

1 **INCOME TAX AMENDMENTS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Deidre M. Henderson**

5 House Sponsor: Daniel McCay

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7 **LONG TITLE**

8 **General Description:**

9 This bill repeals and amends provisions related to income taxes.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ repeals provisions related to corporate and individual income tax credits;
- 13 ▶ exempts a tax credit for a combat related death from certain provisions that require
- 14 the State Tax Commission to remove a tax credit from a tax return and prohibit a
- 15 taxpayer from claiming or carrying forward a tax credit;
- 16 ▶ repeals provisions related to individual income tax contributions; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill provides a special effective date.

22 This bill provides for retrospective operation.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **23-14-13**, as last amended by Laws of Utah 2010, Chapter 278

26 **59-7-105**, as last amended by Laws of Utah 2010, Chapters 6 and 198

27 **59-7-106**, as last amended by Laws of Utah 2014, Chapter 273

28 **59-7-614**, as last amended by Laws of Utah 2014, Chapter 407

29 **59-10-1002.1**, as renumbered and amended by Laws of Utah 2008, Chapter 389

30 **59-10-1304**, as last amended by Laws of Utah 2013, Chapters 235 and 338

31 **63M-1-1102**, as renumbered and amended by Laws of Utah 2008, Chapter 382

32 REPEALS:

33 **59-7-602**, as last amended by Laws of Utah 2011, Chapter 366

34 **59-7-603**, as enacted by Laws of Utah 1993, Chapter 169

35 **59-7-608**, as last amended by Laws of Utah 2003, Chapter 198

36 **59-7-614.3**, as last amended by Laws of Utah 2011, Chapter 384

37 **59-10-1011**, as last amended by Laws of Utah 2011, Chapter 366

38 **59-10-1305**, as renumbered and amended by Laws of Utah 2008, Chapter 389



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

41 Section 1. Section **23-14-13** is amended to read:

42 **23-14-13. Wildlife Resources Account.**

43 (1) There is created a restricted account within the General Fund known as the  
44 "Wildlife Resources Account."

45 (2) The following money shall be deposited into the Wildlife Resources Account:

46 (a) revenue from the sale of licenses, permits, tags, and certificates of registration  
47 issued under this title or a rule or proclamation of the Wildlife Board, except as otherwise  
48 provided by this title;

49 (b) revenue from the sale, lease, rental, or other granting of rights of real or personal  
50 property acquired with revenue specified in Subsection (2)(a);

51 (c) revenue from fines and forfeitures for violations of this title or any rule,  
52 proclamation, or order of the Wildlife Board, minus court costs not to exceed the schedule  
53 adopted by the Judicial Council;

54 (d) funds appropriated from the General Fund by the Legislature pursuant to Section  
55 **23-19-39**;

56 (e) other money received by the division under any provision of this title, except as  
57 otherwise provided by this title; and

58 [~~(f)~~ contributions made in accordance with Section ~~59-10-1305~~; and]

59 [~~(g)~~] (f) interest, dividends, or other income earned on account money.

60 (3) Money in the Wildlife Resources Account shall be used for the administration of  
61 this title.

62 Section 2. Section **59-7-105** is amended to read:

63 **59-7-105. Additions to unadjusted income.**

64 In computing adjusted income the following amounts shall be added to unadjusted  
65 income:

66 (1) interest from bonds, notes, and other evidences of indebtedness issued by any state  
67 of the United States, including any agency and instrumentality of a state of the United States;

68 (2) the amount of any deduction taken on a corporation's federal return for taxes paid  
69 by a corporation:

70 (a) to Utah for taxes imposed by this chapter; and

71 (b) to another state of the United States, a foreign country, a United States possession,  
72 or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or  
73 exercising its corporate franchise, including income, franchise, corporate stock and business  
74 and occupation taxes;

75 (3) the safe harbor lease adjustment required under Subsections ~~59-7-111~~(1)(a) and  
76 (2)(a);

77 (4) capital losses that have been deducted on a Utah corporate return in previous years;

78 (5) any deduction on the federal return that has been previously deducted on the Utah  
79 return;

