

## HB0310S02 compared with HB0310S01

~~text~~ shows text that was in HB0310S01 but was deleted in HB0310S02.

text shows text that was not in HB0310S01 but was inserted into HB0310S02.

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**Representative Jeremy A. Peterson** proposes the following substitute bill:

### TAX CREDIT REVIEW AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jeremy A. Peterson**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill provides for a review of certain tax credits.

##### Highlighted Provisions:

This bill:

- ▶ requires the Revenue and Taxation Interim Committee to review certain credits under the Individual Income Tax Act, the Corporate Income Tax, the Motor and Special Fuel Tax Act, the Taxation of Admitted Insurers, and the Governor's Office of Economic Development; and
- ▶ establishes requirements for the review by the Revenue and Taxation Interim Committee.

##### Money Appropriated in this Bill:

None

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### Other Special Clauses:

~~{ None }~~ This bill provides coordination clauses.

### Utah Code Sections Affected:

#### AMENDS:

59-7-612, as last amended by Laws of Utah 2012, Chapter 405

59-7-614, as last amended by Laws of Utah 2015, Chapters 30, 133 and last amended  
by Coordination Clause, Laws of Utah 2015, Chapter 133

59-7-614.2, as last amended by Laws of Utah 2015, Chapter 283

59-7-614.5, as last amended by Laws of Utah 2015, Chapter 283

59-7-614.7, as enacted by Laws of Utah 2012, Chapter 410

59-7-614.8, as last amended by Laws of Utah 2015, Chapter 283

59-7-619, as enacted by Laws of Utah 2015, Chapter 356

59-9-107, as enacted by Laws of Utah 2014, Chapter 435

59-10-1012, as last amended by Laws of Utah 2012, Chapter 405

59-10-1013, as last amended by Laws of Utah 2011, Chapter 384

59-10-1014, as last amended by Laws of Utah 2015, Chapter 133

59-10-1024, as last amended by Laws of Utah 2011, Chapter 384

59-10-1029, as enacted by Laws of Utah 2012, Chapter 410

59-10-1030, as last amended by Laws of Utah 2015, Chapter 283

59-10-1034, as enacted by Laws of Utah 2015, Chapter 356

59-10-1106, as last amended by Laws of Utah 2015, Chapter 133

59-10-1107, as last amended by Laws of Utah 2015, Chapter 283

59-10-1108, as last amended by Laws of Utah 2015, Chapter 283

59-13-202, as last amended by Laws of Utah 2006, Chapter 223

63N-2-106, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and  
amended by Laws of Utah 2015, Chapter 283

63N-2-213, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-305, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-810, as renumbered and amended by Laws of Utah 2015, Chapter 283

#### ENACTS:

59-7-159, Utah Code Annotated 1953

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59-10-137, Utah Code Annotated 1953

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~~Be it enacted by the Legislature of the state of Utah:}~~ Utah Code Sections Affected by

### Coordination Clause:

59-7-159, Utah Code Annotated 1953

59-7-614.10, Utah Code Annotated 1953

59-10-137, Utah Code Annotated 1953

59-10-1036, Utah Code Annotated 1953

63N-2-213, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-810, as renumbered and amended by Laws of Utah 2015, Chapter 283

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Section 1. Section **59-7-159** is enacted to read:

#### **59-7-159. Review of credits allowed under this chapter.**

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations to the Legislature concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations under this section include an evaluation of:

(A) the cost of the tax credit to the state;

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(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2016, and every three years after November 30, 2016, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-605;

(ii) Section 59-7-610;

(iii) Section 59-7-614;

(iv) Section 59-7-614.7;

(v) Section 59-7-614.8; and

(vi) Section 59-7-618.

(b) On or before November 30, 2017, and every three years after November 30, 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-601;

(ii) Section 59-7-607;

(iii) Section 59-7-612;

(iv) Section 59-7-614.1;

(v) Section 59-7-614.5; and

(vi) Section 59-7-614.6.

(c) On or before November 30, 2018, and every three years after November 30, 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-609;

(ii) Section 59-7-614.2;

(iii) Section 59-7-617;

(iv) Section 59-7-619; and

(v) Section 59-7-620.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall

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conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2016.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 2. 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 7.5% 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).

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(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); 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.

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(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 Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(8) (a) The 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) The review described in Subsection (8)(a) is in addition to the review required by Section 59-7-159.

~~(b)~~ (c) Notwithstanding Subsection (8)(a), the 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)~~ (d) The 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)~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall ~~report its findings~~ issue a report [its] of the Revenue and Taxation Interim Committee's findings ~~to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and~~

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~~Taxation Interim Committee reviews the tax credits].~~

### Section 3. Section 59-7-614 is amended to read:

#### **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**

#### **Rulemaking authority -- Revenue and Taxation Interim Committee study.**

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Commercial energy system" means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(d) "Commercial enterprise" means an entity, the purpose of which is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(e) (i) "Commercial unit" means a building or structure that an entity uses to transact

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business.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

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

(f) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(h) "Geothermal energy" means energy generated by heat that is contained in the earth.

(i) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Office" means the Office of Energy Development created in Section 63M-4-401.

