
- ~~59-12-103.1, as last amended by Laws of Utah 2006, Chapter 253~~
- ~~59-12-104.5, as last amended by Laws of Utah 2009, Chapter 203~~
- ‡ 63I-3-203, as last amended by Laws of Utah 2010, Chapter 25
- 63I-3-204, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63I-3-207, as renumbered and amended by Laws of Utah 2008, Chapter 382
- ~~{ 63J-1-205, as enacted by Laws of Utah 2008, Chapter 138~~
- ~~63M-1-1805, as last amended by Laws of Utah 2009, Chapter 135~~
- ~~63M-1-2406, as enacted by Laws of Utah 2008, Chapter 372~~

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~~63M-1-2806, as last amended by Laws of Utah 2010, Chapter 45~~

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

Section 1. Section ~~{59-1-9}~~631-3-203 is amended to read:

~~{~~ ~~59-1-903. Duties:~~

~~[(1)] The review commission shall: (a) establish an ongoing and comprehensive review of: (i) the tax laws of this state and the political subdivisions of this state; and (ii) all issues related to revenue and taxation; and (b) make recommendations to the governor and the Legislature on: (i) specific tax issues; and], as requested by:~~

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

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

~~(1) the Legislature in a joint resolution of the Legislature; or~~

~~(2) the Legislative Management Committee.~~

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

~~59-1-904. Public hearings:~~

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

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

~~59-1-905. Per diem and travel expenses:~~

~~[(1)] A member may not receive compensation or benefits for the member's service; but may receive per diem and travel expenses in accordance with:~~

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

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

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

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

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

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

~~(1) Each person owning an interest, working interest, royalty interest, payments out of production, or any other interest, in oil or gas produced from a well in the state, or in the proceeds of the production, shall pay to the state a severance tax on the basis of the value determined under Section 59-5-103.1 of the oil or gas:~~

~~(a) produced; and~~

~~(b) (i) saved;~~

~~(ii) sold; or~~

~~(iii) transported from the field where the substance was produced.~~

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

~~(i) 3% of the value of the oil up to and including the first \$13 per barrel for oil; and~~

~~(ii) 5% of the value of the oil from \$13.01 and above per barrel for oil.~~

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

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

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

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

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

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

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

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

~~(A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection~~

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~~(2)(d)(i)(A); or~~

~~—— (B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under Subsection (2)(d)(i)(A);~~

~~—— (iii) For purposes of Subsection (2)(d)(ii):~~

~~—— (A) subject to Subsection (2)(d)(iv)(B):~~

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

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

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

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

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

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

~~—— (a) the shipment constitutes a sale; and~~

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

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

~~—— (i) sold;~~

~~—— (ii) transported; or~~

~~—— (iii) delivered.~~

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

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

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

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

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

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

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

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

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

~~—— (8) The taxes imposed by this section are:~~

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

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

~~—— (i) produced; and~~

~~—— (ii) (A) saved;~~

~~—— (B) sold; or~~

~~—— (C) transported from the field.~~

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

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

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

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

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

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

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

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

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

~~—— (i) a research tax credit of 5% of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (4);~~

~~—— (ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the base amount provided for under Subsection (4); and~~

~~—— (iii) a tax credit equal to:~~

~~—— (A) for the taxable year beginning on or after January 1, 2008, but beginning on or before December 31, 2008, 5% of the taxpayer's qualified research expenses for the current taxable year;~~

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~~—— (B) for the taxable year beginning on or after January 1, 2009, but beginning on or before December 31, 2009, 6.3% of the taxpayer's qualified research expenses for the current taxable year; or~~

~~—— (C) for taxable years beginning on or after January 1, 2010, 9.2% of the taxpayer's qualified research expenses for the current taxable year.~~

~~—— (b) Subject to Subsection (5), a taxpayer may claim a tax credit under:~~

~~—— (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs the qualified research expenses; or~~

~~—— (ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment to the qualified organization.~~