80 [~~(6)~~ the amount of contributions claimed as a tax credit pursuant to Section ~~59-7-602~~];

81 [~~(7)~~ the amount of the deduction taken pursuant to Section ~~59-7-603~~ for sophisticated  
82 technological equipment;]

83 [~~(8)~~] (6) charitable contributions, to the extent deducted on the federal return when  
84 determining federal taxable income;

85 [~~(9)~~] (7) the amount of gain or loss determined under Section ~~59-7-114~~ relating to a

86 target corporation under Section 338, Internal Revenue Code, unless such gain or loss has  
87 already been included in the unadjusted income of the target corporation;

88 ~~[(10)]~~ (8) the amount of gain or loss determined under Section 59-7-115 relating to  
89 corporations treated for federal purposes as having disposed of its assets under Section 336(e),  
90 Internal Revenue Code, unless such gain or loss has already been included in the unadjusted  
91 income of the target corporation;

92 ~~[(11)]~~ (9) adjustments to gains, losses, depreciation expense, amortization expense, and  
93 similar items due to a difference between basis for federal purposes and basis as computed  
94 under Section 59-7-107;

95 ~~[(12)]~~ (10) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational  
96 Savings Plan, from the account of a corporation that is an account owner as defined in Section  
97 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn  
98 from the account of the corporation that is the account owner:

99 (a) is not expended for:

100 (i) higher education costs as defined in Section 53B-8a-102; or

101 (ii) a payment or distribution that qualifies as an exception to the additional tax for  
102 distributions not used for educational expenses provided in Sections 529(c) and 530(d),  
103 Internal Revenue Code; and

104 (b) is subtracted by the corporation:

105 (i) that is the account owner; and

106 (ii) in accordance with Subsection 59-7-106 (1)(r); and

107 ~~[(13)]~~ (11) the amount of the deduction for dividends paid, as defined in Section 561,  
108 Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in  
109 computing the taxable income of a captive real estate investment trust, if that captive real estate  
110 investment trust is subject to federal income taxation.

111 Section 3. Section 59-7-106 is amended to read:

112 **59-7-106. Subtractions from unadjusted income.**

113 (1) In computing adjusted income the following amounts shall be subtracted from

114 unadjusted income:

115 (a) the foreign dividend gross-up included in gross income for federal income tax  
116 purposes under Section 78, Internal Revenue Code;

117 (b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the  
118 taxpayer elects to deduct the net capital loss on the return filed under this chapter for the  
119 taxable year for which the net capital loss is incurred;

120 (c) the decrease in salary expense deduction for federal income tax purposes due to  
121 claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

122 (d) the decrease in qualified research and basic research expense deduction for federal  
123 income tax purposes due to claiming the federal credit for increasing research activities under  
124 Section 41, Internal Revenue Code;

125 (e) the decrease in qualified clinical testing expense deduction for federal income tax  
126 purposes due to claiming the federal credit for clinical testing expenses for certain drugs for  
127 rare diseases or conditions under Section 45C, Internal Revenue Code;

128 (f) any decrease in any expense deduction for federal income tax purposes due to  
129 claiming any other federal credit;

130 (g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and  
131 (2)(b);

132 (h) any income on the federal corporation income tax return that has been previously  
133 taxed by Utah;

134 (i) an amount included in federal taxable income that is due to a refund of a tax,  
135 including a franchise tax, an income tax, a corporate stock and business tax, or an occupation  
136 tax:

137 (i) if that tax is imposed for the privilege of:

138 (A) doing business; or

139 (B) exercising a corporate franchise;

140 (ii) if that tax is paid by the corporation to:

141 (A) Utah;

