

Senator Ralph Okerlund proposes the following substitute bill:

HIGH COST INFRASTRUCTURE TAX CREDIT

AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill modifies provisions related to tax credits for infrastructure development.

Highlighted Provisions:

This bill:

- ▶ modifies the composition of the Utah Energy Infrastructure Authority Board;
- ▶ modifies the amount of high cost infrastructure tax credit the Office of Energy

Development may issue;

- ▶ modifies the criteria for an infrastructure cost-burdened entity to obtain a high cost infrastructure tax credit; and

- ▶ authorizes the Office of Energy Development to make rules to implement the high cost infrastructure tax credit program and to establish criteria for an infrastructure cost-burdened entity to qualify for a tax credit.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



26 AMENDS:

27 [59-7-619](#), as enacted by Laws of Utah 2015, Chapter 356

28 [59-10-1034](#), as enacted by Laws of Utah 2015, Chapter 356

29 [63H-2-202](#), as last amended by Laws of Utah 2012, Chapter 37

30 [63M-4-602](#), as enacted by Laws of Utah 2015, Chapter 356

31 [63M-4-603](#), as enacted by Laws of Utah 2015, Chapter 356

32 [63M-4-604](#), as enacted by Laws of Utah 2015, Chapter 356

33 ENACTS:

34 [63M-4-606](#), Utah Code Annotated 1953



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

37 Section 1. Section [59-7-619](#) is amended to read:

38 **[59-7-619](#). Nonrefundable high cost infrastructure development tax credit.**

39 (1) As used in this section:

40 (a) "High cost infrastructure project" means the same as that term is defined in Section
41 [63M-4-602](#).

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

44 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
45 [63M-4-602](#).

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

47 (e) "Tax credit certificate" means the same as that term is defined in Section
48 [63M-4-602](#).

49 (2) Subject to the [other] provisions of this section, [~~a corporation that is~~] an
50 infrastructure cost-burdened entity may claim a nonrefundable tax credit [~~for development of a~~
51 ~~high cost infrastructure project~~], against a tax liability under this chapter, as provided in this
52 section.

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

57 (4) An infrastructure cost-burdened entity may carry forward a tax credit claimed for a
58 given taxable year under this section for a period that does not exceed [~~the next seven~~] 10
59 taxable years after the taxable year indicated on a tax credit certificate if:

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

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

64 (5) (a) On or before October 1, 2020, and every five years after October 1, 2020, the
65 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
66 make recommendations to the Legislative Management Committee concerning whether the tax
67 credit should be continued, modified, or repealed.

68 (b) For purposes of the study required by this Subsection (5), the office shall provide
69 the following information to the Revenue and Taxation Interim Committee:

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

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

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

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

76 (c) The Revenue and Taxation Interim Committee shall ensure that the Revenue and
77 Taxation Interim Committee's recommendations under Subsection (5)(a) include an evaluation
78 of:

79 (i) the cost of the tax credit to the state;

80 (ii) the purpose and effectiveness of the tax credit; and

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

82 Section 2. Section **59-10-1034** is amended to read:

83 **59-10-1034. Nonrefundable high cost infrastructure development tax credit.**

84 (1) As used in this section:

85 (a) "High cost infrastructure project" means the same as that term is defined in Section
86 [63M-4-602](#).

87 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in

88 Section [63M-4-602](#).

89 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
90 [63M-4-602](#).

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

92 (e) "Tax credit certificate" means the same as that term is defined in Section
93 [63M-4-602](#).

94 (2) Subject to the ~~[other]~~ provisions of this section, ~~[a claimant, estate, or trust that is]~~
95 an infrastructure cost-burdened entity may claim a nonrefundable tax credit ~~[for development~~
96 ~~of a high cost infrastructure project]~~, against the infrastructure cost-burdened entity's tax
97 liability under this chapter, as provided in this section.

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

102 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this
103 section for a period that does not exceed ~~[the next seven]~~ 10 taxable years after the taxable year
104 indicated on a tax credit certificate if:

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

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

109 (5) (a) On or before October 1, 2020, and every five years after October 1, 2020, the
110 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
111 make recommendations to the Legislative Management Committee concerning whether the tax
112 credit should be continued, modified, or repealed.