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

~~—— (2) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.~~

~~—— (3) Except as specifically provided for in this section:~~

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

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

~~—— (4) For purposes of this section:~~

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

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

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

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

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

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and

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (8) (a) The [Utah Tax Review Commission] Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (7) a modification or repeal of a~~

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~~provision of Section 41, Internal Revenue Code:~~

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

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

~~—— (i) the cost of the tax credits provided for in this section;~~

~~—— (ii) the purpose and effectiveness of the tax credits provided for in this section;~~

~~—— (iii) whether the tax credits provided for in this section benefit the state; and~~

~~—— (iv) whether the tax credits provided for in this section should be:~~

~~—— (A) continued;~~

~~—— (B) modified; or~~

~~—— (C) repealed.~~

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

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

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

~~—— (1) As used in this section:~~

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

~~—— (b) "Equipment" includes:~~

~~—— (i) a computer;~~

~~—— (ii) computer equipment; and~~

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- ~~—— (iii) computer software.~~
- ~~—— (c) "Purchase price":~~
- ~~—— (i) includes the cost of installing an item of machinery or equipment; and~~
- ~~—— (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an item of machinery or equipment.~~
- ~~—— (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.~~
- ~~—— (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.~~
- ~~—— (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after January 1, 1999, but beginning before December 31, 2010, a taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:~~
- ~~—— (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:~~
- ~~—— (A) purchased by the taxpayer during the taxable year;~~
- ~~—— (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and~~
- ~~—— (C) that is primarily used to conduct qualified research in this state; and~~
- ~~—— (ii) a tax credit of 6% of the purchase price of machinery, equipment, or both:~~
- ~~—— (A) purchased by the taxpayer during the taxable year;~~
- ~~—— (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;~~
- ~~—— (C) that is donated to a qualified organization; and~~
- ~~—— (D) that is primarily used to conduct basic research in this state.~~
- ~~—— (b) Subject to Subsection (5), a taxpayer may claim a tax credit under this section for the taxable year for which the taxpayer purchases the machinery, equipment, or both.~~
- ~~—— (c) If a taxpayer qualifies for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the taxpayer may not claim the tax credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to conduct qualified research in the state for a time period that is less than 12 consecutive months.~~
- ~~—— (3) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.~~
- ~~—— (4) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.~~
- ~~—— (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the~~

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taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

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

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

~~—— (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research in this state.~~

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

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

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

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

~~—— (i) cost of the tax credits provided for in this section;~~

~~—— (ii) purpose and effectiveness of the tax credits provided for in this section;~~

~~—— (iii) whether the tax credits provided for in this section benefit the state; and~~

~~—— (iv) whether the tax credits provided for in this section should be:~~

~~—— (A) continued;~~

~~—— (B) modified; or~~

~~—— (C) repealed.~~

~~—— (d) If the [Utah Tax Review Commission] Revenue and Taxation Interim Committee~~

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

~~Section 7. Section 59-7-614 is amended to read:~~

~~59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.~~

~~(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 generation.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (l) "Passive solar system":~~

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

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

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

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

~~—— (i) Section 59-2-404;~~

~~—— (ii) Section 59-2-405;~~

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~~—— (iii) Section 59-2-405.1;~~

~~—— (iv) Section 59-2-405.2; or~~

~~—— (v) Section 59-2-405.3.~~

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

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

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

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

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

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

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

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

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

~~—— (b) (i) For taxable years beginning on or after January 1, 2007, a business entity that purchases or participates in the financing of a commercial energy system situated in Utah is entitled to a refundable tax credit as provided in this Subsection (2)(b) if the commercial~~

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~~energy system does not use wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity, and:~~

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

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

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

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

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

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

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

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

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

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

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

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~~—— (B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise:~~

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

~~—— (I) 0.35 cents; and~~

~~—— (II) the kilowatt hours of electricity produced and either used or sold during the taxable year:~~

