

- 26 • establishing procedures to certify a tax credit and issue a tax credit certificate;
- 27 and
- 28 • requiring certain reports and studies; and
- 29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 This bill appropriates:

- 32 ▶ to the Governor's Office of Economic Development - Administration as a one-time
- 33 appropriation:
- 34 • from the General Fund, \$200,000, subject to intent language stating that the
- 35 appropriation shall be used to administer the tax credits enacted in this bill.

36 **Other Special Clauses:**

37 This bill provides ~~§~~ → [for] ← ~~§~~ effective dates.

37a ~~§~~ → This bill provides for retrospective operation. ← ~~§~~

38 **Utah Code Sections Affected:**

39 ENACTS:

- 40 **59-7-614.6**, Utah Code Annotated 1953
- 41 **59-10-1025**, Utah Code Annotated 1953
- 42 **59-10-1026**, Utah Code Annotated 1953
- 43 **59-10-1109**, Utah Code Annotated 1953
- 44 **63M-1-2901**, Utah Code Annotated 1953
- 45 **63M-1-2902**, Utah Code Annotated 1953
- 46 **63M-1-2903**, Utah Code Annotated 1953
- 47 **63M-1-2904**, Utah Code Annotated 1953
- 48 **63M-1-2905**, Utah Code Annotated 1953
- 49 **63M-1-2906**, Utah Code Annotated 1953
- 50 **63M-1-2907**, Utah Code Annotated 1953
- 51 **63M-1-2908**, Utah Code Annotated 1953
- 52 **63M-1-2909**, Utah Code Annotated 1953
- 53 **63M-1-2910**, Utah Code Annotated 1953
- 54 **63M-1-2911**, Utah Code Annotated 1953



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

119 estate, or trust claims a tax credit under this section; and

120 (iii) issued:

121 (A) by a Utah small business corporation;

122 (B) on or after January 1, 2011; and

123 (C) for money or other property, except for stock or securities.

124 (h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" is
125 as defined in Section 59-10-1022.

126 (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal
127 Revenue Code, is considered to include a pass-through entity.

128 (2) Subject to the other provisions of this section, for a taxable year beginning on or
129 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate
130 issued to the eligible claimant, estate, or trust in accordance with Section 63M-1-2908 for that
131 taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase
132 price of a qualifying ownership interest in a Utah small business corporation by the claimant,
133 estate, or trust if:

134 (a) the qualifying ownership interest is issued by a Utah small business corporation that
135 is a life science establishment;

136 (b) the qualifying ownership interest in the Utah small business corporation is
137 purchased for at least \$25,000;

138 (c) the eligible claimant, estate, or trust owned less than 30% of the qualifying
139 ownership interest of the Utah small business corporation at the time of the purchase of the
140 qualifying ownership interest; and

141 (d) on each day of the taxable year of the purchase of the qualifying ownership interest,
142 the Utah small business corporation described in Subsection (2)(a) has at least 50% of its
143 employees in the state.

144 (3) Subject to Subsection (4), the tax credit under Subsection (2):

145 (a) may only be claimed by the eligible claimant, estate, or trust:

146 (i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit
147 certificate issued in accordance with Section ~~64M-1-2908~~ 63M-1-2908 ~~63M-1-2908~~ ; and

148 (ii) subject to obtaining a tax credit certificate for each taxable year as required by
149 Subsection (3)(a)(i), for a period of three taxable years as follows:

150 (A) the tax credit in the taxable year of the purchase of the qualifying ownership
 151 interest may not exceed 10% of the purchase price of the qualifying ownership interest;

152 (B) the tax credit in the taxable year after the taxable year described in Subsection
 153 (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest;
 154 and

155 (C) the tax credit in the taxable year two years after the taxable year described in
 156 Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership
 157 interest; and

158 (b) may not exceed the lesser of:

159 (i) the amount listed on the tax credit certificate issued in accordance with Section
 160 63M-1-2908; or

161 (ii) \$350,000 in a taxable year.

162 (4) An eligible claimant, estate, or trust may not claim a tax credit under this section
 163 for a taxable year if the eligible claimant, estate, or trust:

164 (a) has sold any of the qualifying ownership interest during the taxable year; or

165 (b) does not hold a tax credit certificate for that taxable year that is issued to the
 166 eligible claimant, estate, or trust by the office in accordance with Section 63M-1-2908.