113 (b) For purposes of the study required by this Subsection (5), the office shall provide
114 the following information to the Revenue and Taxation Interim Committee:

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

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

118 (iii) the information contained in the office's latest report to the Legislature under

119 Section [63M-4-505](#); and

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

121 (c) The Revenue and Taxation Interim Committee shall ensure that the Revenue and
122 Taxation Interim Committee's recommendations under Subsection (5)(a) include an evaluation
123 of:

124 (i) the cost of the tax credit to the state;

125 (ii) the purpose and effectiveness of the tax credit; and

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

127 Section 3. Section **63H-2-202** is amended to read:

128 **63H-2-202. Authority board.**

129 (1) There is created the Utah Energy Infrastructure Authority Board that consists of
130 nine members, appointed by the governor as follows:

131 (a) the energy advisor[;] or the executive director of the Office of Energy
132 Development, who shall serve as chair of the board;

133 (b) one member from the Governor's Office of Economic Development;

134 (c) [~~three members~~] one member from a public utility or electric interlocal entity that
135 operates electric transmission facilities within the state [~~as follows~~];

136 [~~(i) one member selected by the governor from recommendations from an~~
137 ~~investor-owned electric corporation that operates in this state;~~]

138 [~~(ii) one member selected by the governor from recommendations from a wholesale~~
139 ~~electrical cooperative, as defined in Section [54-2-1](#), in the state; and]~~

140 [~~(iii) one member selected by the governor from recommendations from an electric~~
141 ~~interlocal entity;~~]

142 (d) two members representing the economic development interests of rural
143 communities as follows:

144 (i) one member currently serving as county commissioner of a county of the third,
145 fourth, fifth, or sixth class, as described in Section [17-50-501](#); and

146 (ii) one member of a rural community with work experience in the energy industry;

147 (e) two members of the general public with relevant industry or community experience;

148 [~~(d)~~] (f) the director of the School and Institutional Trust Lands Administration created
149 in Section [53C-1-201](#); and

150 ~~[(e) two representatives of business entities that produce energy; and]~~
151 [(f)] (g) one member of the general public who has experience with public finance and
152 bonding.

153 (2) (a) The term of a board member is four years.

154 (b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment
155 or reappointment, adjust the length of terms to ensure that the terms of board members are
156 staggered so that approximately half of the board is appointed every two years.

157 (c) The governor may remove a member of the board for cause.

158 (d) The governor shall fill a vacancy in the board in the same manner under this section
159 as the appointment of the member whose vacancy is being filled.

160 (e) An individual appointed to fill a vacancy shall serve the remaining unexpired term
161 of the member whose vacancy the individual is filling.

162 (f) A board member shall serve until a successor is appointed and qualified.

163 (3) (a) Five members of the board constitute a quorum for conducting board business.

164 (b) A majority vote of the quorum present is required for an action to be taken by the
165 board.

166 (4) (a) ~~[The board shall meet at least quarterly on a date the board sets. (b) The chair of~~
167 ~~the board or any two members of the board may call additional meetings.]~~ Except as provided
168 in Subsections (4)(b) and (4)(c), the board shall meet once each month, on a day determined by
169 the board, to review an application referred to the board by the Office of Energy Development
170 under Title 63M, Chapter 4, Part 6, High Cost Infrastructure Development Tax Credit Act.

171 (b) Subject to Subsection (4)(c), the board may cancel the board's meeting for a given
172 month if there are no applications described in Subsection (4)(a) pending board approval.

173 (c) The board shall meet no less frequently than once each quarter, on a day determined
174 by the board.

175 (5) A member may not receive compensation or benefits for the member's service, but
176 may receive per diem and travel expenses in accordance with:

177 (a) Section 63A-3-106;

178 (b) Section 63A-3-107; and

179 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
180 63A-3-107.

181 Section 4. Section **63M-4-602** is amended to read:

182 **63M-4-602. Definitions.**

183 As used in this part:

184 (1) "Applicant" means a person that conducts business in the state and that applies for a
185 tax credit under this part.

186 (2) "Board" means the Utah Energy Infrastructure Authority Board created in Section
187 [63H-2-202](#).