(l) (i) "Passive solar system" 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.

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

(m) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

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(ii) "Principal recovery portion" does not include:

- (A) an interest charge; or
- (B) a maintenance expense.

(n) "Residential energy system" means the following used to supply energy to or for a residential unit:

- (i) an active solar system;
- (ii) a biomass system;
- (iii) a direct use geothermal system;
- (iv) a geothermal heat pump system;
- (v) a hydroenergy system;
- (vi) a passive solar system; or
- (vii) a wind system.

(o) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

- (A) is located in the state; and
  - (B) serves as a dwelling for a person, group of persons, or a family.
- (ii) "Residential unit" does not include property subject to a fee under:
- (A) Section 59-2-404;
  - (B) Section 59-2-405;
  - (C) Section 59-2-405.1;
  - (D) Section 59-2-405.2; or
  - (E) Section 59-2-405.3.

(p) "Wind system" means a system of apparatus and equipment that is capable of:

- (i) intercepting and converting wind energy into mechanical or electrical energy; and
- (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,

or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

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(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

(v) The total amount of tax credit a taxpayer may claim under this Subsection (3) may not exceed \$2,000 per residential unit.

(c) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

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(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (4)(b)(ii) through (v), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.

(v) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed \$50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

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(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

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

(ii) A tax credit under this Subsection (5) 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.

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

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(iii) the taxpayer does not claim a tax credit under Subsection (4);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

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

(ii) A tax credit under this Subsection (6) 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.

(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system or commercial energy system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system or commercial energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system or commercial energy system meets the requirements of Subsection (7)(b)(ii); and

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(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

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~~† (10)(a) On or before October 1, 2017, and every five years after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.~~

~~†(b) The Revenue and Taxation Interim Committee's report under Subsection (10)(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 ~~{2}~~4. 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 63N-2-103.

(b) "Community development and renewal agency" ~~[is as]~~ means the same as that term is defined in Section 17C-1-102.

(c) "Local government entity" ~~[is as]~~ means the same as that term is defined in Section 63N-2-103.

(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 economic development.

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(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 63N-2-104.

(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~~] In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [~~to the Legislative Management 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 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 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 63N-2-104, the new state revenues generated

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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 63N-2-106; and

(v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the Revenue and Taxation Interim Committee's 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 ~~33~~5. 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 63N-8-102.

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

(c) "State-approved production" ~~[has the same meaning as]~~ means the same as that term is defined in Section 63N-8-102.

(2) For a taxable ~~[years]~~ year 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 63N-8-103 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).

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(5) (a) [~~On or before October 1, 2014, and every five years after October 1, 2014~~] In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [~~to the Legislative Management 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 [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst:

(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 Section 63N-8-102, by each motion picture company for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63N-8-105; and

(v) any other information requested by the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~(d)~~ (d) The Revenue and Taxation Interim Committee shall ensure that [its] the Revenue and Taxation Interim Committee's 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 ~~44~~6. Section **59-7-614.7** is amended to read:

**59-7-614.7. Nonrefundable alternative energy development tax credit.**

(1) As used in this section:

(a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section

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63M-4-502.

(b) "Alternative energy project" [~~is as~~] means the same as that term is defined in Section 63M-4-502.

(c) "Office" [~~is as defined~~] means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) [~~On or before October 1, 2017, and every five years after October 1, 2017~~] In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [to the Legislative Management 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 [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy project;

(iii) the information contained in the office's latest report [~~to the Legislature~~] under Section 63M-4-505; and

(iv) any other information that the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst requests.

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(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~[(c)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the Revenue and Taxation Interim Committee's 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
- (iii) the extent to which the state benefits from the tax credit.

Section ~~{5}7~~. Section **59-7-614.8** is amended to read:

### **59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.**

(1) As used in this section:

(a) "Alternative energy entity" ~~[is-as]~~ means the same as that term is defined in Section 63N-2-702.

(b) "Alternative energy manufacturing project" ~~[is-as]~~ means the same as that term is defined in Section 63N-2-702.

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

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) ~~[On or before October 1, 2017, and every five years after October 1, 2017]~~ In

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accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [~~to the Legislative Management 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 [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst:

- (i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;
- (ii) the new state revenues generated by each alternative energy manufacturing project;
- (iii) the information contained in the office's latest report to the Legislature under Section [~~63N-2-705~~] 63N-1-301; and
- (iv) any other information that the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst requests.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~(c)~~ (d) The Revenue and Taxation Interim Committee shall ensure that [its] the Revenue and Taxation Interim Committee's 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
- (iii) the extent to which the state benefits from the tax credit.

Section ~~63~~8. Section **59-7-619** is amended to read:

### **59-7-619. Nonrefundable high cost infrastructure development tax credit.**

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 63M-4-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 63M-4-602.

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(c) "Infrastructure-related revenue" means the same as that term is defined in Section 63M-4-602.

(d) "Office" means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, a corporation that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) [~~On or before October 1, 2020, and every five years after October 1, 2020~~] In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [~~to the Legislative Management 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 [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst:

(i) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(ii) the infrastructure-related revenue generated by each high cost infrastructure project;

(iii) the information contained in the office's latest report [~~to the Legislature~~] under Section 63M-4-505; and

(iv) any other information that the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst requests.