167 (5) If a Utah small business corporation in which an eligible claimant, estate, or trust
 168 purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the
 169 eligible claimant, estate, or trust may not claim both the tax credit provided in this section and
 170 a capital loss on the qualifying ownership interest.

171 (6) A claimant, estate, or trust may not carry forward or carry back a tax credit under
 172 this section.

173 Section 3. Section **59-10-1026** is enacted to read:

174 **59-10-1026. Nonrefundable tax credit for capital gain transactions related to a**
 175 **life science establishment.**

176 (1) As used in this section:

177 (a) (i) "Capital gain transaction" means a transaction that results in a short-term capital
 178 gain or long-term capital gain.

179 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 180 commission ~~§~~ → [staff] may ← ~~§~~ by rule define the term "transaction."

212 as defined in Section 59-10-1022.

213 (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal
214 Revenue Code, is considered to include a pass-through entity.

215 (2) Subject to the other provisions of this section, for a taxable year beginning on or
216 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate
217 issued to the eligible claimant, estate, or trust in accordance with Section 63M-1-2908 for that
218 taxable year and meets the requirements of Subsection (3) may claim a nonrefundable tax
219 credit equal to the lesser of:

220 (a) the amount shown on the tax credit certificate issued to the eligible claimant, estate,
221 or trust by the office in accordance with Section 63M-1-2908; or

222 (b) the product of:

223 (i) the total amount of the eligible claimant's, estate's, or trust's short-term capital gain
224 or long-term capital gain on a capital gain transaction that occurs on or after January 1, 2011;
225 and

226 (ii) the tax rate imposed under Subsection 59-10-104(2)(b).

227 (3) An eligible claimant, estate, or trust may claim the nonrefundable tax credit
228 allowed by Subsection (2) if:

229 (a) the gross proceeds of the capital gain transaction result from the sale of a qualifying
230 ownership interest:

231 (i) held for at least two taxable years before the sale of the qualifying ownership
232 interest; and

233 (ii) in a Utah small business corporation that is a life science establishment; and

234 (b) on each day of the taxable year of the capital gain transaction, the Utah small
235 business corporation described in Subsection (3)(a) ~~§~~→ (ii) ←~~§~~ has at least 50% of its employees in
235a the
236 state.

237 (4) An eligible claimant, estate, or trust may not:

238 (a) carry forward or carry back a tax credit under this section; or

239 (b) claim a tax credit for a taxable year for which the eligible claimant, estate, or trust
240 does not hold a tax credit certificate issued to the eligible claimant, estate, or trust for that
241 taxable year by the office in accordance with Section 63M-1-2908.

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

243 commission ~~§~~ → ~~[shall]~~ may ← ~~§~~ make rules:

244 (a) defining the term "gross proceeds"; and

245 (b) prescribing the circumstances under which an eligible claimant, estate, or trust has
246 a qualifying ownership interest in a Utah small business corporation.

247 Section 4. Section **59-10-1109** is enacted to read:

248 **59-10-1109. Refundable tax credit for certain business entities generating state tax**
249 **revenue increases.**

250 (1) As used in this section:

251 (a) "Eligible business entity" is as defined in Section 63M-1-2902.

252 (b) "Eligible new state tax revenues" is as defined in Section 63M-1-2902.

253 (c) "Office" means the Governor's Office of Economic Development.

254 (d) "Pass-through entity" is as defined in Section 59-10-1402.

255 (e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

256 (2) Subject to the other provisions of this section, an eligible business entity may:

257 (a) claim a refundable tax credit as provided in Subsection (3); or

258 (b) if the eligible business entity is a pass-through entity, pass through to one or more
259 pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part
260 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that
261 the eligible business entity could otherwise claim under this section.

262 (3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit is:

263 (i) for an eligible business entity, an amount up to the amount listed on the tax credit
264 certificate that the office issues to the eligible business entity for the taxable year in accordance
265 with Section 63M-1-2908; or

266 (ii) for a pass-through entity taxpayer, an amount up to the amount of a tax credit that
267 an eligible business entity passes through to the pass-through entity taxpayer of the
268 pass-through entity in accordance with Subsection (2)(b) or Subsection 59-7-614.6(2)(b).

269 (b) A tax credit under this section may not exceed the eligible new state tax revenues
270 generated by an eligible business entity for the taxable year for which the eligible business
271 entity claims a tax credit under this section.

272 (4) An eligible business entity or pass-through entity taxpayer to which an eligible
273 business entity passes through a tax credit in accordance with Subsection (2)(b) or Subsection