188 ~~[(2)]~~ (3) "Fuel standard compliance project" means a project designed to retrofit a fuel
189 refinery ~~[in order to make the refinery capable of producing fuel that complies with the United~~
190 ~~States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40~~
191 ~~C.F.R. Sec. 79.54.]~~ in the state in order to make the refinery capable of producing finished
192 gasoline that:

193 (a) will serve the in-state market; and

194 (b) has an average sulfur content, measured across the gasoline produced by the
195 refinery in a calendar year, that is less than or equal to 10 parts per million.

196 ~~[(3)]~~ (4) "High cost infrastructure project" means a project:

197 (a) (i) ~~(A)~~ [a project] that expands ~~[or creates new]~~ existing industrial, mining,
198 manufacturing, or agriculture activity in the state, not including a retail business; or

199 (B) creates a new industrial, mining, manufacturing, or agricultural entity in the state,
200 not including a retail business;

201 (ii) that involves new investment of at least \$50,000,000 in an existing industrial,
202 mining, manufacturing, or agriculture entity, by the entity; or

203 (iii) that is a fuel standard compliance project;

204 (b) that requires or is directly facilitated by infrastructure construction; and

205 (c) for which the ~~[cost of]~~ infrastructure construction cost to the entity creating the
206 project is greater than:

207 (i) 10% of the total cost of the project; or

208 (ii) \$10,000,000.

209 ~~[(4)]~~ (5) "Infrastructure" means:

210 (a) an energy delivery project as defined in Section [63H-2-102](#);

211 (b) a railroad as defined in Section [54-2-1](#);

- 212 (c) a fuel standard compliance project;
- 213 (d) a road improvement project;
- 214 (e) a water self-supply project;
- 215 (f) a water removal system project; or
- 216 (g) a project that is designed to:
- 217 (i) increase the capacity for water delivery to a water user in the state; or
- 218 (ii) increase the capability of an existing water delivery system or related facility to
- 219 deliver water to a water user in the state.

220 (6) "Infrastructure construction cost" means the direct cost, incurred by an entity, to

221 construct infrastructure related to a given project.

222 [~~5~~] (7) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an

223 agreement with the office that qualifies the applicant to receive a tax credit as provided in this

224 part.

225 (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as

226 defined in Section [59-10-1402](#), of a person described in Subsection [~~5~~] (7)(a).

227 [~~6~~] (8) (a) "Infrastructure-related revenue" means an amount equal to the sum of the

228 tax revenue, for an entity creating a high cost infrastructure project that is not a fuel standard

229 compliance project, in a taxable year, that is directly attributable to a high cost infrastructure

230 project, under:

231 [~~a~~] (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

232 [~~b~~] (ii) Title 59, Chapter 10, Individual Income Tax Act; and

233 [~~c~~] (iii) Title 59, Chapter 12, Sales and Use Tax Act.

234 (b) "Infrastructure-related revenue" means an amount, in a taxable year, equal to the

235 sum of the tax revenue that exceeds the tax revenue that an entity creating a high cost

236 infrastructure project that is a fuel standard compliance project paid in the taxable year when

237 the entity began construction on the fuel standard compliance project, under:

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

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

240 (iii) Title 59, Chapter 12, Sales and Use Tax Act.

241 [~~7~~] (9) "Office" means the Office of Energy Development created in Section

242 [63M-4-401](#).

243 ~~[(8)]~~ (10) "Tax credit" means a tax credit under Section 59-7-619 or 59-10-1034.

244 ~~[(9) "Tax credit certificate" means a certificate issued by the office to an infrastructure~~
245 ~~cost-burdened entity that:]~~

246 ~~[(a) lists the name of the infrastructure cost-burdened entity;]~~

247 ~~[(b) lists the infrastructure cost-burdened entity's taxpayer identification number;]~~

248 ~~[(c) lists, for a taxable year, the amount of the tax credit authorized for the~~
249 ~~infrastructure cost-burdened entity under this part; and]~~

250 ~~[(d) includes other information as determined by the office.]~~

251 (11) "Tax credit certificate" means a certificate issued by the office to an infrastructure
252 cost-burdened entity that:

253 (a) lists the name of the infrastructure cost-burdened entity;

254 (b) confirms that the office authorizes the infrastructure cost-burdened entity to receive
255 a tax credit;

256 (c) lists the taxable year during which the infrastructure cost-burdened entity generated
257 the infrastructure-related revenue and incurred the infrastructure-related cost that are the basis
258 of the tax credit;

259 (d) lists the amount of tax credit the office authorizes the infrastructure cost-burdened
260 entity to receive for the taxable year described in Subsection (11)(c); and

261 (e) includes any other information determined by the office.