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(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~(c)~~ (d) The Revenue and Taxation Interim Committee shall ensure that the Revenue and Taxation Interim Committee's 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
- (iii) the extent to which the state benefits from the tax credit.

Section ~~(7)9~~. Section **59-9-107** is amended to read:

**59-9-107. Nonrefundable small business jobs credit.**

(1) As used in this section:

(a) "Credit allowance date" ~~[is as]~~ means the same as that term is defined in Section 63N-2-602.

(b) "Office" ~~[is as]~~ means the same as that term is defined in Section 63N-1-102.

(c) "Tax credit certificate" ~~[is as]~~ means the same as that term is defined in Section 63N-2-602.

(2) An entity may claim a nonrefundable tax credit against a tax liability under this chapter in accordance with this section if the entity is issued a tax credit certificate by the office under Subsection 63N-2-603(11). The office shall issue a tax credit certificate to an entity that is allocated tax credits under Subsection 63N-2-603(11)(e).

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate issued to the entity for the calendar year.

(4) An entity may carry forward a tax credit under this section for seven years if:

(a) the entity is allowed to claim a tax credit under this section for a calendar year; and  
(b) the amount of the tax credit exceeds the entity's tax liability under this chapter for that calendar year.

(5) An entity required to pay a retaliatory tax levied under this chapter for a reason other than claiming the tax credit may claim the tax credit after the retaliatory tax amount is calculated, and the tax credit may be used to offset retaliatory tax liability.

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(6) Notwithstanding the other provisions of this section, this section does not apply to an admitted insurer to the extent that the admitted insurer writes workers' compensation insurance in this state and has premiums taxed under Subsection 59-9-101(2).

(7) (a) On or before November 30, 2018, and every three years after November 30, 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (7)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) ensure that the Revenue and Taxation Interim Committee's recommendations under this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section ~~{8}~~10. Section **59-10-137** is enacted to read:

### **59-10-137. Review of credits allowed under this chapter.**

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary

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and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations under this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2016, and every three years after November 30, 2016, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1007;

(ii) Section 59-10-1009;

(iii) Section 59-10-1014;

(iv) Section 59-10-1017;

(v) Section 59-10-1018;

(vi) Section 59-10-1019;

(vii) Section 59-10-1024;

(viii) Section 59-10-1029;

(ix) Section 59-10-1030;

(x) Section 59-10-1033; and

(xi) Section 59-10-1106.

(b) On or before November 30, 2017, and every three years after November 30, 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

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- (iii) Section 59-10-1015;
- (iv) Section 59-10-1025;
- (v) Section 59-10-1027;
- (vi) Section 59-10-1031;
- (vii) Section 59-10-1032;
- (viii) Section 59-10-1035;
- (ix) Section 59-10-1104;
- (x) Section 59-10-1105;
- (xi) Section 59-10-1108; and
- (xii) Section 59-10-1109.

(c) On or before November 30, 2018, and every three years after November 30, 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-10-1005;
- (ii) Section 59-10-1006;
- (iii) Section 59-10-1012;
- (iv) Section 59-10-1013;
- (v) Section 59-10-1021;
- (vi) Section 59-10-1022;
- (vii) Section 59-10-1023;
- (viii) Section 59-10-1028;
- (ix) Section 59-10-1034; and
- (x) Section 59-10-1107.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2016.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

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 --**

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### 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

(iii) a tax credit equal to 7.5% 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

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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), Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; 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 Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

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(7) (a) The 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) The review described in Subsection (7)(a) is in addition to the review required by Section 59-10-137.

~~(b)~~ (c) Notwithstanding Subsection (7)(a), the 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)~~ (d) The 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)~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall ~~report its findings~~ issue a report [its] of the Revenue and Taxation Interim Committee's findings ~~[to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits].~~

Section ~~9~~ 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]~~ means the same as that term is defined in Section 41(e)(7),

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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
- (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~~] means the same as that term is defined in Section 41(e)(6), Internal Revenue Code.

(e) "Qualified research" [~~is as~~] means the same as that term is 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 a taxable [~~years~~] year 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.

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(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 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 Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(7) (a) The 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) The review ~~required by~~ described in Subsection (7)(a) is in addition to the review required by Section 59-10-137.