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

~~—— (II) The credit allowed by this Subsection (2)(c) for each year may not be carried forward or carried back:~~

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

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

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

~~—— (ii) Additional energy systems or parts of energy systems may be claimed for subsequent years:~~

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

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

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

~~—— (c) (i) The Utah Geological Survey may set standards for residential and commercial~~

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

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

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

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

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

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

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

~~—— **59-7-614.2. Refundable economic development tax credit.**~~

~~—— (1) As used in this section:~~

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

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

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

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

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

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economic development:

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

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

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

~~—— (i) a local government entity;~~

~~—— (ii) a community development and renewal agency; or~~

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

~~—— (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community development and renewal agency as required by Subsection (5)(a).~~

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

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

~~—— (i) the amount of tax credit that the office grants to each business entity, local government entity, or community development and renewal agency for each calendar year;~~

~~—— (ii) the criteria that the office uses in granting a tax credit;~~

~~—— (iii) (A) for a business entity, the new state revenues generated by the business entity~~

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for the calendar year; or

~~—— (B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section 63M-1-2404, the new state revenues generated as a result of a new commercial project within the local government entity for each calendar year;~~

~~—— (iv) the information contained in the office's latest report to the Legislature under Section 63M-1-2406 or 63M-1-2806; and~~

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

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

~~—— (i) the cost of the tax credit to the state;~~

~~—— (ii) the purpose and effectiveness of the tax credit; and~~

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

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

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

~~—— (1) As used in this section:~~

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

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

~~—— (c) "Qualifying political subdivision" means:~~

~~—— (i) a city or town in this state;~~

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

or

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

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

~~—— (i) that a qualifying political subdivision:~~

~~—— (A) constructs;~~

~~—— (B) controls; or~~

~~—— (C) owns;~~

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- ~~—— (ii) with respect to which the qualifying political subdivision described in Subsection (1)(c)(i) sells one or more solar units; and~~
- ~~—— (iii) that generates electrical output that is furnished:~~
 - ~~—— (A) to one or more residential units; or~~
 - ~~—— (B) for the benefit of one or more residential units.~~
- ~~—— (c) "Residential unit" is as defined in Section 59-7-614.~~
- ~~—— (f) "Solar unit" means a portion of the electrical output:~~
 - ~~—— (i) of a qualifying solar project;~~
 - ~~—— (ii) that a qualifying political subdivision sells to a purchaser; and~~
 - ~~—— (iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:~~
 - ~~—— (A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;~~
 - ~~—— (B) in exchange for a credit on the purchaser's electrical bill; and~~
 - ~~—— (C) as determined by a formula established by the qualifying political subdivision.~~
- ~~—— (2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2008, a purchaser may claim a nonrefundable tax credit equal to the product of:~~
 - ~~—— (a) the amount the purchaser pays to purchase one or more solar units during the taxable year; and~~
 - ~~—— (b) 25%.~~
- ~~—— (3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a return.~~
- ~~—— (4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:~~
 - ~~—— (a) the purchaser is allowed to claim a tax credit under this section for a taxable year; and~~
 - ~~—— (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.~~
- ~~—— (5) Subject to Section 59-7-614, a tax credit under this section is in addition to any other tax credit allowed by this chapter.~~
- ~~—— (6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the~~

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~~[Utah Tax Review Commission] Revenue and Taxation Interim Committee shall review the tax credit allowed by this section and [make] report its recommendations to the [Revenue and Taxation Interim] Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed:~~

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

~~—— Section 10. Section 59-7-614.5 is amended to read:~~

~~—— 59-7-614.5. Refundable motion picture tax credit:~~

~~—— (1) As used in this section:~~

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

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

~~—— (c) "State-approved production" has the same meaning as defined in Subsection 63M-1-1802(10):~~

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

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

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

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

~~—— (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the [Utah Tax Review Commission] Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the [Revenue and Taxation Interim] Legislative Management Committee and the Workforce Services and Community and~~