- 142 (B) another state of the United States;
- 143 (C) a foreign country;
- 144 (D) a United States possession; or
- 145 (E) the Commonwealth of Puerto Rico; and
- 146 (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;
- 147 (j) a charitable contribution, to the extent the charitable contribution is allowed as a
- 148 subtraction under Section 59-7-109;
- 149 (k) subject to Subsection (3), 50% of a dividend considered to be received or received
- 150 from a subsidiary that:
  - 151 (i) is a member of the unitary group;
  - 152 (ii) is organized or incorporated outside of the United States; and
  - 153 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;
- 154 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a
- 155 foreign operating company;
- 156 (m) the amount of gain or loss that is included in unadjusted income but not recognized
- 157 for federal purposes on stock sold or exchanged by a member of a selling consolidated group as
- 158 defined in Section 338, Internal Revenue Code, if an election has been made in accordance
- 159 with Section 338(h)(10), Internal Revenue Code;
- 160 (n) the amount of gain or loss that is included in unadjusted income but not recognized
- 161 for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance
- 162 with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal
- 163 Revenue Code, has been made for federal purposes;
- 164 (o) subject to Subsection (5), an adjustment to the following due to a difference
- 165 between basis for federal purposes and basis as computed under Section 59-7-107:
  - 166 (i) an amortization expense;
  - 167 (ii) a depreciation expense;
  - 168 (iii) a gain;
  - 169 (iv) a loss; or

- 170 (v) an item similar to Subsections (1)(o)(i) through (iv);
- 171 (p) an interest expense that is not deducted on a federal corporation income tax return
- 172 under Section 265(b) or 291(e), Internal Revenue Code;
- 173 (q) 100% of dividends received from a subsidiary that is an insurance company if that
- 174 subsidiary that is an insurance company is:
  - 175 (i) exempt from this chapter under Subsection 59-7-102(1)(c); and
  - 176 (ii) under common ownership;
  - 177 (r) subject to Subsection 59-7-105~~(12)~~(10), the amount of a qualified investment as
  - 178 defined in Section 53B-8a-102 that:
    - 179 (i) a corporation that is an account owner as defined in Section 53B-8a-102 makes
    - 180 during the taxable year;
    - 181 (ii) the corporation described in Subsection (1)(r)(i) does not deduct on a federal
    - 182 corporation income tax return; and
    - 183 (iii) does not exceed the maximum amount of the qualified investment that may be
    - 184 subtracted from unadjusted income for a taxable year in accordance with Subsection
    - 185 53B-8a-106(1);
    - 186 (s) for purposes of income included in a combined report under Part 4, Combined
    - 187 Reporting, the entire amount of the dividends a member of a unitary group receives or is
    - 188 considered to receive from a captive real estate investment trust; and
    - 189 (t) the increase in income for federal income tax purposes due to claiming a:
      - 190 (i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or
      - 191 (ii) qualified zone academy bond under Section 1397E, Internal Revenue Code.
  - 192 (2) For purposes of Subsection (1)(b):
    - 193 (a) the subtraction shall be made by claiming the subtraction on a return filed:
      - 194 (i) under this chapter for the taxable year for which the net capital loss is incurred; and
      - 195 (ii) by the due date of the return, including extensions; and
    - 196 (b) a net capital loss for a taxable year shall be:
      - 197 (i) subtracted for the taxable year for which the net capital loss is incurred; or

198 (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue  
199 Code.

200 (3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a  
201 taxpayer shall first subtract from a dividend considered to be received or received an expense  
202 directly attributable to that dividend.

203 (b) For purposes of Subsection (3)(a), the amount of an interest expense that is  
204 considered to be directly attributable to a dividend is calculated by multiplying the interest  
205 expense by a fraction:

206 (i) the numerator of which is the taxpayer's average investment in the dividend paying  
207 subsidiaries; and

208 (ii) the denominator of which is the taxpayer's average total investment in assets.

209 (c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in  
210 determining income apportionable to this state, a portion of the factors of a foreign subsidiary  
211 that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the  
212 combined report factors as provided in this Subsection (3)(c).

213 (ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign  
214 subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be  
215 included in the combined report factors is calculated by multiplying each factor of the foreign  
216 subsidiary by a fraction:

217 (A) not to exceed 100%; and

218 (B) (I) the numerator of which is the amount of the dividend paid by the foreign  
219 subsidiary that is included in adjusted income; and

220 (II) the denominator of which is the current year earnings and profits of the foreign  
221 subsidiary as determined under the Internal Revenue Code.