~~(b)~~ (c) Notwithstanding Subsection (7)(a), the 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)~~ (d) The Revenue and Taxation Interim Committee shall address in a review under this section the:

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- (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)]~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall issue a report [its] of the ~~to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits].~~ [committee's](#) [Revenue and Taxation Interim Committee's](#) findings

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

**59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

- (1) As used in this section:
  - (a) (i) "Active solar system" means a system of equipment that is capable of:
    - (A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and
    - (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.
  - (ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.
  - (b) "Biomass system" means a system of apparatus and equipment for use in:
    - (i) converting material into biomass energy, as defined in Section 59-12-102; and
    - (ii) transporting the biomass energy by separate apparatus to the point of use or storage.
  - (c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.
  - (d) "Geothermal electricity" means energy that is:
    - (i) contained in heat that continuously flows outward from the earth; and

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- (ii) used as a sole source of energy to produce electricity.
- (e) "Geothermal energy" means energy generated by heat that is contained in the earth.
- (f) "Geothermal heat pump system" means a system of apparatus and equipment that:
  - (i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and
  - (ii) helps meet heating and cooling needs of a structure.
- (g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:
  - (i) intercepting and converting kinetic water energy into electrical or mechanical energy; and
  - (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- (h) "Office" means the Office of Energy Development created in Section 63M-4-401.
- (i) (i) "Passive solar system" 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.
  - (ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.
- (j) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.
  - (ii) "Principal recovery portion" does not include:
    - (A) an interest charge; or
    - (B) a maintenance expense.
- (k) "Residential energy system" means the following used to supply energy to or for a residential unit:
  - (i) an active solar system;
  - (ii) a biomass system;
  - (iii) a direct use geothermal system;
  - (iv) a geothermal heat pump system;
  - (v) a hydroenergy system;
  - (vi) a passive solar system; or

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(vii) a wind system.

(l) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-404;

(B) Section 59-2-405;

(C) Section 59-2-405.1;

(D) Section 59-2-405.2; or

(E) Section 59-2-405.3.

(m) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the claimant, estate, or trust owns or uses if:

(i) the claimant, estate, or trust:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (4).

(b) (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential

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unit the claimant, estate, or trust owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) 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 liability may be carried forward for a period that does not exceed the next four taxable years.

(v) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed \$2,000 per residential unit.

(vi) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential energy system may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential energy system may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(d) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under this Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the

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tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(4) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of Subsection (4)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) 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.

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~~[(8)(a) On or before October 1, 2017, and every five years after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.]~~

~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (8)(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 ~~{H}~~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:

(a) "Active solar system" [~~is as~~] means the same as that term is 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~~] means the same as that term is defined in Section

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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:

(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 Revenue and Taxation Interim Committee shall review the tax credit allowed by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.]~~

~~[(b) The 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~~

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~~the tax credit, and the state's benefit from the tax credit.]~~

Section ~~{12}~~15. Section **59-10-1029** is amended to read:

### **59-10-1029. Nonrefundable alternative energy development tax credit.**

(1) As used in this section:

(a) "Alternative energy entity" ~~[is as]~~ means the same as that term is defined in Section 63M-4-502.

(b) "Alternative energy project" ~~[is as]~~ means the same as that term is defined in Section 63M-4-502.

(c) "Office" ~~[is as defined]~~ means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) ~~[On or before October 1, 2017, and every five years after October 1, 2017]~~ In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations ~~[to the Legislative Management 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 ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

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- (ii) the new state revenues generated by each alternative energy project;
- (iii) the information contained in the office's latest report [~~to the Legislature~~] under Section 63M-4-505; and
- (iv) any other information that the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst requests.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~(c)~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~its~~ the Revenue and Taxation Interim Committee's 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
- (iii) the extent to which the state benefits from the tax credit.

Section ~~13~~ 16. Section **59-10-1030** is amended to read:

### **59-10-1030. Nonrefundable alternative energy manufacturing tax credit.**

(1) As used in this section:

(a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section 63N-2-702.

(b) "Alternative energy manufacturing project" [~~is as~~] means the same as that term is defined in Section 63N-2-702.

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

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

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(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) [~~On or before October 1, 2017, and every five years after October 1, 2017~~] In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [~~to the Legislative Management 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 [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) the information contained in the office's latest report to the Legislature under Section 63N-2-705; and

(iv) any other information that the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst requests.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~(c)~~ (d) The 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

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

Section ~~14~~ 17. Section **59-10-1034** is amended to read:

**59-10-1034. Nonrefundable high cost infrastructure development tax credit.**

(1) As used in this section:

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(a) "High cost infrastructure project" means the same as that term is defined in Section 63M-4-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 63M-4-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section 63M-4-602.

(d) "Office" means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, a claimant, estate, or trust that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) [~~On or before October 1, 2020, and every five years after October 1, 2020~~] In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [~~to the Legislative Management 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 [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst:

(i) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(ii) the infrastructure-related revenue generated by each high cost infrastructure project;

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(iii) the information contained in the office's latest report [~~to the Legislature~~] under Section 63M-4-505; and

(iv) any other information that the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst requests.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~(d)~~ (d) The Revenue and Taxation Interim Committee shall ensure that the Revenue and Taxation Interim Committee's 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
- (iii) the extent to which the state benefits from the tax credit.

Section ~~{15}~~18. Section **59-10-1106** is amended to read:

### **59-10-1106. Refundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

(1) As used in this section:

(a) "Active solar system" [~~has the same meaning as~~] means the same as that term is defined in Section 59-10-1014.

(b) "Biomass system" [~~has the same meaning as~~] means the same as that term is defined in Section 59-10-1014.

(c) "Commercial energy system" [~~has the same meaning as~~] means the same as that term is defined in Section 59-7-614.

(d) "Commercial enterprise" [~~has the same meaning as~~] means the same as that term is defined in Section 59-7-614.