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~~Economic Development Interim Committee concerning whether the tax credit should be continued, modified, or repealed.~~

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

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

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

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

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

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

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

~~—— (i) the cost of the tax credit to the state;~~

~~—— (ii) the effectiveness of the tax credit; and~~

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

~~—— Section 11. Section ~~59-10-1012~~ is amended to read:~~

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

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

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

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

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- ~~—— (iii) a tax credit equal to:~~
- ~~—— (A) for the taxable year beginning on or after January 1, 2008, but beginning on or before December 31, 2008, 5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year;~~
- ~~—— (B) for the taxable year beginning on or after January 1, 2009, but beginning on or before December 31, 2009, 6.3% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year; or~~
- ~~—— (C) for taxable years beginning on or after January 1, 2010, 9.2% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year.~~
- ~~—— (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:~~
- ~~—— (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate, or trust incurs the qualified research expenses; or~~
- ~~—— (ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust makes the payment to the qualified organization.~~
- ~~—— (c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.~~
- ~~—— (2) Except as specifically provided for in this section:~~
- ~~—— (a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and~~
- ~~—— (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).~~
- ~~—— (3) For purposes of this section:~~
- ~~—— (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:~~
- ~~—— (i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;~~
- ~~—— (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts attributable to sources within this state as provided in Section 59-10-118; and~~
- ~~—— (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a claimant, estate, or trust:~~
- ~~—— (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)~~

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~~regardless of whether the claimant, estate, or trust meets the requirements of Section 41(c)(3)(B)(i)(I) or (II); and~~

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

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

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

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

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

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

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

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

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

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

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

~~—— (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.~~

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

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

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

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

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

~~—— (i) the cost of the tax credits provided for in this section;~~

~~—— (ii) the purpose and effectiveness of the tax credits provided for in this section;~~

~~—— (iii) whether the tax credits provided for in this section benefit the state; and~~

~~—— (iv) whether the tax credits provided for in this section should be:~~

~~—— (A) continued;~~

~~—— (B) modified; or~~

~~—— (C) repealed.~~

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

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

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

~~—— (1) As used in this section:~~

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

~~—— (b) "Equipment" includes:~~

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- ~~—— (i) a computer;~~
- ~~—— (ii) computer equipment; and~~
- ~~—— (iii) computer software.~~
- ~~—— (c) "Purchase price":~~
 - ~~—— (i) includes the cost of installing an item of machinery or equipment; and~~
 - ~~—— (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an item of machinery or equipment.~~
- ~~—— (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.~~
- ~~—— (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.~~
- ~~—— (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after January 1, 1999, but beginning before December 31, 2010, a claimant, estate, or trust meeting the requirements of this section may claim the following nonrefundable tax credits:~~
 - ~~—— (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:~~
 - ~~—— (A) purchased by the claimant, estate, or trust during the taxable year;~~
 - ~~—— (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and~~
 - ~~—— (C) that is primarily used to conduct qualified research in this state; and~~
 - ~~—— (ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for machinery, equipment, or both:~~
 - ~~—— (A) purchased by the claimant, estate, or trust during the taxable year;~~
 - ~~—— (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;~~
 - ~~—— (C) that is donated to a qualified organization; and~~
 - ~~—— (D) that is primarily used to conduct basic research in this state.~~
- ~~—— (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under this section for the taxable year for which the claimant, estate, or trust purchases the machinery, equipment, or both.~~
- ~~—— (c) If a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to conduct qualified research in the state for a time period that is less than 12 consecutive months.~~
- ~~—— (3) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in~~

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~~this section is not terminated if a credit terminates under Section 41, Internal Revenue Code:~~

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

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

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

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

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

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

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

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

~~—— (i) cost of the tax credits provided for in this section;~~

~~—— (ii) purpose and effectiveness of the tax credits provided for in this section;~~