262 Section 5. Section **63M-4-603** is amended to read:

263 **63M-4-603. Tax credit -- Amount -- Eligibility -- Reporting.**

264 (1) Before the office enters into an agreement described in Subsection ~~[(3)]~~ (4) with an
265 applicant regarding a project, the office, in consultation with the ~~[Utah Energy Infrastructure~~
266 ~~Authority Board created in Section 63H-2-202;]~~ board and other state agencies as necessary,
267 shall, in accordance with the procedures described in Section 63M-4-604, certify:

268 (a) that the project meets the definition of a high cost infrastructure project under this
269 part;

270 (b) that the high cost infrastructure project will generate infrastructure-related revenue;

271 (c) the economic life of the high cost infrastructure project; and

272 (d) that the applicant has received a certificate of good standing from the Division of
273 Corporations and Commercial Code.

274 (2) ~~(a)~~ Before the office enters into an agreement described in Subsection (3) with an
275 applicant regarding a project, the ~~[Utah Energy Infrastructure Authority Board]~~ board shall
276 evaluate the project's benefit to the state~~[-based on whether the project:]~~ by considering
277 whether the project:

278 ~~(i)~~ (a) is likely to increase the property tax revenue for the municipality or county
279 where the project will be located;

280 ~~(ii)~~ (b) would provide new infrastructure for an area where the type of infrastructure
281 the project would create is underdeveloped;

282 ~~(iii)~~ (c) would have a positive environmental impact on the state;

283 ~~(iv)~~ (d) would upgrade or improve an existing entity in order to ensure the entity's
284 continued operation and economic viability; ~~[and]~~

285 ~~(v)~~ (e) is less likely to be completed without a tax credit issued to the applicant under
286 this part~~[-];~~ or

287 (f) will benefit from a state or federal tax credit not described in this part.

288 ~~(b)~~ (3) (a) The ~~[Utah Energy Infrastructure Authority Board]~~ board may recommend
289 that the office deny an applicant a tax credit if the applicant's project does not, as determined by
290 the ~~[Utah Energy Infrastructure Authority Board]~~ board, sufficiently benefit the state based on
291 the criteria described in Subsection (2)~~(a)~~.

292 (b) An applicant is not required to demonstrate to the board that the applicant's project
293 meets multiple criteria described in Subsection (2) in order to establish the project's benefit to
294 the state.

295 ~~(3)~~ (4) Subject to the procedures described in Section 63M-4-604, if an applicant
296 meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project
297 receives a favorable recommendation from the ~~[Utah Energy Infrastructure Authority Board]~~
298 board under ~~[Subsection]~~ Subsections (2) and (3), the office shall enter into an agreement with
299 the applicant to authorize the tax credit in accordance with this part.

300 ~~(4)~~ (5) ~~[The]~~ Subject to the requirements of this section, the office shall ~~[grant a tax~~
301 credit to] authorize a tax credit for, and issue a tax credit certificate to, an infrastructure
302 cost-burdened entity, for a high cost infrastructure project, under an agreement described in
303 Subsection ~~(3)~~ (4):

304 (a) each year, for the ~~[lesser]~~ shorter of:

305 (i) the economic life of the high cost infrastructure project; or
306 [~~(ii) 20 years; or~~]
307 [~~(iii)~~] (ii) a time period, the first taxable year of which is the first taxable year when
308 [~~the construction of~~] the high cost infrastructure project [~~begins~~] generates
309 infrastructure-related revenue and the last taxable year of which is the taxable year in which the
310 infrastructure cost-burdened entity has recovered, through the tax credit, [~~an amount equal to:~~]
311 the maximum amount described in Subsection (5)(b);

312 (b) in an amount that, aggregated over the time period described in Subsection (5)(a), is
313 no greater than:

314 [~~(A)~~] (i) if the high cost infrastructure project is not a fuel standard compliance project,
315 50% of the [~~cost of the~~] infrastructure construction cost associated with the high cost
316 infrastructure project; or

317 [~~(B)~~] (ii) if the high cost infrastructure project is a fuel standard compliance project[;
318 30%];

319 (A) that is complete on or before January 1, 2020, 50% of the [~~cost of the~~]
320 infrastructure construction cost associated with the [~~high cost infrastructure project.~~] fuel
321 standard compliance project;

322 (B) that is complete after January 1, 2020, and on or before January 1, 2021, 48% of
323 the infrastructure construction cost associated with the fuel standard compliance project;

324 (C) that is complete after January 1, 2021, and on or before January 1, 2022, 45% of
325 the infrastructure construction cost associated with the fuel standard compliance project;

326 (D) that is complete after January 1, 2022, and on or before January 1, 2023, 40% of
327 the infrastructure construction cost associated with the fuel standard compliance project;

328 (E) that is complete after January 1, 2023, and on or before January 1, 2024, 35% of
329 the infrastructure construction cost associated with the fuel standard compliance project; or

330 (F) that is complete after January 1, 2024, and on or before January 1, 2025, 30% of the
331 infrastructure construction cost associated with the fuel standard compliance project; and

332 [~~(b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of~~
333 ~~the high cost infrastructure project's total infrastructure-related revenue over the time period~~
334 ~~described in Subsection (4)(a);]~~

335 (c) for a taxable year, in an amount that [~~does not exceed~~] is equal to 50% of the high

336 cost infrastructure project's infrastructure-related revenue during that taxable year~~;~~ and].

337 ~~[(d) if the high cost infrastructure project is a fuel standard compliance project, in a~~
338 ~~total amount that is:]~~

339 ~~[(i) determined by the Utah Energy Infrastructure Authority Board, based on:]~~

340 ~~[(A) the applicant's likelihood of completing the high cost infrastructure project~~
341 ~~without a tax credit; and]~~

342 ~~[(B) how soon the applicant plans to complete the high cost infrastructure project; and]~~

343 ~~[(ii) equal to or less than 30% of the high cost infrastructure project's total~~

344 ~~infrastructure-related revenue over the time period described in Subsection (4)(a).]~~

345 (6) For an infrastructure cost-burdened entity that begins constructing a high cost
346 infrastructure project between May 12, 2015, and July 1, 2016:

347 (a) the office may, subject to the requirements of this part:

348 (i) issue a tax credit certificate to the infrastructure cost-burdened entity for the high
349 cost infrastructure project; and

350 (ii) in determining the amount of tax credit to award the infrastructure cost-burdened
351 entity for the high cost infrastructure project, consider the infrastructure construction cost
352 incurred by the infrastructure cost-burdened entity after May 12, 2015; and

353 (b) notwithstanding the evaluation criteria described in Subsection (2), the board may
354 not deny approval to the infrastructure cost-burdened entity for the high cost infrastructure
355 project solely because the high cost infrastructure project is in progress or complete.

356 ~~[(5)] (7) An infrastructure cost-burdened entity shall, for each taxable year:~~

357 ~~(a) file a report with the office showing the high cost infrastructure project's~~
358 ~~infrastructure-related revenue during the taxable year;~~

359 ~~(b) subject to Subsection [(7)] (9), file a report with the office that is prepared by an~~
360 ~~independent certified public accountant that verifies the infrastructure-related revenue~~
361 ~~described in Subsection [(5)] (7)(a); and~~

362 ~~(c) provide the office with information required by the office to certify the economic~~
363 ~~life of the high cost infrastructure project.~~

364 ~~[(6)] (8) An infrastructure cost-burdened entity shall retain records supporting a claim~~
365 ~~for a tax credit for the same period of time during which a person is required to keep books and~~
366 ~~records under Section 59-1-1406.~~

367 ~~[(7)]~~ (9) An infrastructure cost-burdened entity for which a report is prepared under
368 Subsection ~~[(5)]~~ (7)(b) shall pay the costs of preparing the report.

369 ~~[(8)]~~ (10) The office shall certify, for each taxable year, the infrastructure-related
370 revenue generated by an infrastructure cost-burdened entity.