(e) (i) "Commercial unit" [~~has the same meaning as~~] means the same as that term is defined in Section 59-7-614.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit;

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or

(B) if an energy system is the building or structure that a claimant, estate, or trust uses to transact business, a commercial unit is the complete energy system itself.

(f) "Direct use geothermal system" [~~has the same meaning as~~] means the same as that term is defined in Section 59-10-1014.

(g) "Geothermal electricity" [~~has the same meaning as~~] means the same as that term is defined in Section 59-10-1014.

(h) "Geothermal energy" [~~has the same meaning as~~] means the same as that term is defined in Section 59-10-1014.

(i) "Geothermal heat pump system" [~~has the same meaning as~~] means the same as that term is defined in Section 59-10-1014.

(j) "Hydroenergy system" [~~has the same meaning as~~] means the same as that term is defined in Section 59-10-1014.

(k) "Office" means the Office of Energy Development created in Section 63M-4-401.

(l) "Passive solar system" [~~has the same meaning as~~] means the same as that term is defined in Section 59-10-1014.

(m) "Principal recovery portion" [~~has the same meaning as~~] means the same as that term is defined in Section 59-10-1014.

(n) "Wind system" [~~has the same meaning as~~] means the same as that term is defined in Section 59-10-1014.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;

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(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) A tax credit under this Subsection (3) may not be carried forward or carried back.

(v) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed \$50,000 per commercial unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by

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commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to Subsections (4)(b)(ii) and (iii), a tax credit under this Subsection (4) is equal to the product of:

(A) 0.35 cents; and

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

(ii) A tax credit under this Subsection (4) 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.

(iii) A tax credit under this Subsection (4) may not be carried forward or back.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:

(i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

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(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

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

(ii) A tax credit under this Subsection (5) 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.

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the commercial energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system uses the state's renewable and nonrenewable resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a commercial energy system meets the requirements of Subsection (6)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall

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retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(8) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(9) 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.

~~[(10)(a) On or before October 1, 2017, and every five years after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the credit should be continued, modified, or repealed.]~~

~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (10)(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~~19. 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 <sup>[u]</sup>business entity<sup>[u]</sup> as defined in Section 63N-2-103.

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

(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

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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]~~ In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [~~to the Legislative Management 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 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 63N-2-106; and

(v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that [~~its~~] the Revenue and Taxation Interim Committee's 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
- (iii) the extent to which the state benefits from the tax credit.

Section ~~{17}~~20. 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 63N-8-102.

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

(c) "State-approved production" [~~has the same meaning as~~] means the same as that term is defined in Section 63N-8-102.

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

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(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 63N-8-103 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;~~] In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [~~to the Legislative Management 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 [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst:

(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 dollars left in the state, as defined in Section 63N-8-102, by each motion picture company for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63N-8-105; and

(v) any other information requested by the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

[~~(c)~~] (d) The Revenue and Taxation Interim Committee shall ensure that [~~its~~] the

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Revenue and Taxation Interim Committee's 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 ~~418~~21. Section **59-13-202** is amended to read:

**59-13-202. Refund of tax for agricultural uses on individual income and corporate franchise and income tax returns -- Application for permit for refund -- Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties.**

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or nonresident person.

(ii) "Claimant" does not include an estate or trust.

(b) "Estate" means a nonresident estate or a resident estate.

(c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:

(i) as provided by statute; and

(ii) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:

(A) Chapter 7, Corporate Franchise and Income Taxes; or

(B) Chapter 10, Individual Income Tax Act.

(d) "Trust" means a nonresident trust or a resident trust.

(2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state for the purpose of operating or propelling stationary farm engines and self-propelled farm machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and limitations provided under this part.

(3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate, or trust files under:

(i) Chapter 7, Corporate Franchise and Income Taxes; or

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(ii) Chapter 10, Individual Income Tax Act.

(b) A claimant, estate, or trust not subject to filing a tax return described in Subsection (3)(a) shall obtain a permit and file claims on a calendar year basis.

(c) Any claimant, estate, or trust claiming a refundable tax credit under this section is required to furnish any or all of the information outlined in this section upon request of the commission.

(d) A refundable tax credit under this section is allowed only on purchases on which tax is paid during the taxable year covered by the tax return.

(4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall be filed containing:

(a) the name of the claimant, estate, or trust;

(b) the claimant's, estate's, or trust's address;

(c) location and number of acres owned and operated, location and number of acres rented and operated, the latter of which shall be verified by a signed statement from the legal owner;

(d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

(e) make, size, type of fuel used, and power rating of each piece of equipment using fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm machinery with which the claimant, estate, or trust works for hire doing custom jobs for other farmers, the application shall include information the commission requires and shall all be contained in, and be considered part of, the original application. The claimant, estate, or trust shall also file with the application a certificate from the county assessor showing each piece of equipment using fuel. This original application and all information contained in it constitutes a permanent file with the commission in the name of the claimant, estate, or trust.

(5) Any claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for the previous calendar year. The claim shall state the name and address of the claimant, estate, or trust, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support the claim. No more than one claim for a tax refund may be filed annually by each user of motor fuel purchased for nonhighway agricultural uses.