~~—— (iii) whether the tax credits provided for in this section benefit the state; and~~

~~—— (iv) whether the tax credits provided for in this section should be:~~

~~—— (A) continued;~~

~~—— (B) modified; or~~

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~~—— (C) repealed.~~

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

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

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

~~—— (1) As used in this part:~~

~~—— (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 generation.~~

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

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

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

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

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

~~—— (g) "Hydroenergy system" means a system of apparatus and equipment capable of~~

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~~intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.~~

~~—— (h) "Passive solar system":~~

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

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

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

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

~~—— (i) Section 59-2-404;~~

~~—— (ii) Section 59-2-405;~~

~~—— (iii) Section 59-2-405.1;~~

~~—— (iv) Section 59-2-405.2; or~~

~~—— (v) Section 59-2-405.3.~~

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

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

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

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

~~—— (b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to~~

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~~another claimant, estate, or trust that is not a business entity before making a claim for a tax credit under Subsection (6) or Section 59-7-614; and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (c) If the amount of a tax credit under this section exceeds the tax liability of the claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount of the tax credit exceeding the tax liability may be carried over for a period which does not~~

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~~exceed the next four taxable years:~~

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

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

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

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

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

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

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

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

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

~~—— **59-10-1024. Nonrefundable tax credit for qualifying solar projects:**~~

~~—— (1) As used in this section:~~

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- ~~—— (a) "Active solar system" is as defined in Section 59-10-1014.~~
- ~~—— (b) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units from a qualifying political subdivision.~~
- ~~—— (c) "Qualifying political subdivision" means:~~
 - ~~—— (i) a city or town in this state;~~
 - ~~—— (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;~~
~~or~~
 - ~~—— (iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.~~
- ~~—— (d) "Qualifying solar project" means the portion of an active solar system:~~
 - ~~—— (i) that a qualifying political subdivision:~~
 - ~~—— (A) constructs;~~
 - ~~—— (B) controls; or~~
 - ~~—— (C) owns;~~
 - ~~—— (ii) with respect to which the qualifying political subdivision described in Subsection (1)(c)(i) sells one or more solar units; and~~
 - ~~—— (iii) that generates electrical output that is furnished:~~
 - ~~—— (A) to one or more residential units; or~~
 - ~~—— (B) for the benefit of one or more residential units.~~
- ~~—— (e) "Residential unit" is as defined in Section 59-10-1014.~~
- ~~—— (f) "Solar unit" means a portion of the electrical output:~~
 - ~~—— (i) of a qualifying solar project;~~
 - ~~—— (ii) that a qualifying political subdivision sells to a purchaser; and~~
 - ~~—— (iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:~~
 - ~~—— (A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;~~
 - ~~—— (B) in exchange for a credit on the purchaser's electrical bill; and~~
 - ~~—— (C) as determined by a formula established by the qualifying political subdivision.~~
- ~~—— (2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009, a purchaser may claim a nonrefundable tax credit equal to the product of:~~