371 Section 6. Section **63M-4-604** is amended to read:

372 **63M-4-604. Tax credit -- Application procedure.**

373 (1) An applicant shall provide the office with:

374 (a) an application for a tax credit certificate;

375 (b) documentation that the applicant meets, to the satisfaction of the office, the
376 requirements described in Subsection **63M-4-603**(1)~~], to the satisfaction of the office, for the~~
377 ~~taxable year for which the applicant seeks to claim a tax credit];~~ and

378 (c) documentation that expressly directs and authorizes the State Tax Commission to
379 disclose to the office the applicant's returns and other information concerning the applicant that
380 would otherwise be subject to confidentiality under Section **59-1-403** or Section 6103, Internal
381 Revenue Code.

382 (2) (a) The office shall, for an applicant, submit the documentation described in
383 Subsection (1)(c) to the State Tax Commission.

384 (b) Upon receipt of the documentation described in Subsection (1)(c), the State Tax
385 Commission shall provide the office with the documentation described in Subsection (1)(c).

386 (3) If, after the office reviews the documentation from the State Tax Commission
387 under Subsection (2)(b) and the information the applicant submits to the office under Section
388 **63M-4-603**, the office, in consultation with the ~~[Utah Energy Infrastructure Authority Board~~
389 ~~created in Section **63H-2-202**]~~ board, determines that the applicant is not eligible for the tax
390 credit under Section **63M-4-603**, or that the applicant's documentation is inadequate, the office
391 shall:

392 (a) deny the tax credit; or

393 (b) inform the applicant that the documentation supporting the applicant's claim for a
394 tax credit was inadequate and request that the applicant supplement the applicant's
395 documentation.

396 (4) Except as provided in Subsection (5), if, after the office reviews the documentation
397 described in Subsection (2)(b) and the information described in Subsection **63M-4-603**~~[(6)]~~(7),

398 the office, in consultation with the [~~Utah Energy Infrastructure Authority Board~~] board created
399 in Section [63H-2-202](#), determines that the documentation supporting an applicant's claim for a
400 tax credit adequately demonstrates that the applicant is eligible for the tax credit under Section
401 [63M-4-603](#), the office shall, on the basis of the documentation:

402 (a) enter, with the applicant, into the agreement described in Subsection
403 [63M-4-603](#)~~[(3)]~~[(4)];

404 (b) issue a tax credit certificate to the applicant; and

405 (c) provide a duplicate copy of the tax credit certificate described in Subsection (4)(b)
406 to the State Tax Commission.

407 (5) The office may deny an applicant a tax credit based on the recommendation of the
408 [~~Utah Energy Infrastructure Authority Board~~] board, as provided in Subsection
409 [63M-4-603](#)~~[(2)]~~[(3)].

410 (6) An infrastructure cost-burdened entity may not claim a tax credit under Section
411 [59-7-619](#) or [59-10-1034](#) unless the infrastructure cost-burdened entity receives a tax credit
412 certificate from the office.

413 (7) An infrastructure cost-burdened entity that claims a tax credit shall retain the tax
414 credit certificate in accordance with Subsection [63M-4-603](#)~~[(7)]~~[(8)].

415 (8) Except for the information that is necessary for the office to disclose in order to
416 make the report described in Section [63M-4-605](#), the office shall treat a document an applicant
417 or infrastructure cost-burdened entity provides to the office as a protected record under Section
418 [63G-2-305](#).

419 (9) The office shall review, and make a determination regarding, a complete
420 application, no later than 60 days after the day on which the applicant submits the application
421 to the office.

422 Section 7. Section **63M-4-606** is enacted to read:

423 **63M-4-606. Administrative rules.**

424 The office may establish, by rule made in accordance with Title 63G, Chapter 3, Utah
425 Administrative Rulemaking Act, procedures for the implementation of this part.

426 Section 8. **Effective date.**

427 (1) Except as provided in Subsection (2), if approved by two-thirds of all members
428 elected to each house, this bill takes effect upon approval by the governor, or the day following

429 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
430 signature, or in the case of a veto, the date of veto override.

431 (2) The actions affecting the following sections take effect for a taxable year beginning
432 on or after January 1, 2017:

433 (a) Section [59-7-619](#); and

434 (b) Section [59-10-1034](#).