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(6) Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for refunds shall be paid from motor fuel taxes.

(7) The commission may [~~promulgate~~] make rules to enforce this part[;] and may refuse to accept as evidence of purchase or payment any instruments [~~which~~] that show alteration or [~~which~~] that fail to indicate the quantity of the purchase, the price of the motor fuel, a statement that it is purchased for purposes other than transportation, and the date of purchase and delivery. If the commission is not satisfied with the evidence submitted in connection with the claim, it may reject the claim or require additional evidence.

(8) Any claimant, estate, or trust aggrieved by the decision of the commission with respect to a refundable tax credit or refund may file a request for agency action, requesting a hearing before the commission.

(9) Any claimant, estate, or trust that makes any false claim, report, or statement, as claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part. In addition to these penalties, the claimant, estate, or trust may not receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for refund for a period of five years.

(10) Refunds to which a claimant, estate, or trust is entitled under this part shall be paid from the Transportation Fund.

(11) (a) On or before November 30, 2017, and every three years after November 30, 2017, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (11)(a), the Revenue and Taxation Interim Committee shall:

- (i) schedule time on at least one committee agenda to conduct the review;
- (ii) invite state agencies, individuals, and organizations concerned with the credit under review to provide testimony;
- (iii) ensure that the Revenue and Taxation Interim Committee's recommendations

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under this section include an evaluation of:

- (A) the cost of the tax credit to the state;
- (B) the purpose and effectiveness of the tax credit; and
- (C) the extent to which the state benefits from the tax credit; and
- (iv) undertake other review efforts as determined by the chairs of the Revenue and

Taxation Interim Committee.

Section ~~{19}~~22. Section **63N-2-106** is amended to read:

**63N-2-106. Reports -- Posting monthly and annual reports -- Audit and study of tax credits.**

(1) The office shall include the following information in the annual written report described in Section 63N-1-301:

(a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;

(b) how many new incremental jobs and high paying jobs are employees of a company that received tax credits under this part, including the number of employees who work for a third-party rather than directly for a company, receiving the tax credits under this part;

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

(d) the economic impact on the state from new state revenues and the provision of tax credits under this part;

(e) the estimated costs and economic benefits of the tax credit commitments made by the office;

(f) the actual costs and economic benefits of the tax credit commitments made by the office; and

(g) tax credit commitments made by the office, with the associated calculation.

(2) Each month, the office shall post on its website and on a state website:

(a) the new tax credit commitments made by the office during the previous month; and

(b) the estimated costs and economic benefits of those tax credit commitments.

(3) (a) On or before November 1, 2014, and every three years after November 1, 2014, the office shall:

(i) conduct an audit of the tax credits allowed under Section 63N-2-105;

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(ii) study the tax credits allowed under Section 63N-2-105; and  
(iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) The audit shall include an evaluation of:

(i) the cost of the tax credits;  
(ii) the purposes and effectiveness of the tax credits;  
(iii) the extent to which the state benefits from the tax credits; and  
(iv) the state's return on investment under this part measured by new state revenues, compared with the costs of tax credits provided and GOED's expenses in administering this part.

(c) The office shall provide the results of the audit described in this Subsection (3):

(i) in the written annual report described in Subsection (1); and

(ii) as part of the review described in Sections 59-7-159 and 59-10-137.

Section ~~20~~23. Section **63N-2-213** is amended to read:

### **63N-2-213. State tax credits.**

(1) Subject to the limitations of Subsections (2) through (4), the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

(a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;

(b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:

(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or

(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;

(c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;

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(d) an additional tax credit of \$200 may be claimed for two consecutive years for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;

(e) a tax credit of 50% of the value of a cash contribution to a private nonprofit corporation, except that the credit claimed may not exceed \$100,000:

(i) that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(ii) whose primary purpose is community and economic development; and

(iii) that has been accredited by the Governor's Rural Partnership Board;

(f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more; and

(g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.

(2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming tax credits under Subsections (1)(a) through (d) may claim the tax credits for up to 30 full-time employee positions per taxable year.

(b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections (1)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (1)(a) through (d) if:

(i) the business entity has created a new full-time position within the enterprise zone; and

(ii) the total number of full-time employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the number of full-time employee positions that existed at the business entity at any point during the taxable year immediately preceding the taxable year for which the credit is being claimed.

(c) Construction jobs are not eligible for the tax credits under Subsections (1)(a) through (d).

(3) If the amount of a tax credit under this section exceeds a business entity's tax

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liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(4) Tax credits under Subsections (1)(a) through (g) may not be claimed by a business entity primarily engaged in retail trade or by a public utilities business.

(5) A business entity that has no employees:

(a) may not claim tax credits under Subsections (1)(a) through (d); and

(b) may claim tax credits under Subsections (1)(e) through (g).

(6) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-305.