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

~~—— (b) 25%.~~

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

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

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

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

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

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

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

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

~~—— **59-10-1106. Refundable renewable energy tax credit.**~~

~~—— (1) As used in this section:~~

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

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

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

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

~~—— (e) "Commercial enterprise" means a business entity that:~~

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- ~~—— (i) is a claimant, estate, or trust; and~~
- ~~—— (ii) has the purpose of producing electrical, mechanical, or thermal energy for sale from a commercial energy system.~~
- ~~—— (f) (i) "Commercial unit" means any building or structure that a business entity that is a claimant, estate, or trust uses to transact its business.~~
- ~~—— (ii) Notwithstanding Subsection (1)(f)(i):~~
- ~~—— (A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and~~
- ~~—— (B) if an energy system is the building or structure that a business entity that is a claimant, estate, or trust uses to transact its business, a commercial unit is the complete energy system itself.~~
- ~~—— (g) "Direct-use geothermal system" is as defined in Section 59-10-1014.~~
- ~~—— (h) "Geothermal electricity" is as defined in Section 59-10-1014.~~
- ~~—— (i) "Geothermal heat-pump system" is as defined in Section 59-10-1014.~~
- ~~—— (j) "Hydroenergy system" is as defined in Section 59-10-1014.~~
- ~~—— (k) "Passive solar system" is as defined in Section 59-10-1014.~~
- ~~—— (l) "Utah Geological Survey" means the Utah Geological Survey established in Section 79-3-201.~~
- ~~—— (m) "Wind system" is as defined in Section 59-10-1014.~~
- ~~—— (2) (a) (i) A business entity that is a claimant, estate, or trust that purchases or participates in the financing of a commercial energy system situated in Utah is entitled to a refundable tax credit as provided in this Subsection (2)(a) if the commercial energy system does not use wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity and:~~
- ~~—— (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity that is a claimant, estate, or trust; or~~
- ~~—— (B) the business entity that is a claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise.~~
- ~~—— (ii) (A) A business entity that is a claimant, estate, or trust is entitled to a tax credit of up to 10% of the reasonable costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the~~

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~~commercial energy system is completed and placed in service.~~

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

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

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

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

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

~~—— (b) (i) A business entity that is a claimant, estate, or trust that owns a commercial energy system situated in Utah using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity is entitled to a refundable tax credit as provided in this section if:~~

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

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

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

~~—— (A) 0.35 cents; and~~

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

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

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

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~~—— (B) may not be carried forward or back.~~

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

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

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

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

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

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

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

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

~~—— **59-10-1107. Refundable economic development tax credit.**~~

~~—— (1) As used in this section:~~

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

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

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

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

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

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

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

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

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

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

~~—— (iii) the new state revenues generated by each taxpayer for each calendar year;~~

~~—— (iv) the information contained in the office's latest report to the Legislature under Section 63M-1-2406 or 63M-1-2806; and~~

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

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

~~—— (i) the cost of the tax credit to the state;~~

~~—— (ii) the purpose and effectiveness of the tax credit; and~~

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

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

~~—— **59-10-1108. Refundable motion picture tax credit.**~~

~~—— (1) As used in this section:~~

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

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

~~—— (c) "State-approved production" has the same meaning as defined in Subsection 63M-1-1802(10):~~

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

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

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

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

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

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

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

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- ~~—— (ii) the criteria the office uses in granting a tax credit;~~
- ~~—— (iii) the dollars left in the state, as defined in Subsection 63M-1-1802(2), by each motion picture company for each calendar year;~~
- ~~—— (iv) the information contained in the office's latest report to the Legislature under Section 63M-1-1805; and~~
- ~~—— (v) any other information requested by the [Utah Tax Review Commission] Revenue and Taxation Interim Committee.~~

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

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

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

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

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

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

~~—— (2) The commission shall:~~

- ~~—— (a) collect the tax described in Subsection (1) from the seller:~~
 - ~~—— (i) to the extent:~~
 - ~~—— (A) authorized by the Supreme Court of the United States; or~~
 - ~~—— (B) permitted by Congress; and~~

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

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

~~—— (i) regarding the actions taken by:~~

~~—— (A) the Supreme Court of the United States; or~~

~~—— (B) Congress; and~~

~~—— (ii) at the [Utah Tax Review Commission] Revenue and Taxation Interim Committee meeting immediately following the day on which the Supreme Court of the United States' or Congress' actions become effective.~~

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

~~—— (a) review the actions taken by:~~

~~—— (i) the Supreme Court of the United States; or~~

~~—— (ii) Congress;~~

~~—— (b) direct the commission regarding the day on which the commission is required to collect the tax described in Subsection (1); and~~

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

~~—— (i) regarding whether as a result of the Supreme Court of the United States' or Congress' actions any provisions of this chapter should be amended or repealed; and~~