222 (4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under  
223 Subsection (1)(l):

224 (i) if the taxpayer elects to file a worldwide combined report as provided in Section  
225 [59-7-403](#); or



226 (ii) for the following:

227 (A) income generated from intangible property; or

228 (B) a capital gain, dividend, interest, rent, royalty, or other similar item that is

229 generated from an asset held for investment and not from a regular business trading activity.

230 (b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating

231 company:

232 (i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

233 (ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a

234 transaction that occurs between members of a unitary group.

235 (c) For purposes of the subtraction provided for in Subsection (1)(l), in determining

236 income apportionable to this state, the factors for a foreign operating company shall be

237 included in the combined report factors in the same percentages as the foreign operating

238 company's adjusted income is included in the combined adjusted income.

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

240 commission may by rule define what constitutes:

241 (i) income generated from intangible property; or

242 (ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is

243 generated from an asset held for investment and not from a regular business trading activity.

244 (5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of

245 a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax

246 credit is claimed if:

247 (i) there is a reduction in federal basis for a federal tax credit; and

248 (ii) there is no corresponding tax credit allowed in this state.

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

250 commission may by rule define what constitutes an item similar to Subsections (1)(o)(i)

251 through (iv).

252 Section 4. Section **59-7-614** is amended to read:

253 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**

254 **Certification -- Rulemaking authority.**

255 (1) As used in this section:

256 (a) "Active solar system":

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

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

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

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

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

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

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

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

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

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

280 (g) "Direct-use geothermal system" means a system of apparatus and equipment  
281 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,

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

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

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

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

292 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
293 [59-10-103](#) and an individual as defined in Section [59-10-103](#).

294 (l) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

295 (m) "Passive solar system":

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

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

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

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

308 (i) Section [59-2-404](#);

309 (ii) Section [59-2-405](#);

310 (iii) Section 59-2-405.1;

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

312 (v) Section 59-2-405.3.

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

316 (2) (a) (i) A business entity that purchases and completes or participates in the  
317 financing of a residential energy system to supply all or part of the energy required for a  
318 residential unit owned or used by the business entity and located in the state may claim a  
319 nonrefundable tax credit as provided in this Subsection (2)(a).

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

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

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

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

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

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

335 (b) (i) A business entity that purchases or participates in the financing of a commercial  
336 energy system situated in Utah may claim a refundable tax credit as provided in this Subsection  
337 (2)(b) if the commercial energy system does not use wind, geothermal electricity, solar, or

338 biomass equipment capable of producing a total of 660 or more kilowatts of electricity or if the  
339 commercial energy system does not use solar equipment capable of producing 2,000 or more  
340 kilowatts of electricity, and:

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

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

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

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

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

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

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

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

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

364 (c) (i) A business entity that owns a commercial energy system located in the state  
365 using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or

366 more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection  
367 (2)(c) if:

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

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

372 (ii) (A) A business entity may claim a tax credit under this section equal to the product  
373 of:

374 (I) 0.35 cents; and

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

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

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

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

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

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

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

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

394 (3) (a) A business entity that owns a commercial energy system located in the state that  
395 uses solar equipment capable of producing a total of 660 or more kilowatts of electricity may  
396 claim a refundable tax credit as provided in this Subsection (3) if:

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

399 (B) the business entity sells all or part of the energy produced by the commercial  
400 energy system as a commercial enterprise; and

401 (ii) the business entity does not claim a tax credit under Subsection (2)(b).

402 (b) A business entity may claim a tax credit under this section equal to the product of:

403 (i) 0.35 cents; and

404 (ii) the kilowatt hours of electricity produced and either used or sold during the taxable  
405 year.

406 (c) The tax credit under this Subsection (3) may be claimed for production occurring  
407 during a period of 48 months beginning with the month in which the commercial energy  
408 system is placed in commercial service.

409 (d) The tax credit under this Subsection (3) may not be carried forward or carried back.

410 (e) The tax credit under this Subsection (3) is allowed for a commercial energy system  
411 completed and placed in service on or after January 1, 2015.

412 (f) A business entity that leases a commercial energy system installed on a commercial  
413 unit may claim a tax credit under this Subsection (3) if the business entity that is the lessee can  
414 confirm that the lessor irrevocably elects not to claim the tax credit.

415 (4) (a) [~~Except as provided in Subsection (4)(b), the~~] The tax credits provided for  
416 under Subsection (2) or (3) are in addition to any tax credits provided under the laws or rules  
417 and regulations of the United States.

418 [~~(b) A purchaser of one or more solar units that claims a tax credit under Section~~  
419 ~~59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this~~  
420 ~~section for that purchase.~~]

421 [~~(c)~~] (b) (i) The office may set standards for residential and commercial energy systems

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

426 (ii) The office may set standards for residential and commercial energy systems that  
427 establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and  
428 (2)(b)(ii)(A), as an amount per unit of energy production.

429 (iii) A tax credit may not be taken under Subsection (2) or (3) until the office has  
430 certified that the energy system has been completely installed and is a viable system for saving  
431 or production of energy from renewable resources.

432 ~~[(d)]~~ (c) The office and the commission may make rules in accordance with Title 63G,  
433 Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

434 (5) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and  
435 Taxation Interim Committee shall review each tax credit provided by this section and report its  
436 recommendations to the Legislative Management Committee concerning whether the tax credit  
437 should be continued, modified, or repealed.

438 (b) The Revenue and Taxation Interim Committee's report under Subsection (5)(a)  
439 shall include information concerning the cost of the tax credit, the purpose and effectiveness of  
440 the tax credit, and the state's benefit from the tax credit.

441 Section 5. Section **59-10-1002.1** is amended to read:

442 **59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming**  
443 **or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or**  
444 **carrying forward a tax credit -- Exception -- Commission reporting requirements.**

445 (1) As used in this section, "tax return" means a tax return filed in accordance with this  
446 chapter.

447 (2) ~~[Beginning]~~ Except as provided in Subsection (4), beginning two taxable years  
448 after the requirements of Subsection (3) are met:

449 (a) the commission shall remove a tax credit allowed under this part from each tax



450 return on which the tax credit appears; and

451 (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax  
452 credit.

453 (3) ~~[The]~~ Except as provided in Subsection (4), the commission shall remove a tax  
454 credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return  
455 may not claim or carry forward the tax credit as provided in Subsection (2) if:

456 (a) the total amount of the tax credit claimed or carried forward by all claimants,  
457 estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable  
458 years beginning on or after January 1, 2002; and

459 (b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable  
460 years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax  
461 credit.

462 (4) This section does not apply to a tax credit under Section [59-10-1027](#).

463 ~~[(4)]~~ (5) The commission shall, on or before the November interim meeting of the year  
464 after the taxable year in which the requirements of Subsection (3) are met:

465 (a) report to the Revenue and Taxation Interim Committee that in accordance with this  
466 section:

467 (i) the commission is required to remove a tax credit from each tax return on which the  
468 tax credit appears; and

469 (ii) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax  
470 credit; and

471 (b) notify each state agency required by statute to assist in the administration of the tax  
472 credit that in accordance with this section:

473 (i) the commission is required to remove a tax credit from each tax return on which the  
474 tax credit appears; and

475 (ii) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax  
476 credit.

477 Section 6. Section **59-10-1304** is amended to read:

478           **59-10-1304. Removal of designation and prohibitions on collection for certain**  
 479 **contributions on income tax return -- Conditions for removal and prohibitions on**  
 480 **collection -- Commission reporting requirements.**

481           (1) (a) If a contribution or combination of contributions described in Subsection (1)(b)  
 482 generate less than \$30,000 per year for three consecutive years, the commission shall remove  
 483 the designation for the contribution from the individual income tax return and may not collect  
 484 the contribution from a resident or nonresident individual beginning two taxable years after the  
 485 three-year period for which the contribution generates less than \$30,000 per year.

486           (b) The following contributions apply to Subsection (1)(a):

487           ~~[(i) the contribution provided for in Section 59-10-1305;]~~

488           ~~[(ii)]~~ (i) the contribution provided for in Section 59-10-1306;

489           ~~[(iii)]~~ (ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

490           ~~[(iv)]~~ (iii) the contribution provided for in Section 59-10-1308;

491           ~~[(v)]~~ (iv) the contribution provided for in Section 59-10-1310;

492           ~~[(vi)]~~ (v) the contribution provided for in Section 59-10-1315;

493           ~~[(vii)]~~ (vi) the sum of the contributions provided for in:

494           (A) Section 59-10-1316; and

495           (B) Section 59-10-1317; or

496           ~~[(viii)]~~ (vii) the contribution provided for in Section 59-10-1318.

497           (2) If the commission removes the designation for a contribution under Subsection (1),  
 498 the commission shall report to the Revenue and Taxation Interim Committee that the  
 499 commission removed the designation on or before the November interim meeting of the year in  
 500 which the commission determines to remove the designation.

501           Section 7. Section **63M-1-1102** is amended to read:

502           **63M-1-1102. Definitions.**

503           As used in this part:

504           (1) "Composting" means the controlled decay of landscape waste or sewage sludge and  
 505 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other

506 organisms.

507 (2) "Postconsumer waste material" means any product generated by a business or  
508 consumer that has served its intended end use, and that has been separated from solid waste for  
509 the purposes of collection, recycling, and disposition and that does not include secondary waste  
510 material.

511 (3) (a) "Recovered materials" means waste materials and by-products that have been  
512 recovered or diverted from solid waste.

513 (b) "Recovered materials" does not include those materials and by-products generated  
514 from, and commonly reused within, an original manufacturing process.

515 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and  
516 the beneficial use of the materials and includes a series of activities by which materials that  
517 would become or otherwise remain waste are diverted from the waste stream for collection,  
518 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition  
519 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of  
520 the materials as substitutes for goods made from virgin materials.

521 (b) "Recycling" does not include burning municipal solid waste for energy recovery.

522 (5) "Recycling market development zone" or "zone" means an area designated by the  
523 office as meeting the requirements of this part.

524 (6) (a) "Secondary waste material" means industrial by-products that go to disposal  
525 facilities and waste generated after completion of a manufacturing process.

526 (b) "Secondary waste material" does not include internally generated scrap commonly  
527 returned to industrial or manufacturing processes, such as home scrap and mill broke.

528 (7) [~~"State tax incentives," "tax incentives," or "tax benefits"~~] "Tax incentive" means  
529 [~~the~~] a nonrefundable tax [~~credits~~] credit available under [~~Sections 59-7-608 and~~] Section  
530 59-7-610 or 59-10-1007.

531 Section 8. **Repealer.**

532 This bill repeals:

533 Section **59-7-602, Credit for cash contributions to sheltered workshops.**

534 Section [59-7-603](#), Credit for sophisticated technological equipment donated to  
535 schools.

536 Section [59-7-608](#), Targeted jobs tax credit.

537 Section [59-7-614.3](#), Nonrefundable tax credit for qualifying solar projects.

538 Section [59-10-1011](#), Tutoring tax credits for dependents with a disability.

539 Section [59-10-1305](#), Nongame wildlife contribution -- Credit to Wildlife Resources

540 Account.

541 Section 9. **Effective date.**

542 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

543 (2) The actions affecting the following have retrospective operation for a taxable year

544 beginning on or after January 1, 2015:

545 (a) Section [59-7-105](#);

546 (b) Section [59-7-106](#);

547 (c) Section [59-7-602](#);

548 (d) Section [59-7-603](#);

549 (e) Section [59-7-608](#);

550 (f) Section [59-7-614](#);

551 (g) Section [59-7-614.3](#);

552 (h) Section [59-10-1002.1](#);

553 (i) Section [59-10-1011](#);

554 (j) Section [59-10-1304](#);

555 (k) Section [59-10-1305](#); and

556 (l) Section [63M-1-1102](#).