(7) (a) On or before November 30, 2018, and every three years after November 30, 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under this Subsection (7), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the credit under review to provide testimony;

(iii) ensure that the Revenue and Taxation Interim Committee's recommendations under this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section ~~{21}~~24. Section 63N-2-305 is amended to read:

**63N-2-305. Targeted business income tax credit structure -- Duties of the local zone administrator -- Duties of the State Tax Commission.**

(1) A business applicant that is certified under Subsection 63N-2-304(3) and issued a

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targeted business tax credit eligibility form by the office under Subsection (8) may claim a refundable tax credit:

(a) against the business applicant's tax liability under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Title 59, Chapter 10, Individual Income Tax Act; and

(b) subject to requirements and limitations provided by this part.

(2) The total amount of the targeted business income tax credits allowed under this part for all business applicants may not exceed \$300,000 in any fiscal year.

(3) (a) A targeted business income tax credit allowed under this part for each community investment project provided by a business applicant may not:

(i) be claimed by a business applicant for more than seven consecutive taxable years from the date the business applicant first qualifies for a targeted business income tax credit on the basis of a community investment project;

(ii) be carried forward or carried back;

(iii) exceed \$100,000 in total amount for the community investment project period during which the business applicant is eligible to claim a targeted business income tax credit;

or

(iv) exceed in any year that the targeted business income tax credit is claimed the lesser of:

(A) 50% of the maximum amount allowed by the local zone administrator; or

(B) the allocated cap amount determined by the office under Subsection 63N-2-304(5).

(b) A business applicant may apply to the local zone administrator to claim a targeted business income tax credit allowed under this part for each community investment project provided by the business applicant as the basis for its eligibility for a targeted business income tax credit.

(4) Subject to other provisions of this section, the local zone administrator shall establish for each business applicant that qualifies for a targeted business income tax credit:

(a) criteria for maintaining eligibility for the targeted business income tax credit that are reasonably related to the community investment project that is the basis for the business applicant's targeted business income tax credit;

(b) the maximum amount of the targeted business income tax credit the business

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applicant is allowed for the community investment project period;

(c) the time period over which the total amount of the targeted business income tax credit may be claimed;

(d) the maximum amount of the targeted business income tax credit that the business applicant will be allowed to claim each year; and

(e) requirements for a business applicant to report to the local zone administrator specifying:

(i) the frequency of the business applicant's reports to the local zone administrator, which shall be made at least quarterly; and

(ii) the information needed by the local zone administrator to monitor the business applicant's compliance with this Subsection (4) or Section 63N-2-304 that shall be included in the report.

(5) In accordance with Subsection (4)(e), a business applicant allowed a targeted business income tax credit under this part shall report to the local zone administrator.

(6) The amount of a targeted business income tax credit that a business applicant is allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office or the local zone administrator determines that the business applicant has failed to comply with a requirement of Subsection (3) or Section 63N-2-304.

(7) The office or local zone administrator may audit a business applicant to ensure:

(a) eligibility for a targeted business income tax credit; or

(b) compliance with Subsection (3) or Section 63N-2-304.

(8) The office shall issue a targeted business income tax credit eligibility form in a form jointly developed by the State Tax Commission and the office no later than 30 days after the last day of the business applicant's taxable year showing:

(a) the maximum amount of the targeted business income tax credit that the business applicant is eligible for that taxable year;

(b) any reductions in the maximum amount of the targeted business income tax credit because of failure to comply with a requirement of Subsection (3) or Section 63N-2-304;

(c) the allocated cap amount that the business applicant may claim for that taxable year; and

(d) the actual amount of the targeted business income tax credit that the business

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applicant may claim for that taxable year.

(9) (a) A business applicant shall retain the targeted business income tax credit eligibility form provided by the office under this Subsection (9).

(b) The State Tax Commission may audit a business applicant to ensure:

- (i) eligibility for a targeted business income tax credit; or
- (ii) compliance with Subsection (3) or Section 63N-2-304.

(10) (a) On or before November 30, 2018, and every three years after November 30, 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under this Subsection (10), the Revenue and Taxation Interim Committee shall:

- (i) schedule time on at least one committee agenda to conduct the review;
- (ii) invite state agencies, individuals, and organizations concerned with the credit under review to provide testimony;
- (iii) ensure that the Revenue and Taxation Interim Committee's recommendations under this section include an evaluation of:
  - (A) the cost of the tax credit to the state;
  - (B) the purpose and effectiveness of the tax credit; and
  - (C) the extent to which the state benefits from the tax credit; and
- (iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 25. Section 63N-2-810 is amended to read:

**63N-2-810. Reports on tax credit certificates -- Study by legislative committees.**

[(+) The office shall include the following information in the annual written report described in Section 63N-1-301:

[(a)] (1) the total amount listed on tax credit certificates the office issues under this part;

[(b)] (2) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and

[(c)] (3) the economic impact on the state related to providing tax credits under this

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part.