~~—— (ii) within a one-year period after the day on which the commission makes a report under Subsection (2)(b).~~

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

~~—— **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use taxes:**~~

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

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

~~—— [(i) the sales and use tax is broadly based;]~~

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~~—— [(ii) the sales and use tax base reflects the overall economy;]~~

~~—— [(iii) the sales and use tax mitigates regressive impacts;]~~

~~—— [(iv) the sales and use tax is administratively simple; and]~~

~~—— [(v) the sales and use tax promotes compliance.]~~

~~—— [(b) On or before the November interim meeting of the year in which the Utah Tax Review Commission makes the findings and recommendations required by Subsection (2)(a), the Utah Tax Review Commission shall report its findings and recommendations made in accordance with Subsection (2)(a) to:]~~

~~—— [(i) the governor; and]~~

~~—— [(ii) the Revenue and Taxation Interim Committee.]~~

~~—— [(3) Notwithstanding Subsection (2):]~~

~~—— [(a) the Utah Tax Review Commission] The Revenue and Taxation Interim Committee shall;~~

~~—— [(1) review Subsection 59-12-104(28) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on purchases of food under that program;~~

~~—— [(b) the Utah Tax Review Commission shall] [(2) review Subsection 59-12-104(21) before October 1 of the year after the year in which Congress permits a state to participate in the food stamp program under the Food Stamp Act, 7 U.S.C. Sec. 2011 et seq., even if state or local sales taxes are collected within the state on purchases of food under that program; and~~

~~—— [(c) the Utah Tax Review Commission shall] [(3) review Subsection 59-12-104(62) before the October 2011 interim meeting.~~

~~—— Section 20. Section **63I-3-203** is amended to read:~~

~~‡~~ **63I-3-203. Duties.**

~~[(1) Subject to Subsection (2), the Utah Constitutional Revision Commission shall:]~~

~~[(a) conduct a comprehensive examination of the Utah Constitution, as amended, and make recommendations to the governor and the Legislature as to specific proposed constitutional amendments to implement the commission's recommendations for changes in the constitution; and]~~

~~[(b) upon request of the governor, president of the Senate, speaker of the House of~~

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~~Representatives, minority leader of the Senate, minority leader of the House, or the legislative sponsor of a resolution to amend the Utah Constitution, advise the governor and the Legislature on any proposed constitutional amendment or revision.]~~

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

(1) The commission shall advise the Legislature on proposals to amend the Utah Constitution as the Legislature requests in a joint resolution of the Legislature.

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

Section ~~{21}~~2. Section **63I-3-204** is amended to read:

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

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

Section ~~{22}~~3. Section **63I-3-207** is amended to read:

63I-3-207. Appointment of staff.

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

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

~~63J-1-205. Revenue volatility report.~~

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

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

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

~~(b) identifies the balances in the General Fund Budget Reserve Account and the~~

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~~Education Fund Budget Reserve Account; and~~

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

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

~~—— **63M-1-1805. Annual report.**~~

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

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

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

~~—— (3) the economic impact on the state related to:~~

~~—— (a) dollars left in the state; and~~

~~—— (b) providing motion picture incentives under this part.~~

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

~~—— **63M-1-2406. Report to the Legislature.**~~

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

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

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

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

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

~~—— **63M-1-2806. Report to the Legislature.**~~

~~—— The office shall report annually to the Legislature's Workforce Services and Community~~

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~~and Economic Development Interim Committee [and the Utah Tax Review Commission]
describing:~~

- ~~—— (1) its success in attracting alternative energy projects to alternative energy development zones under this part and the corresponding increase in new increment jobs;~~
- ~~—— (2) the amount of tax credits promised and the period of time over which the tax credits will be paid; and~~
- ~~—— (3) the economic impact on the state related to generating new state revenues and providing tax credits under this part.~~

Legislative Review Note

~~—— as of 1-17-11 7:07 AM~~

~~————— Office of Legislative Research and General Counsel}~~