~~[(2) (a) On or before November 1, 2016, and every five years after November 1, 2016, the Revenue and Taxation Interim Committee shall:]~~

~~[(i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, and 59-10-1109; and]~~

~~[(ii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.]~~

~~[(b) The study under Subsection (2)(a) shall include an evaluation of:]~~

~~[(i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;]~~

~~[(ii) the purposes and effectiveness of the tax credits; and]~~

~~[(iii) the extent to which the state benefits from the tax credits.]~~

**Section 26. Coordinating H.B. 310 with H.B. 26 -- Substantive and technical amendments.**

If this H.B. 310 and H.B. 26, Revenue and Taxation Interim Committee Report Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 63N-2-810(2) to read:

~~"(2) (a) [On or before November 1, 2016, and every five years after November 1, 2016]~~

In accordance with Sections 59-7-159 and 59-10-137, the Revenue and Taxation Interim Committee shall:

~~(i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, and 59-10-1109; and~~

~~(ii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.~~

~~[(b) The study under Subsection (2)(a) shall include an evaluation of:]~~

~~[(i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;]~~

~~[(ii) the purposes and effectiveness of the tax credits; and]~~

~~[(iii) the extent to which the state benefits from the tax credits.]~~

~~(b) For purposes of the study required by this Subsection (2), the office shall provide~~

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the following information to the Office of the Legislative Fiscal Analyst by electronic means:

(i) the amount of tax credits that the office grants to each eligible business entity for each taxable year;

(ii) the amount of eligible new state tax revenues generated by each eligible product or project;

(iii) estimates for each of the next three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of eligible new state tax revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(iv) the information contained in the office's latest report to the Legislature under Section 63N-2-705; and

(v) any other information that the Office of the Legislative Fiscal Analyst requests.

(c) As a part of the study required by this Subsection (2), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (2)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the Revenue and Taxation Interim Committee's recommendations under Subsection (2)(a) include an evaluation of:

(i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;

(ii) the purpose and effectiveness of the tax credits; and

(iii) the extent to which the state benefits from the tax credits."

**Section 27. Coordinating H.B. 310 with H.B. 31 -- Substantive and technical amendments.**

If this H.B. 310 and H.B. 31, Enterprise Zone Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) modifying Subsection 59-7-159(3)(c) to add a new (iii) to read:

"(iii) Section 59-7-614.10;"

(2) modifying Subsection 59-7-614.10(6) to read:

"(6) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim

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Committee shall study the tax credit allowed by this section and make recommendations 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 by electronic means the following information for each calendar year to the Office of the Legislative Fiscal Analyst:

(i) the amount of tax credits provided in each development zone;

(ii) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(iii) the amount of tax credits awarded for rehabilitating a building in each development zone;

(iv) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(v) the information related to the tax credit contained in the office's latest report to the Legislature under Section 63N-1-301; and

(vi) other information as requested by the Office of the Legislative Fiscal Analyst.

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the Revenue and Taxation Interim Committee's 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.";

(3) modifying Subsection 59-10-137(3)(c) to add a new (x) to read:

"(x) Section 59-10-1036; and";

(4) modifying Subsection 59-10-1036(6) to read:

"(6) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

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(b) For purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information for each calendar year to the Office of the Legislative Fiscal Analyst:

(i) the amount of tax credits provided in each development zone;

(ii) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(iii) the amount of tax credits awarded for rehabilitating a building in each development zone;

(iv) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(v) the information related to the tax credit contained in the office's latest report to the Legislature under Section 63N-1-301; and

(vi) other information as requested by the Office of the Legislative Fiscal Analyst.

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the Revenue and Taxation Interim Committee's 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."; and

(5) eliminating Subsection 63N-2-213(7) in H.B. 310, Tax Credit Review

Amendments.

Section 28. Coordinating H.B. 310 with H.B. 26 and S.B. 171 -- Substantive and technical amendments.

If this H.B. 310, H.B. 26, Revenue and Taxation Interim Committee Report Amendments, and S.B. 171, Economic Development Tax Credits Amendments, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection

## HB0310S02 compared with HB0310S01

63N-2-810(2) to read:

"(2) (a) [On or before November 1, 2016, and every five years after November 1, 2016]

In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall:

(i) study the tax [credits] credit allowed under [Sections 59-7-614.6,] Section 59-10-1025[, and 59-10-1109]; and

(ii) make recommendations concerning whether the tax [credits] credit should be continued, modified, or repealed.

[~~(b) The study under Subsection (2)(a) shall include an evaluation of:~~

[~~(i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;~~

[~~(ii) the purposes and effectiveness of the tax credits; and]~~

[~~(iii) the extent to which the state benefits from the tax credits.]~~

(b) For purposes of the study required by this Subsection (2), the office shall provide the following information to the Office of the Legislative Fiscal Analyst by electronic means:

(i) the amount of tax credit that the office grants to each eligible business entity for each taxable year;

(ii) the amount of eligible new state tax revenues generated by each eligible product or project;

(iii) estimates for each of the next three calendar years of the following:

(A) the amount of tax credit that the office will grant;

(B) the amount of eligible new state tax revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(iv) the information contained in the office's latest report to the Legislature under Section 63N-2-705; and

(v) any other information that the Office of the Legislative Fiscal Analyst requests.

(c) As a part of the study required by this Subsection (2), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (2)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the Revenue and Taxation Interim Committee's recommendations under Subsection (2)(a) include an evaluation

## HB0310S02 compared with HB0310S01

of:

- (i) the cost of the tax credit under Section 59-10-1025;
- (ii) the purpose and effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit."