

SB0234S03 compared with SB0234

{Omitted text} shows text that was in SB0234 but was omitted in SB0234S03

inserted text shows text that was not in SB0234 but was inserted into SB0234S03

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

1

Severance Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

House Sponsor: Carl R. Albrecht

2

3

LONG TITLE

4

General Description:

5

This bill modifies provisions relating to severance of oil, gas, and minerals.

6

Highlighted Provisions:

7

This bill:

8

▶ repeals and reenacts the severance tax credit for mining exploration to create an agreement and post-performance certificate process;

8

▶ {~~modifies~~} schedules the repeal of the severance tax credit for mining exploration {~~by:~~} but requires legislative review before the repeal;

9

• {~~amending the definitions of exploration activity, eligible claimant, and minerals; and~~}

10

• {~~amending the aggregate value of tax credit certificates that may be issued;~~}

11

▶ authorizes a taxpayer to claim the high cost infrastructure tax credit against severance tax liability instead of income tax liability;

14

▶ allows a taxpayer to claim the high cost infrastructure credit against severance tax liability during the 2025 taxable year for costs incurred during the 2024 taxable year;

13

▶ creates a new severance tax credit part and moves existing tax credits to the new part;

SB0234

SB0234 compared with SB0234S03

14 ▶ addresses federal agency consultation before certain acts related to federal designations and
minerals; and

16 ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides retrospective operation.

25 **AMENDS:**

26 **40-6-16 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 190 (**Effective**
05/07/25), as last amended by Laws of Utah 2024, Chapter 190

24 ~~**{40-6-24 (Effective 05/07/25) (Retrospective 01/01/25), as enacted by Laws of Utah 2022,**~~
~~**Chapter 108 (Effective 05/07/25) (Retrospective 01/01/25), as enacted by Laws of Utah**~~
~~**2022, Chapter 108}**~~

27 **59-5-101 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of
Utah 2009, Chapter 344 (Effective 05/07/25) (Applies beginning 01/01/25), as last amended
by Laws of Utah 2009, Chapter 344

29 **59-5-102 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of
Utah 2021, Chapter 280 (Effective 05/07/25) (Applies beginning 01/01/25), as last amended
by Laws of Utah 2021, Chapter 280

31 **59-7-619 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of
Utah 2023, Chapter 473 (Effective 05/07/25) (Applies beginning 01/01/25), as last amended
by Laws of Utah 2023, Chapter 473

33 **59-10-1034 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of
Utah 2021, Chapters 64, 280 and last amended by Coordination Clause, Laws of Utah 2021,
Chapter 280 (Effective 05/07/25) (Applies beginning 01/01/25), as last amended by Laws of
Utah 2021, Chapters 64, 280 and last amended by Coordination Clause, Laws of Utah 2021,
Chapter 280

36 **63I-1-240 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapters 34,
385 (Effective 05/07/25), as last amended by Laws of Utah 2024, Chapters 34, 385

37

SB0234 compared with SB0234S03

63I-1-259 (Effective 05/07/25), as last amended by Laws of Utah 2024, Third Special Session, Chapter 5 (Effective 05/07/25), as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

39 **79-6-401 ~~{(Effective 05/07/25)}~~(Effective 05/07/25) (Applies beginning 01/01/25)**, as last
amended by Laws of Utah 2024, Third Special Session, Chapter 4 ~~{(Effective 05/07/25)}~~(Effective
05/07/25) (Applies beginning 01/01/25), as last amended by Laws of Utah 2024, Third Special
Session, Chapter 4

41 **79-6-602 (Effective 05/07/25) (Applies beginning 01/01/25), as last amended by Laws of
Utah 2024, Chapter 192 (Effective 05/07/25) (Applies beginning 01/01/25), as last amended
by Laws of Utah 2024, Chapter 192**

43 **79-6-603 (Effective 05/07/25) (Applies beginning 01/01/25), as last amended by Laws of
Utah 2024, Chapter 44 (Effective 05/07/25) (Applies beginning 01/01/25), as last amended
by Laws of Utah 2024, Chapter 44**

45 **79-6-604 (Effective 05/07/25) (Applies beginning 01/01/25), as last amended by Laws of
Utah 2022, Chapter 44 (Effective 05/07/25) (Applies beginning 01/01/25), as last amended
by Laws of Utah 2022, Chapter 44**

47 ENACTS:

48 **59-5-301 (Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated
1953 **(Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated 1953

50 **59-5-302 (Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated
1953 **(Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated 1953

52 **59-5-303 (Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated
1953 **(Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated 1953

54 **59-5-305 (Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated
1953 **(Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated 1953

56 **63L-2-202 (Effective 05/07/25)**, Utah Code Annotated 1953 **(Effective 05/07/25)**, Utah Code
Annotated 1953

57 REPEALS AND REENACTS:

58 **40-6-24 (Effective 05/07/25) (Applies beginning 01/01/25), as enacted by Laws of Utah 2022,
Chapter 108 (Effective 05/07/25) (Applies beginning 01/01/25), as enacted by Laws of Utah
2022, Chapter 108**

SB0234 compared with SB0234S03

60 RENUMBERS AND AMENDS:

61 **59-5-304 (Effective 05/07/25) (Applies beginning 01/01/25), (Renumbered from 59-5-216,**
62 **as enacted by Laws of Utah 2022, Chapter 108) (Effective 05/07/25) (Applies beginning**
63 **01/01/25), (Renumbered from 59-5-216, as enacted by Laws of Utah 2022, Chapter 108)**

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

65 Section 1. Section **40-6-16** is amended to read:

66 **40-6-16. Duties of division.**

In addition to the duties assigned by the board, the division shall:

- 61 (1) develop and implement an inspection program that will include production data, pre-drilling checks,
and site security reviews;
- 63 (2) publish a monthly production report;
- 64 (3) publish a monthly gas processing plant report;
- 65 (4) review and evaluate, before a hearing, evidence submitted with the petition to be presented to the
board;
- 67 (5) require adequate assurance of approved water rights in accordance with rules and orders enacted
under Section 40-6-5;
- 69 (6) notify the county executive of the county in which the drilling will take place in writing of the
issuance of a drilling permit;
- 71 (7) complete the verification of natural gas to hydrogen conversion plants required by Section
[59-5-102] 59-5-303;
- 73 (8) enter agreements and issue tax credit certificates in accordance with Section 40-6-24; and
- 74 (9) through the division's director, implement Title 19, Chapter 12, Pollution Control Act.

83 Section 2. Section **40-6-24** is repealed and re-enacted to read:

84 **40-6-24. Tax credit for mining exploration -- Division to issue certificates.**

78 (1) As used in this section:

87 (a) "Activity" means:

88 (i) surveying by a geophysical method or by a geochemical method;

89 (ii) drilling one or more exploration holes;

90 (iii) conducting underground exploration;

91 (iv) surface trenching or bulk sampling;

SB0234 compared with SB0234S03

92 (v) taking aerial photographs;

93 (vi) geological and geophysical logging;

94 (vii) sample analysis; or

95 (viii) metallurgical testing.

96 (b) "Assigned tax credit certificate" means a tax credit certificate the division issues to a person to
which a claimant assigns the claimant's tax credit.

79 ~~{(a)}~~ (c)

(i) "Certified expenditure" means a cost incurred for an activity in direct support of an eligible exploration activity conducted at a specific site.

81 (ii) "Certified expenditure" includes:

82 (A) the cost of obtaining an approval, a permit, a license, or a certificate for an eligible exploration activity;

84 (B) a direct labor cost and the cost of benefits for employees directly associated with work described in Subsection ~~{(1)(a)(i)}~~ (1)(c)(i);

86 (C) the cost of leasing equipment from a third party;

87 (D) the cost of owning, maintaining, or operating equipment;

88 (E) insurance and bond premiums associated with the activities described in Subsections ~~{(1)(a)(ii)(A)}~~ } (1)(c)(ii)(A) through (D);

90 (F) the cost of a consultant or an independent contractor; and

91 (G) any general expense related to operating the business engaged in the eligible exploration activity to the extent the expense is directly attributable to the work described in Subsection ~~{(1)(a)(i)}~~ (1)(c) (i).

94 (iii) "Certified expenditure" does not include:

95 (A) return on investment; or

96 (B) insurance or bond premiums not described in Subsection ~~{(1)(a)(ii)(E)}~~ (1)(c)(ii)(E).

97 ~~{(b) "Closed mine" means a mine that:}~~

98 ~~{(i) previously operated;}~~

99 ~~{(ii) does not currently operate; and}~~

100 ~~{(iii) for which each mining approval, permit, license, or certificate that allowed the mine to operate is no longer in effect.}~~

102

SB0234 compared with SB0234S03

- 104 ~~{(c) "Construction commencement date of a new mine" means the earliest date on which each of the following is true:}~~
- 107 ~~{(i) the owner or owner's agent obtains for the mine each of the following that a reasonable and prudent person would consider adequate to commence construction of a mine:}~~
- 109 ~~{(A) each federal, state, or local government approval, permit, license, and certificate; and}~~
- 110 ~~{(B) each right in land, including each permit, lease, and title;}~~
- 113 ~~{(ii) each approval, permit, license, and certificate described in Subsection (1)(c)(i)(A) is in effect without any modification that might jeopardize the completion or continued construction of the mine; and}~~
- 116 ~~{(iii) the construction, including the continuation of construction, is not temporarily or permanently enjoined by an order or other decision of a court or administrative body.}~~
- 116 ~~{(d)} { (b) }~~
- 117 ~~{(i) (i) {"Eligible claimant"} "Claimant" means a person [who]} that:~~
- 118 ~~{(i) (i) (A) } { (A) } is engaged in the business of mining or extracting minerals;~~
- 121 ~~{(i) (i) (B) } { (B) } {is subject to a severance tax, for the taxable year in which the person applies for a tax credit certificate, under Title 59, Chapter 5, Part 2, Mining Severance Tax, as a direct result of minerals produced from one or more } eligible exploration activities; and }~~
- 122 ~~{(i) (i) (C) } { (C) } makes a certified expenditure { during the taxable year } .~~
- 124 ~~{(ii) (ii) {"Eligible claimant"} "Claimant" does not include a person in the business of mining or extracting minerals on the Great Salt Lake from:~~
- 125 ~~{(A) (A) { the brines of the Great Salt Lake, except for a person using a nonevaporative mining or extraction method; or }~~
- 127 ~~{(B) (B) a material or secondary source, including tails, slag, waste dumps, or another similar secondary source, derived from the brines of the Great Salt Lake.~~
- 129 ~~{(e) } { (e) } }~~
- 130 ~~(e) "Eligible claimant" means a claimant or a person to which a claimant assigns a tax credit in accordance with Subsections (4)(a)(vi) and (7).~~
- 130 ~~{(i) (f) {"Exploration"} "Eligible exploration activity" means an activity performed in the state {for the purpose of determining the existence, location, extent, or quality of a mineral deposit.} that is associated with:~~
- 130 ~~{(ii) "Exploration activity" includes: }~~

SB0234 compared with SB0234S03

- 131 ~~{(A) surveying by a geophysical method or by a geochemical method;}~~
132 ~~{(B) drilling one or more exploration holes;}~~
133 ~~{(C) conducting underground exploration;}~~
134 ~~{(D) surface trenching or bulk sampling;}~~
135 ~~{(E) taking aerial photographs;}~~
136 ~~{(F) geological and geophysical logging;}~~
137 ~~{(G) sample analysis;[and]}~~
138 ~~{(H) {metallurgical testing[.];-}}~~
139 ~~{(I)} (i) {an activity described in Subsection (1)(c)(i) that is associated with } producing a mineral from
a natural deposit that is not part of a mine that exists at the time the activity begins;~~
142 ~~{(J)} (ii) {an activity described in Subsection (1)(c)(i) that is associated with the production of }
producing a mineral not under production within a mine that exists at the time the activity begins;~~
145 ~~{(K)} (iii) {an activity described in Subsection (1)(c)(i) that is associated with } recovering a mineral
not under production from a secondary source at the time the activity begins, including tails, slag,
waste dumps, or another similar secondary source, whether in solution or otherwise;~~
149 ~~{(L)} (iv) {an activity described in Subsection (1)(c)(i) that is associated with } expanding production of
a mineral using a mining method not used within a mine that exists at the time the activity begins; or~~
152 ~~{(M)} (v) {an activity described in Subsection (1)(c)(i) that is associated with } expanding existing
production of a mineral that requires a new exploration or mining permit or the modification of a
permit issued before the activity begins.~~
155 ~~{(iii) "Exploration activity" does not include an activity that occurs;}}~~
156 ~~{(A) after the construction commencement date of a new mine; or}}~~
157 ~~{(B) if the mine is or was a closed mine, after the mine reopening date.}}~~
158 ~~{(f)} (g) {} {d}-} "Geochemical method" means a method of gathering geochemical data,
including collecting soil, rock, water, air, vegetation, or any other similar item and performing a
chemical analysis on the item.~~
161 ~~{(g)} (h) {} {e}-} "Geophysical method" means a method of gathering geophysical data
that is used in mineral exploration, including seismic, gravity, magnetic, radiometric, radar,
electromagnetic, and other remote sensing measurements.~~
164 ~~{(h)} (i) {} {f}-} "Mine" means the same as that term is defined in Section 59-5-201.~~
165

SB0234 compared with SB0234S03

- 167 ~~{(i) "Mine reopening date" means with respect to a closed mine, the earliest date on which each of the following is true:}~~
- 170 ~~{(i) the owner or owner's agent obtains for the closed mine each of the following that a reasonable and prudent person would consider adequate to begin operation of a closed mine:}~~
- 172 ~~{(A) each federal, state, or local government approval, permit, license, and certificate; and}~~
- 173 ~~{(B) each right in land, including each permit, lease, and title;}~~
- 176 ~~{(ii) each approval, permit, license, and certificate described in Subsection (1)(i)(i)(A) is in effect without any modification that might jeopardize resuming operation of the closed mine; and}~~
- 178 ~~{(iii) resuming operation of the closed mine is not temporarily or permanently enjoined by an order or other decision of a court or administrative body.}~~
- 179 ~~{(j)} ~~{(g)}~~ "Mineral" means:~~
- 181 ~~{(i)} (i) a metalliferous mineral as defined in Section 59-5-201; or~~
- 182 ~~{(ii)} (ii) a metalliferous compound as defined in Section 59-5-202.~~
- 183 ~~{(k)} ~~{(h)}~~ "Tax credit certificate" means a certificate ~~{issued by}~~ the division issues that:~~
- 184 ~~(i) lists the ~~{eligible}~~ claimant's name and taxpayer identification number;~~
- 185 ~~(ii) lists the amount of the ~~{eligible}~~ claimant's tax credit authorized under this section for a taxable year; and~~
- 186 ~~(iii) includes other information as determined by the division.~~
- 187 ~~(2) ~~{[An]A person that meets the definition of eligible claimant and that seeks to claim } Before claiming a tax credit under Section ~~{[59-5-216]} 59-5-304{ for } , a {taxable year} person shall apply to the division for } to enter an agreement and, upon becoming an eligible claimant, to receive a tax credit certificate.~~~~~~
- 188 ~~(3)~~
- 189 ~~(a) Except as provided in Subsection (3)(b), a person shall enter an agreement with the division before beginning eligible exploration activities.~~
- 190 ~~(b) A person that has certified expenditures from an eligible exploration activity for a taxable year beginning on or after January 1, 2025, and beginning before January 1, 2026, shall enter an agreement with the division as provided by rule.~~
- 191 ~~(4)~~
- 192 ~~(a) The agreement shall provide:~~

SB0234 compared with SB0234S03

- 172 (i) the eligible exploration activities for which the person may incur certified expenditures eligible
to receive a tax credit certificate, which may include certified expenditures from a taxable year
beginning on or after January 1, 2025, and beginning before January 1, 2027;
- 173 (ii) the type of mineral the person intends to produce;
- 176 (iii) the maximum number of years a person has between the beginning of eligible exploration
activities and the production of minerals as a direct result of the eligible exploration activities;
- 178 (iv) the maximum number of years, which may not exceed 20 years, that a person may receive a tax
credit certificate;
- 180 (v) the requirements for reporting certified expenditures and production of minerals as a direct
result of eligible exploration activity, including:
- 181 (A) a description of the mine where the eligible exploration activity occurred;
- 183 (B) evidence that the certified expenditure occurred and the amount of the certified expenditure; and
- 189 (C) the means for verifying that severance tax liability occurs as a direct result of an eligible exploration
activity; and
- 188 ~~{(3)}~~ (vi) ~~{The [eligible] a requirement that, if a claimant{]person shall apply for } intends to assign~~
a tax credit ~~{certificate on a form [provided by] , the claimant shall provide to the division {and~~
approved by } a written notice of intent to assign the {State Tax Commission}} tax credit to another
person, in a form the division provides and the State Tax Commission approves.} ~~approves, that~~
includes:
- 190 (A) written certification or other proof that the claimant irrevocably elects not to claim the tax credit
authorized by the tax credit certificate; and
- 192 (B) contact information for the person to which the claimant is assigning the tax credit.
- 193 (b) The parties to the agreement may modify the terms of the agreement.
- 196 (c)
- (i) The division shall approve certified expenditures upon receiving a report of a certified expenditure
unless the division determines that the expenditure does not meet the definition of certified
expenditure.
- (ii) If the division determines that an expenditure does not meet the definition of certified expenditure,
the division shall provide the person a written explanation that states each reason the division denied
the expenditure and give the person an opportunity to correct any deficiency or provide additional
information.

SB0234 compared with SB0234S03

- 200 (5)
- (a) A person with an agreement may apply for a tax credit certificate:
- 201 (i) upon becoming an eligible claimant; and
- 202 (ii) for a taxable year beginning on or after January 1, 2027.
- 192 ~~{(4)}~~ (b) {The [eligible claimant]} person shall include in the application for a tax credit certificate the
following information for the taxable year in which the person seeks a tax credit certificate:
- 195 ~~{(a)}~~ (i) [proof that the person is an eligible claimant] satisfies the requirements of Subsection (1)(d)} ;
- 197 ~~{(b)}~~ (ii) a description of the {mine where} mineral that the eligible claimant produced and evidence to
support that the mineral is produced from an eligible exploration activity {occurred} ;
- 198 ~~{(c)}~~ proof of each certified expenditure, including the amount; and}
- 208 (iii) the amount of severance tax liability as a direct result of minerals produced from an eligible
exploration activity that the eligible claimant incurred for the taxable year; and
- 199 ~~{(d)}~~ (iv) any other information the division requests.
- 200 ~~{(5)}~~ (6)
- (a) ~~{After the division receives an application for a tax credit certificate[{ } ,]} the division shall:~~
- 201 ~~{(i)}~~ (i) {the division shall } verify that the person is an eligible claimant; and
- 215 (ii) determine whether the eligible claimant has approved certified expenditures.
- 202 ~~{(ii)}~~ (b) {for each expenditure in the application} Subject to Subsection (6)(c), the division shall
{approve the expenditure as- } issue a {certified expenditure or deny- } tax credit certificate in an
amount equal to the {expenditure as an expenditure that is not a certified expenditure.} lesser
of:
- 205 ~~{(b)}~~ If the division denies an expenditure, the division shall provide the person a written explanation
that states each reason the division denied the expenditure and give the person an opportunity to
correct any deficiency or provide additional information. }
- 208 ~~{(6)}~~ }
- ~~{(a)}~~ (i) {The tax credit certificate shall state- } the amount of {the tax credit, which is equal to the
amount of the eligible claimant's } certified expenditures minus any certified expenditures {as
approved by- } for which the division {in accordance with Subsection (5).} previously issued a tax
credit certificate; or
- 220 (ii) the claimant's severance tax liability as a direct result of minerals produced from an eligible
exploration activity for the taxable year.

SB0234 compared with SB0234S03

- 222 (c)
- 211 ~~{(b)}~~ (i) The division may not issue a tax credit certificate ~~{for certified expenditures related to exploration activities at a mine}~~ if the aggregate value of tax credit certificates issued for certified expenditures related to eligible exploration activities at the same mine exceeds \$20,000,000.
- 215 ~~{(e)}~~ (ii) ~~{Notwithstanding Subsection (6)(b)}~~ (6)(c)(i), the division may issue a tax credit certificate up to an aggregate value of \$30,000,000 for certified expenditures related to eligible exploration activities at the same mine if the certified expenditures that exceed \$20,000,000 are for eligible exploration activities undertaken to produce a mineral for which the United States is greater than 50% net import reliant, as provided in the Mineral Commodity Summaries published by the United States Geological Survey, in the calendar year in which an eligible exploration activity commences.
- 222 (7)
- ~~{(a)}~~ ~~{An eligible claimant may assign a tax credit certificate to another person if the eligible claimant provides written notice to the division in a form [prescribed by]the division approves, that includes:}~~
- 225 ~~{(i) the eligible claimant's written certification or other proof that the eligible claimant irrevocably elects not to claim the tax credit authorized by the tax credit certificate; and}~~
- 228 ~~{(ii) contact information for the person to whom the eligible claimant is assigning the tax credit certificate.}~~
- 230 ~~{(b)}~~ (a) If the ~~{eligible}~~ claimant meets the requirements of Subsection ~~{(7)(a)}~~ (4)(a)(vi), the division shall issue an assigned tax credit certificate to the person identified by the ~~{eligible}~~ claimant in an amount equal to the ~~{eligible claimant's tax credit certificate.}~~ lesser of:
- 236 (i) the amount of the claimant's certified expenditures minus any certified expenditures for which the division previously issued a tax credit certificate; or
- 238 (ii) the person's severance tax liability as a direct result of minerals produced from an eligible exploration activity for the taxable year.
- 233 ~~{(e)}~~ (b) ~~{A person {to whom} that receives an {eligible claimant assigns a} assigned tax credit certificate may claim the tax credit under Section {[59-5-216]} 59-5-304 as if the person met the requirements of Section [59-5-216]} 59-5-304, if the person files a return under Title 59, Chapter 5, Part 2, Mining Severance Tax.~~

237

SB0234 compared with SB0234S03

- (8) An eligible claimant that receives a tax credit certificate or assigned tax credit certificate in accordance with this section shall retain the tax credit certificate or assigned tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.
- 240 (9) The division shall ~~{annually}~~ submit annually to the State Tax Commission an electronic list that includes:
- 242 (a) the name and identifying information for:
- 243 (i) ~~{each {eligible } claimant to {whom}}~~ which the division issues a tax credit certificate; and
- 245 (ii) ~~{each person to {[whom]} which~~the division issues ~~-an eligible claimant assigns a }~~ assigned tax credit certificate in accordance with Subsection (7);
- 247 (b) for each person described in Subsection (9)(a), the amount of ~~{the}~~ tax credit stated on the tax credit certificate or assigned tax credit certificate; and
- 249 (c) for each person described in Subsection (9)(a)(ii), information necessary to identify the original tax credit certificate ~~{that}~~ and the ~~{eligible claimant}~~ assigned ~~{to the person}~~ tax credit certificate.
- 251 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules governing the administration of the agreement and tax credit certificate process described in this section.

260 Section 3. Section **59-5-101** is amended to read:

261 **59-5-101. Definitions.**

As used in this part:

- 257 (1) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
- 258 (2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 259 (3) "Condensate" means [those] the hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.
- 263 (4) "Crude oil" means [those] the hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.
- 266 (5) "Development well" means any oil and gas producing well other than a wildcat well.
- 267 (6) "Division" means the Division of Oil, Gas, and Mining established under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining.
- 269 (7) "Enhanced recovery project" means:
- 270

SB0234 compared with SB0234S03

- (a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a reservoir for the purpose of:
- 272 (i) augmenting reservoir energy;
- 273 (ii) modifying the properties of the fluids or gases in a reservoir; or
- 274 (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and gas through the joint use of two or more well bores; and
- 276 (b) a project initially approved by the board as a new or expanded enhanced recovery project on or after January 1, 1996.
- 278 (8)
- (a) "Gas" means:
- 279 (i) natural gas;
- 280 (ii) natural gas liquids; or
- 281 (iii) any mixture of natural gas and natural gas liquids.
- 282 (b) "Gas" does not include solid hydrocarbons.
- 283 (9) "Incremental production" means that part of production, certified by the [~~Division of Oil, Gas, and Mining~~] division, which is achieved from an enhanced recovery project that would not have economically occurred under the reservoir conditions existing before the project and that has been approved by the division as incremental production.
- 287 (10) "Natural gas" means [~~those~~] the hydrocarbons, other than oil and other than natural gas liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form.
- 290 (11) "Natural gas liquids" means [~~those~~] the hydrocarbons initially in reservoir natural gas, regardless of gravity, that are separated in gas processing plants from the natural gas as liquids at the surface through the process of condensation, absorption, adsorption, or other methods.
- 294 (12)
- (a) "Oil" means:
- 295 (i) crude oil;
- 296 (ii) condensate; or
- 297 (iii) any mixture of crude oil and condensate.
- 298 (b) "Oil" does not include solid hydrocarbons.
- 299

SB0234 compared with SB0234S03

- (13) "Oil or gas field" means a geographical area overlying oil or gas structures~~[-The]~~ , the boundaries of ~~[oil or gas fields]~~ which shall conform with the boundaries as fixed by the ~~[Board{ } board]~~ and ~~{ } Division of Oil, Gas, and Mining]~~ board and division under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining.
- 303 (14) "Oil shale" means a group of fine black to dark brown shales containing bituminous material that yields petroleum upon distillation.
- 305 (15) "Operator" means any person engaged in the business of operating an oil or gas well, regardless of whether the person is:
- 307 (a) a working interest owner;
- 308 (b) an independent contractor; or
- 309 (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 312 (16) "Owner" means any person having a working interest, royalty interest, payment out of production, or any other interest in the oil or gas produced or extracted from an oil or gas well in the state, or in the proceeds of this production.
- 315 (17)
- (a) Subject to Subsections (17)(b) and (c), "processing costs" means the reasonable actual costs of processing oil or gas to remove:
- 317 (i) natural gas liquids; or
- 318 (ii) contaminants.
- 319 (b) If processing costs are determined on the basis of an arm's-length contract, processing costs are the actual costs.
- 321 (c)
- (i) If processing costs are determined on a basis other than an arm's-length contract, processing costs are those reasonable costs associated with:
- 323 (A) actual operating and maintenance expenses, including oil or gas used or consumed in processing;
- 325 (B) overhead directly attributable and allocable to the operation and maintenance; and
- 327 (C)
- (I) depreciation and a return on undepreciated capital investment; or
- 328

SB0234 compared with SB0234S03

- (II) a cost equal to a return on the investment in the processing facilities as determined by the commission.
- 330 (ii) Subsection (17)(c)(i) includes situations where the producer performs the processing for the producer's product.
- 332 (18) "Producer" means any working interest owner in any lands in any oil or gas field from which gas or oil is produced.
- 334 [~~(19) "Recompletion" means any downhole operation that is:~~]
- 335 [~~(a) conducted to reestablish the producibility or serviceability of a well in any geologic interval; and]~~
- 337 [~~(b) approved by the division as a recompletion.]~~
- 338 [~~(20)~~ (19) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.
- 341 [~~(21)~~ (20) "Royalty interest owner" means the owner of an interest in oil or gas, or in the proceeds of production from the oil or gas who does not have the obligation to share in the expenses of developing and operating the property.
- 344 [~~(22)~~ (21) "Solid hydrocarbons" means:
- 345 (a) coal;
- 346 (b) gilsonite;
- 347 (c) ozocerite;
- 348 (d) elaterite;
- 349 (e) oil shale;
- 350 (f) tar sands; and
- 351 (g) all other hydrocarbon substances that occur naturally in solid form.
- 352 [~~(23)~~ (22) "Stripper well" means:
- 353 (a) an oil well whose average daily production for the days the well has produced has been 20 barrels or less of crude oil a day during any consecutive 12-month period; or
- 355 (b) a gas well whose average daily production for the days the well has produced has been 60 MCF or less of natural gas a day during any consecutive 90-day period.
- 357 [~~(24)~~ (23) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon and require further processing other than mechanical blending before becoming finished petroleum products.
- 360 [~~(25)~~ (24)

SB0234 compared with SB0234S03

- (a) Subject to Subsections [~~(25)(b)~~] (24)(b) and (c), "transportation costs" means the reasonable actual costs of transporting oil or gas products from the well to the point of sale.
- 363 (b) If transportation costs are determined on the basis of an arm's-length contract, transportation costs are the actual costs.
- 365 (c)
- (i) If transportation costs are determined on a basis other than an arm's-length contract, transportation costs are those reasonable costs associated with:
- 367 (A) actual operating and maintenance expenses, including fuel used or consumed in transporting the oil or gas;
- 369 (B) overhead costs directly attributable and allocable to the operation and maintenance; and
- 371 (C) depreciation and a return on undepreciated capital investment.
- 372 (ii) Subsection [~~(25)(e)(i)~~] (24)(c)(i) includes situations where the producer performs the transportation for the producer's product.
- 374 (d) Regardless of whether transportation costs are determined on the basis of an arm's-length contract or a basis other than an arm's-length contract, transportation costs include:
- 377 (i) carbon dioxide removal;
- 378 (ii) compression;
- 379 (iii) dehydration;
- 380 (iv) gathering;
- 381 (v) separating;
- 382 (vi) treating; or
- 383 (vii) a process similar to Subsections [~~(25)(d)(i)~~] (24)(d)(i) through (vi), as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 386 [~~(26)~~] (25) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.
- 387 [~~(27)~~] (26) "Well[~~-or wells~~]" means any extractive means from which oil or gas is produced or extracted, located within an oil or gas field, and operated by one person.
- 389 [~~(28)~~] (27) "Wildcat well" means an oil and gas producing well which is drilled and completed in a pool, as defined under Section 40-6-2, in which a well has not been previously completed as a well capable of producing in commercial quantities.

392

SB0234 compared with SB0234S03

~~[(29)]~~ (28) "Working interest owner" means the owner of an interest in oil or gas burdened with a share of the expenses of developing and operating the property.

394 ~~[(30)]~~

(a) ~~"Workover" means any downhole operation that is:]~~

395 ~~[(i) conducted to sustain, restore, or increase the producibility or serviceability of a well in the geologic intervals in which the well is currently completed; and]~~

397 ~~[(ii) approved by the division as a workover.]~~

398 ~~[(b) "Workover" does not include operations that are conducted primarily as routine maintenance or to replace worn or damaged equipment.]~~

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

407 **59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual exemption -- Tax rate reduction.**

403 (1) As used in this section:

404 ~~[(a) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.]~~

405 ~~[(b) "Office" means the Office of Energy Development created in Section 79-6-401.]~~

406 ~~[(e)]~~ (a) "Royalty rate" means the percentage of the interests described in Subsection (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian tribe and the oil or gas producer.

409 ~~[(d)]~~ (b) "Taxable value" means the total value of the oil or gas minus:

410 (i) any royalties paid to, or the value of oil or gas taken in kind by, the interest holders described in Subsection (2)(b)(i); and

412 (ii) the total value of oil or gas exempt from severance tax under Subsection (2)(b)(ii).

413 ~~[(e)]~~ (c) "Taxable volume" means:

414 (i) for oil, the total volume of barrels minus:

415 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of barrels; and

417 (B) the number of barrels that are exempt under Subsection (2)(b)(ii); and

418 (ii) for natural gas, the total volume of MCFs minus:

419 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of MCFs; and

421 (B) the number of MCFs that are exempt under Subsection (2)(b)(ii).

SB0234 compared with SB0234S03

- 422 [~~(f)~~] (d) "Total value" means the value, as determined by Section 59-5-103.1, of all oil or gas that is:
- 424 (i) produced; and
- 425 (ii)
- (A) saved;
- 426 (B) sold; or
- 427 (C) transported from the field where the oil or gas was produced.
- 428 [~~(g)~~] (e) "Total volume" means:
- 429 (i) for oil, the number of barrels:
- 430 (A) produced; and
- 431 (B)
- (I) saved;
- 432 (II) sold; or
- 433 (III) transported from the field where the oil was produced; and
- 434 (ii) for natural gas, the number of MCFs:
- 435 (A) produced; and
- 436 (B)
- (I) saved;
- 437 (II) sold; or
- 438 (III) transported from the field where the natural gas was produced.
- 439 [~~(h)~~] (f) "Value of oil or gas taken in kind" means the volume of oil or gas taken in kind multiplied by
the market price for oil or gas at the location where the oil or gas was produced on the date the oil or
gas was taken in kind.
- 442 (2)
- (a) Except as provided in Subsection (2)(b), a person owning an interest in oil or gas produced from a
well in the state, including a working interest, royalty interest, payment out of production, or any
other interest, or in the proceeds of the production of oil or gas, shall pay to the state a severance tax
on the owner's interest in the taxable value of the oil or gas:
- 447 (i) produced; and
- 448 (ii)
- (A) saved;
- 449 (B) sold; or

SB0234 compared with SB0234S03

- 450 (C) transported from the field where the substance was produced.
- 451 (b) The severance tax imposed by Subsection (2)(a) does not apply to:
- 452 (i) an interest of:
- 453 (A) the United States in oil or gas or in the proceeds of the production of oil or gas;
- 454 (B) the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil
or gas; and
- 456 (C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the
production of oil or gas produced from land under the jurisdiction of the United States; and
- 459 (ii) the value of:
- 460 (A) oil or gas produced from stripper wells, unless the exemption prevents the severance tax from being
treated as a deduction for federal tax purposes;
- 462 (B) oil or gas produced in the first 12 months of production for wildcat wells started after January 1,
1990; and
- 464 (C) oil or gas produced in the first six months of production for development wells started after January
1, 1990.
- 466 (3)
- (a) The severance tax on oil shall be calculated as follows:
- 467 (i) dividing the taxable value by the taxable volume;
- 468 (ii)
- (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the figure calculated in
Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(i); and
- 471 (B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure calculated in
Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);
- 474 (iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and
- 475 (iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.
- 476 (b) The severance tax on natural gas shall be calculated as follows:
- 477 (i) dividing the taxable value by the taxable volume;
- 478 (ii)
- (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the figure calculated in
Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(i); and

481

SB0234 compared with SB0234S03

- (B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);
- 484 (iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and
- 485 (iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.
- 486 (c) The severance tax on natural gas liquids shall be calculated by multiplying the taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).
- 488 (4) Subject to Subsection [~~(9)~~] (7):
- 489 (a) the severance tax rate for oil is as follows:
- 490 (i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil; and
- 492 (ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;
- 493 (b) the severance tax rate for natural gas is as follows:
- 494 (i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per MCF for gas; and
- 496 (ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas; and
- 498 (c) the severance tax rate for natural gas liquids is 4% of the taxable value of the natural gas liquids.
- 500 (5) If oil or gas is shipped outside the state:
- 501 (a) the shipment constitutes a sale; and
- 502 (b) the oil or gas is subject to the tax imposed by this section.
- 503 (6)
- (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:
- 505 (i) sold;
- 506 (ii) transported; or
- 507 (iii) delivered.
- 508 (b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.
- 510 [~~(7)~~]
- (a) ~~Subject to other provisions of this Subsection (7), a taxpayer that pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal to the amount stated on a tax credit certificate that the office issues to the taxpayer.]~~
- 514 [(b) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:]
- 515

SB0234 compared with SB0234S03

- 516 [(i) 20% of the taxpayer's payment of expenses of a well recompletion or workover during the calendar
year; and]
- 517 [(ii) \$30,000.]
- 518 [(e) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the next three
calendar years if the tax credit exceeds the taxpayer's tax liability under this part for the calendar
year in which the taxpayer claims the tax credit.]
- 521 [(d)
- (i) To claim a tax credit under this Subsection (7), a taxpayer shall follow the procedures and
requirements of this Subsection (7)(d).]
- 523 [(ii) The taxpayer shall prepare a summary of the taxpayer's expenses of a well recompletion or
workover during the calendar year that the well recompletion or workover is completed.]
- 526 [(iii) An independent certified public accountant shall:]
- 527 [(A) review the summary from the taxpayer; and]
- 528 [(B) provide a report on the accuracy and validity of the amount of expenses of a well recompletion
or workover that the taxpayer included in the summary, in accordance with the agreed upon
procedures.]
- 531 [(iv) The taxpayer shall submit the taxpayer's summary and the independent certified public
accountant's report to the division to verify that the expenses certified by the independent certified
public accountant are well recompletion or workover expenses.]
- 535 [(v) The division shall return to the taxpayer:]
- 536 [(A) the taxpayer's summary;]
- 537 [(B) the report by the independent certified public accountant; and]
- 538 [(C) a report by the division that includes the amount of approved well recompletion or workover
expenses.]
- 540 [(vi) The taxpayer shall apply to the office for a tax credit certificate to receive a written certification,
on a form approved by the commission, that includes:]
- 542 [(A) the amount of the taxpayer's payments of expenses of a well recompletion or workover during the
calendar year; and]
- 544 [(B) the amount of the taxpayer's tax credit.]
- 545 [(vii) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate for the same
time period that a person is required to keep books and records under Section 59-1-1406.]

SB0234 compared with SB0234S03

- 548 [~~(e) The office shall submit to the commission an electronic list that includes:]~~
549 [~~(i) the name and identifying information of each taxpayer to which the office issues a tax credit
certificate; and]~~
551 [~~(ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.]~~
552 [~~(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:]~~
553 [~~(i) the office may make rules to govern the application process for receiving a tax credit certificate
under this Subsection (7); and]~~
555 [~~(ii) the division shall make rules to establish the agreed upon procedures described in Subsection (7)(d)
(iii):]~~
557 [~~(8)~~
(a) Subject to the other provisions of this Subsection (8), a taxpayer may claim a tax credit against a
severance tax owing on natural gas under this section if:]
559 [(i) the taxpayer is required to pay a severance tax on natural gas under this section;]
560 [(ii) the taxpayer owns or operates a plant in the state that converts natural gas to hydrogen fuel;
and]
562 [(iii) all of the natural gas for which the taxpayer owes a severance tax under this section is used for
the production in the state of hydrogen fuel for use in zero emission motor vehicles.]
565 [(b) The taxpayer may claim a tax credit equal to the lesser of:]
566 [(i) the amount of tax that the taxpayer owes under this section; and]
567 [(ii) \$5,000,000.]
568 [(e)
(i) To claim a tax credit under this Subsection (8), a taxpayer shall follow the procedures and
requirements of this Subsection (8)(e):]
570 [(ii) The taxpayer shall request that the division verify that the taxpayer owns or operates a plant in this
state:]
572 [(A) that converts natural gas to hydrogen fuel; and]
573 [(B) at which all natural gas is converted to hydrogen fuel for use in zero emission motor vehicles.]
575 [(d) The division shall submit to the commission an electronic list that includes the name and
identifying information of each taxpayer for which the division completed the verification described
in Subsection (8)(e):]
578

SB0234 compared with SB0234S03

~~[(9)]~~ (7) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.

580 ~~[(10)]~~ (8) The taxes imposed by this section are:

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

582 (b) delinquent, unless otherwise deferred, on June 1 following the calendar year when the oil or gas is:

584 (i) produced; and

585 (ii)

(A) saved;

586 (B) sold; or

587 (C) transported from the field.

588 ~~[(11)]~~ (9) With respect to the tax imposed by this section on each owner of an interest in the production of oil or gas or in the proceeds of the production of oil or gas in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.

592 ~~[(12)]~~ (10) The tax imposed by this section shall be reported and paid by each producer that takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of each owner entitled to participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.

596 ~~[(13)]~~ (11) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

604 Section 5. Section 5 is enacted to read:

606 **59-5-301. Definitions.**

3. Tax Credits

As used in this part:

602 (1) "Division" means the Division of Oil, Gas, and Mining established under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining.

604 (2) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.

606 (3) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.

608 (4) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.

610 (5) "Natural gas" means the same as that term is defined in Section 59-5-101.

611 (6) "Natural gas liquids" means the same as that term is defined in Section 59-5-101.

612 (7) "Office" means the Office of Energy Development created in Section 79-6-401.

SB0234 compared with SB0234S03

- 613 (8) "Recompletion" means any downhole operation that is:
614 (a) conducted to reestablish the producibility or serviceability of a well in any geologic interval; and
616 (b) approved by the division as a recompletion.
- 617 (9) "Well" means the same as that term is defined in Section 59-5-101.
618 (10)
- (a) "Workover" means any downhole operation that is:
619 (i) conducted to sustain, restore, or increase the producibility or serviceability of a well in the
geologic intervals in which the well is currently completed; and
621 (ii) approved by the division as a workover.
- 622 (b) "Workover" does not include operations that are conducted primarily as routine maintenance or to
replace worn or damaged equipment.
- 630 Section 6. Section 6 is enacted to read:
631 **59-5-302. Tax credit for recompletion or workover.**
- 627 (1) A taxpayer that pays for all or part of the expenses of a recompletion or workover may claim a
nonrefundable tax credit against taxes due under Section 59-5-102 equal to the amount stated on a
tax credit certificate that the office issues to the taxpayer.
- 630 (2) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:
631 (a) 20% of the taxpayer's payment of expenses of a well recompletion or workover during the calendar
year; and
633 (b) \$30,000.
- 634 (3) A taxpayer may carry forward a tax credit allowed under this section for the next three calendar
years if the tax credit exceeds the taxpayer's tax liability under Section 59-5-102 for the calendar
year in which the taxpayer claims the tax credit.
- 637 (4)
(a) To claim a tax credit, a taxpayer shall follow the procedures and requirements of this Subsection (4).
639 (b) The taxpayer shall prepare a summary of the taxpayer's expenses of a recompletion or workover
during the calendar year that the taxpayer completed the recompletion or workover.
- 642 (c) An independent certified public accountant shall:
643 (i) review the summary from the taxpayer; and
644

SB0234 compared with SB0234S03

- (ii) provide a report on the accuracy and validity of the amount of expenses of a recompletion or workover that the taxpayer included in the summary, in accordance with the agreed upon procedures.
- 647 (d) The taxpayer shall submit the taxpayer's summary and the independent certified public accountant's report to the division to verify that the expenses certified by the independent certified public accountant are recompletion or workover expenses.
- 650 (e) The division shall return to the taxpayer:
- 651 (i) the taxpayer's summary;
- 652 (ii) the report by the independent certified public accountant; and
- 653 (iii) a report by the division that includes the amount of approved recompletion or workover expenses.
- 655 (f) The taxpayer shall apply to the office for a tax credit certificate to receive a written certification, on a form the commission approves, that includes:
- 657 (i) the amount of the taxpayer's payments of expenses of a recompletion or workover during the calendar year; and
- 659 (ii) the amount of the taxpayer's tax credit.
- 660 (g) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.
- 663 (5) The office shall submit to the commission an electronic list that includes:
- 664 (a) the name and identifying information of each taxpayer to which the office issues a tax credit certificate; and
- 666 (b) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.
- 667 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 668 (a) the office may make rules to govern the application process for receiving a tax credit certificate; and
- 670 (b) the division shall make rules to establish the agreed upon procedures described in Subsection (4).
- 678 Section 7. Section 7 is enacted to read:
- 679 **59-5-303. Tax credit for natural gas converted to hydrogen fuel.**
- 675 (1) A taxpayer may claim a tax credit against a severance tax owing on natural gas under Section 59-5-102 if:
- 677 (a) the taxpayer is required to pay a severance tax on natural gas under Section 59-5-102;
- 678 (b) the taxpayer owns or operates a plant in the state that converts natural gas to hydrogen fuel; and
- 680

SB0234 compared with SB0234S03

(c) all of the natural gas for which the taxpayer owes a severance tax under Section 59-5-102 is used for the production in the state of hydrogen fuel for use in zero emission motor vehicles.

683 (2) The taxpayer may claim a tax credit equal to the lesser of:

684 (a) the amount of tax that the taxpayer owes under Section 59-5-102; and

685 (b) \$5,000,000.

686 (3)

(a) To claim a tax credit, a taxpayer shall follow the procedures and requirements of this Subsection (3).

688 (b) The taxpayer shall request that the division verify that the taxpayer owns or operates a plant in this state:

690 (i) that converts natural gas to hydrogen fuel; and

691 (ii) at which all natural gas is converted to hydrogen fuel for use in zero emission motor vehicles.

693 (4) The division shall submit to the commission an electronic list that includes the name and identifying information of each taxpayer for which the division completed the verification described in Subsection (3).

702 Section 8. Section **59-5-304** is renumbered and amended to read:

704 **[59-5-216] 59-5-304. Tax credit for mining exploration.**

700 (1) As used in this section:

701 (a) "Assigned tax credit certificate" means the same as that term is defined in Section 40-6-24.

709 (b) "Eligible claimant" means a person:

702 (i) [who { } that} is an eligible] that is a claimant as defined in Section 40-6-24 and obtains a tax credit certificate; or

704 (ii) to [whom] which a person described in Subsection [(1)(a)(i)] (1)(b)(i) assigns a tax credit certificate and that obtains an assigned tax credit certificate in accordance with Section 40-6-24.

706 [(b)] (c) "Tax credit certificate" means the same as that term is defined in Section 40-6-24.

707 (2) [Subject to Subsection (3),] For a taxable year beginning on or after January 1, 2027, an eligible claimant may claim a nonrefundable tax credit against severance tax otherwise due under [this part] Part 2, Mining Severance Tax, in an amount equal to the amount stated on [the tax credit certificate for the taxable year.] :

720 (a) the tax credit certificate for the taxable year for an eligible claimant described in Subsection (1)(b)(i); or

722

SB0234 compared with SB0234S03

(b) the assigned tax credit certificate for the taxable year for an eligible claimant described in Subsection (1)(b)(ii).

710 ~~[(3) An eligible claimant may not claim in any taxable year a credit under this section that exceeds 30%~~
~~of the eligible claimant's severance tax liability for the taxable year.]~~

712 ~~[(4)]~~ (3) An eligible claimant may carry forward to the next 15 taxable years the amount of the eligible
claimant's tax credit that exceeds the amount described in Subsection ~~[(3)]~~ (2).

728 Section 9. Section **9** is enacted to read:

729 **59-5-305. High cost infrastructure tax credit.**

717 (1)

(a) Subject to Subsection (1)(b), an infrastructure cost-burdened entity may claim a nonrefundable tax credit against severance taxes due under Part 1, Oil and Gas Severance Tax, or Part 2, Mining Severance Tax, for development of a high cost infrastructure project.

721 (b) An infrastructure cost-burdened entity may not claim a tax credit under this section and under Section 59-7-619 or 59-10-1034 using the same tax credit certificate.

723 (2) 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 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

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

745 Section 10. Section **59-7-619** is amended to read:

746 **59-7-619. Nonrefundable high cost infrastructure development tax credit.**

734 (1) As used in this section:

735 (a) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.

737 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.

739 (c) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.

741 (d) "Office" means the Office of Energy Development created in Section 79-6-401.

742 (2)

(a) 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.

SB0234 compared with SB0234S03

- 745 (b) A corporation that is an infrastructure cost-burdened entity may not claim a tax credit under this
section and under Section 59-5-305 using the same tax credit certificate.
- 747 (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 79, Chapter 6, Part 6, High Cost Infrastructure
Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.
- 751 (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:
- 753 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable
year; and
- 755 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this
chapter for that taxable year.
- 757 (5)
- (a) 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 concerning whether the tax credit
should be continued, modified, or repealed.
- 761 (b)
- (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection
(5), the office shall provide the following information, if available to the office, to the Office of the
Legislative Fiscal Analyst:
- 764 (A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for
each taxable year;
- 766 (B) the infrastructure-related revenue generated by each high cost infrastructure project;
- 768 (C) the information contained in the office's latest report under Section 79-6-605; and
- 770 (D) any other information that the Office of the Legislative Fiscal Analyst requests.
- 772 (ii)
- (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information
that identifies a recipient of a tax credit under this section.
- 775 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information
described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office
may file a request with the Revenue and Taxation Interim Committee to provide the information

SB0234 compared with SB0234S03

described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

781 (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).

785 (d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in
Subsection (5)(a) include an evaluation of:

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

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

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

790 (6) Notwithstanding Section 59-7-903, the commission may not remove the tax credit described in this
section from the tax return for a taxable year beginning before January 1, 2027.

807 Section 11. Section **59-10-1034** is amended to read:

808 **59-10-1034. Nonrefundable high cost infrastructure development tax credit.**

796 (1) As used in this section:

797 (a) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.

799 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.

801 (c) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.

803 (d) "Office" means the Office of Energy Development created in Section 79-6-401.

804 (2)

(a) 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.

807 (b) A claimant, estate, or trust that is an infrastructure cost-burdened entity may not claim a tax credit
under this section and under Section 59-5-305 using the same tax credit certificate.

810 (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 79, Chapter 6, Part 6, High Cost Infrastructure
Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

814 (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:

816

SB0234 compared with SB0234S03

- (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and
- 818 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.
- 820 (5)
- (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.
- 824 (b)
- (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:
- 827 (A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;
- 829 (B) the infrastructure-related revenue generated by each high cost infrastructure project;
- 831 (C) the information contained in the office's latest report under Section 79-6-605; and
- 833 (D) any other information that the Office of the Legislative Fiscal Analyst requests.
- 835 (ii)
- (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.
- 838 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.
- 844 (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).
- 848 (d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:
- 850 (i) the cost of the tax credit to the state;

SB0234 compared with SB0234S03

- 851 (ii) the purpose and effectiveness of the tax credit; and
852 (iii) the extent to which the state benefits from the tax credit.

867 Section 12. Section 63I-1-240 is amended to read:

868 **63I-1-240. Repeal dates: Title 40.**

869 (1) Section 40-2-204, Coal Miner Certification Panel created -- Duties, is repealed July 1, 2034.

871 (2) Section 40-6-24, Tax credit for mining exploration -- Division to issue certificates, is repealed July 1, 2037.

873 Section 13. Section 63I-1-259 is amended to read:

874 **63I-1-259. Repeal dates: Title 59.**

875 (1) Subsection 59-1-403(4)(aa), regarding a requirement for the State Tax Commission to inform the Department of Workforce Services whether an individual claimed a federal earned income tax credit, is repealed July 1, 2029.

878 (2) Section 59-5-304, Tax credit for mining exploration, is repealed July 1, 2037.

879 [~~2~~] (3) Section 59-7-618.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.

881 [~~3~~] (4) Section 59-9-102.5, Offset for occupational health and safety related donations, is repealed December 31, 2030.

883 [~~4~~] (5) Section 59-10-1033.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.

885 Section 14. Section 14 is enacted to read:

886 **63L-2-202. Federal impacts related to critical mineral deposits.**

856 (1) As used in this section:

857 (a) "Critical mineral deposit" means a deposit of a mineral, element, substance, or material designated as critical by the Secretary of the Interior in accordance with 30 U.S.C. Sec. 1606.

860 (b) "Federal designation" means the designation of a:

861 (i) national monument;

862 (ii) national conservation area;

863 (iii) wilderness area or wilderness study area;

864 (iv) area of critical environmental concern;

865 (v) research natural area; or

866 (vi) national recreation area.

SB0234 compared with SB0234S03

867 (2) The Legislature requests that a federal agency, including the president of the United States, consult
with the state before implementing, announcing, or planning a federal designation that may impact
882 the exploration or development of a critical mineral deposit in the state.

903 Section 15. Section 79-6-401 is amended to read:

904 **79-6-401. ~~{(Effective 05/07/25)}~~(Effective 05/07/25) (Applies beginning 01/01/25)Office**
of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential
information -- Fees -- Transition for employees.

875 (1) There is created an Office of Energy Development within the Department of Natural Resources to
be administered by a director.

877 (2)

(a) The executive director shall appoint the director and the director shall serve at the pleasure of the
executive director.

879 (b) The director shall have demonstrated the necessary administrative and professional ability through
education and experience to efficiently and effectively manage the office's affairs.

882 (3) The purposes of the office are to:

883 (a) serve as the primary resource for advancing energy and mineral development in the state;

885 (b) implement:

886 (i) the state energy policy under Section 79-6-301; and

887 (ii) the governor's energy and mineral development goals and objectives;

888 (c) advance energy education, outreach, and research, including the creation of elementary, higher
education, and technical college energy education programs;

890 (d) promote energy and mineral development workforce initiatives;

891 (e) support collaborative research initiatives targeted at Utah-specific energy and mineral development;

893 (f) in coordination with the Department of Environmental Quality and other relevant state agencies:

895 (i) develop effective policy strategies to advocate for and protect the state's interests relating to federal
energy and environmental entities, programs, and regulations;

897 (ii) participate in the federal environmental rulemaking process by:

898 (A) advocating for positive reform of federal energy and environmental regulations and permitting;

900 (B) coordinating with other states to develop joint advocacy strategies; and

901 (C) conducting other government relations efforts; and

902

SB0234 compared with SB0234S03

- (iii) direct the funding of legal efforts to combat federal overreach and unreasonable delays regarding energy and environmental permitting; and
- 904 (g) fund the development of detailed and accurate forecasts of the state's long-term energy supply and demand, including a baseline projection of expected supply and demand and analysis of potential alternative scenarios.
- 907 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:
- 909 (a) seek federal grants or loans;
- 910 (b) seek to participate in federal programs; and
- 911 (c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.
- 913 (5) The office shall perform the duties required by Sections 11-42a-106, ~~[59-5-102]~~ 59-5-302, 59-7-614.7, 59-10-1029, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.
- 916 (6)
- (a) For purposes of administering this section, the office may make rules, by following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.
- 920 (b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.
- 922 (7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.
- 925 (8)
- (a) An employee of the office on April 30, 2024, is an at-will employee.
- 926 (b) For an employee described in Subsection (8)(a) who was employed by the office on April 30, 2024, the employee shall have the same salary and benefit options an employee had when the office was part of the office of the governor.
- 929 (c) An employee of the office hired on or after May 1, 2024, shall receive compensation as provided in Title 63A, Chapter 17, Utah State Personnel Management Act.
- 931 (9)

SB0234 compared with SB0234S03

- (a) The office shall prepare a strategic energy plan to achieve the state's energy policy, including:
- 933 (i) technological and infrastructure innovation needed to meet future energy demand including:
- 935 (A) energy production technologies;
- 936 (B) battery and storage technologies;
- 937 (C) smart grid technologies;
- 938 (D) energy efficiency technologies; and
- 939 (E) any other developing energy technology, energy infrastructure planning, or investments that will assist the state in meeting energy demand;
- 941 (ii) the state's efficient use and development of:
- 942 (A) energy resources, including natural gas, coal, clean coal, hydrogen, oil, oil shale, and oil sands;
- 944 (B) renewable energy resources, including geothermal, solar, hydrogen, wind, biomass, biofuel, and hydroelectric;
- 946 (C) nuclear power; and
- 947 (D) earth minerals;
- 948 (iii) areas of energy-related academic research;
- 949 (iv) specific areas of workforce development necessary for an evolving energy industry;
- 951 (v) the development of partnerships with national laboratories; and
- 952 (vi) a proposed state budget for economic development and investment.
- 953 (b) In preparing the strategic energy plan, the office shall:
- 954 (i) consult with stakeholders, including representatives from:
- 955 (A) energy companies in the state;
- 956 (B) private and public institutions of higher education within the state conducting energy-related research; and
- 958 (C) other state agencies; and
- 959 (ii) use modeling and industry standard data to:
- 960 (A) define the energy services required by a growing economy;
- 961 (B) calculate energy needs;
- 962 (C) develop state strategy for energy transportation, including transmission lines, pipelines, and other infrastructure needs;
- 964 (D) optimize investments to meet energy needs at the least cost and least risk while meeting the policy outlined in this section;

SB0234 compared with SB0234S03

- 966 (E) address state needs and investments through a prospective 30-year period, divided into five-year
working plans; and
- 968 (F) update the plan at least every two years.
- 969 (c) The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee
on or before the October interim meeting describing:
- 971 (i) progress towards creation and implementation of the strategic energy plan;
- 972 (ii) the plan's compliance with the state energy policy; and
- 973 (iii) a proposed budget for the office to continue development of the strategic energy plan.
- 975 (10) The director shall:
- 976 (a) annually review and propose updates to the state's energy policy, as contained in Section 79-6-301;
- 978 (b) promote as the governor considers necessary:
- 979 (i) the development of cost-effective energy resources both renewable and nonrenewable; and
- 981 (ii) educational programs, including programs supporting conservation and energy efficiency measures;
- 983 (c) coordinate across state agencies to assure consistency with state energy policy, including:
- 985 (i) working with the State Energy Program to promote access to federal assistance for energy-related
projects for state agencies and members of the public;
- 987 (ii) working with the Division of Emergency Management to assist the governor in carrying out the
governor's energy emergency powers under Title 53, Chapter 2a, Part 10, Energy Emergency
Powers of the Governor Act;
- 990 (iii) participating in the annual review of the energy emergency plan and the maintenance of the energy
emergency plan and a current list of contact persons required by Section 53-2a-902; and
- 993 (iv) identifying and proposing measures necessary to facilitate low-income consumers' access to energy
services;
- 995 (d) coordinate with the Division of Emergency Management ongoing activities designed to test an
energy emergency plan to ensure coordination and information sharing among state agencies and
political subdivisions in the state, public utilities and other energy suppliers, and other relevant
public sector persons as required by Sections 53-2a-902, 53-2a-1004, 53-2a-1008, and 53-2a-1010;
- 1000 (e) coordinate with requisite state agencies to study:
- 1001 (i) the creation of a centralized state repository for energy-related information;
- 1002 (ii) methods for streamlining state review and approval processes for energy-related projects; and
- 1004 (iii) the development of multistate energy transmission and transportation infrastructure;

SB0234 compared with SB0234S03

- 1006 (f) coordinate energy-related regulatory processes within the state;
- 1007 (g) compile, and make available to the public, information about federal, state, and local approval requirements for energy-related projects;
- 1009 (h) act as the state's advocate before federal and local authorities for energy-related infrastructure projects or coordinate with the appropriate state agency; and
- 1011 (i) help promote the Division of Facilities Construction and Management's measures to improve energy efficiency in state buildings.
- 1013 (11) The director has standing to testify on behalf of the governor at the Public Service Commission created in Section 54-1-1.
- 1015 (12) The office shall include best practices in developing actionable goals and recommendations as part of preparing and updating every two years the strategic energy plan required under Subsection (9).
- 1018 (13) The office shall maintain and regularly update a public website that provides an accessible dashboard of relevant metrics and reports and makes available the data used to create the strategic energy plan.

1053 Section 16. Section **79-6-602** is amended to read:

1054 **79-6-602. Definitions.**

As used in this part:

- 1024 (1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.
- 1026 (2)
- (a) "Energy delivery project" means a project that is designed to:
- 1027 (i) increase the capacity for the delivery of energy to a user of energy inside or outside the state;
- 1029 (ii) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state; or
- 1031 (iii) increase the production and delivery of geothermal energy through horizontal drilling to create injection and production wells.
- 1033 (b) "Energy delivery project" includes:
- 1034 (i) a hydroelectric energy storage system;
- 1035 (ii) a utility-scale battery storage system; or
- 1036 (iii) a nuclear power generation system.

1037

SB0234 compared with SB0234S03

- (3) "Emissions reduction project" means a project that is designed to reduce the emissions of an existing electrical generation facility, refinery, smelter, kiln, mineral processing facility, manufacturing facility, oil or gas production facility, or other industrial facility, by utilizing selective catalytic reduction technology, carbon capture utilization and sequestration technology, or any other emissions reduction technology or equipment.
- 1042 (4) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.
- 1046 (5) "High cost infrastructure project" means:
- 1047 (a) for an energy delivery project, fuel standard compliance project, mineral processing project, or underground mine infrastructure project, a project:
- 1049 (i)
- (A) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;
- 1051 (B) that involves new investment of at least \$50,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the first or second class;
- 1054 (C) that involves new investment of at least \$25,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the third, fourth, fifth, or sixth class, or a municipality with a population of 10,000 or less located within a county of the second class; or
- 1058 (D) for the construction of a plant or other facility for the storage or production of fuel used for transportation, electricity generation, or industrial use;
- 1060 (ii) that requires or is directly facilitated by infrastructure construction; and
- 1061 (iii) for which the cost of infrastructure construction to the entity creating the project is greater than:
- 1063 (A) 10% of the total cost of the project; or
- 1064 (B) \$10,000,000; and
- 1065 (b) for an emissions reduction project, water purification project, or water resource forecasting project, a project:
- 1067 (i) that involves:
- 1068 (A) new investment of at least \$50,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the first or second class; or
- 1071

SB0234 compared with SB0234S03

- (B) new investment of at least \$25,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the third, fourth, fifth, or sixth class, or a municipality with a population of 10,000 or less located within a county of the second class; and
- 1075 (ii) that requires or is directly facilitated by infrastructure construction.
- 1076 (6) "Infrastructure" means:
- 1077 (a) an energy delivery project;
- 1078 (b) a railroad as defined in Section 54-2-1;
- 1079 (c) a fuel standard compliance project;
- 1080 (d) a road improvement project;
- 1081 (e) a water self-supply project;
- 1082 (f) a water removal system project;
- 1083 (g) a solution-mined subsurface salt cavern;
- 1084 (h) a project that is designed to:
- 1085 (i) increase the capacity for water delivery to a water user in the state; or
- 1086 (ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state;
- 1088 (i) an underground mine infrastructure project;
- 1089 (j) an emissions reduction project;
- 1090 (k) a mineral processing project;
- 1091 (l) a water purification project; or
- 1092 (m) a water resource forecasting project.
- 1093 (7)
- (a) "Infrastructure cost-burdened entity" means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.
- 1096 (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (7)(a).
- 1098 (8) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:
- 1101 (a) Subsection 59-24-103.5(2)(e);
- 1102 (b) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;

SB0234 compared with SB0234S03

- 1103 (c) Title 59, Chapter 5, Part 2, Mining Severance Tax;
- 1104 (d) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 1105 (e) Title 59, Chapter 10, Individual Income Tax Act; and
- 1106 (f) Title 59, Chapter 12, Sales and Use Tax Act.
- 1107 (9) "Mineral processing project" means a project that is designed to:
- 1108 (a) process, smelt, refine, convert, separate, or otherwise beneficiate metalliferous minerals as defined
in Section 59-5-201 or a metalliferous compound as defined in Section 59-5-202;
- 1111 (b) calcine limestone or manufacture cement;
- 1112 (c) process, refine, or otherwise beneficiate chloride compounds, salts, potash, gypsum, sulfur or
sulfuric acid, ammonium nitrate, phosphate, or uintaite; or
- 1114 (d) convert or gasify coal to recover chemical compounds, gases, or minerals.
- 1115 (10) "Office" means the Office of Energy Development created in Section 79-6-401.
- 1116 (11) "Tax credit" means a tax credit under Section 59-5-305, 59-7-619, or 59-10-1034.
- 1117 (12) "Tax credit certificate" means a certificate issued by the office to an infrastructure cost-burdened
entity that:
- 1119 (a) lists the name of the infrastructure cost-burdened entity;
- 1120 (b) lists the infrastructure cost-burdened entity's taxpayer identification number;
- 1121 (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened
entity under this part; and
- 1123 (d) includes other information as determined by the office.
- 1124 (13)
- 1125 (a) "Underground mine infrastructure project" means a project that:
- 1127 (i) is designed to create permanent underground infrastructure to facilitate underground mining
operations; and
- 1129 (ii) services multiple levels or areas of an underground mine or multiple underground mines.
- 1130 (b) "Underground mine infrastructure project" includes:
- 1131 (i) an underground access or a haulage road, entry, ramp, or decline;
- 1132 (ii) a vertical or incline mine shaft;
- 1133 (iii) a ventilation shaft or an air course; or
- 1134 (iv) a conveyor or a truck haulageway.

SB0234 compared with SB0234S03

(14) "Water purification project" means a project that, in order to meet applicable quality standards established under Title 19, Chapter 5, Water Quality Act, is designed to reduce the existing total dissolved solids or other naturally existing impurities contained in water sources:

- 1138 (a) located at a distance of not less than 2,000 feet below the surface;
- 1139 (b) associated with existing mineral operations; or
- 1140 (c) associated with deep water mining operations designed primarily for the revitalization of the Great Salt Lake.

1142 (15) "Water resource forecasting project" means a project that includes a network of permanent physical data collection systems designed to improve forecasting for the availability of seasonal water flows within the state, including flash flooding and other event-driven water flows resulting from localized severe weather events.

1178 Section 17. Section **79-6-603** is amended to read:

1179 **79-6-603. Tax credit -- Amount -- Eligibility -- Reporting.**

1149 (1)

(a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure Board created in Section 79-6-902, and other state agencies as necessary, shall, in accordance with the procedures described in Section 79-6-604, certify:

- 1154 (i) that the project meets the definition of a high cost infrastructure project under this part;
- 1156 (ii) that the high cost infrastructure project will generate infrastructure-related revenue;
- 1158 (iii) the economic life of the high cost infrastructure project; and
- 1159 (iv) that the applicant has received a certificate of existence from the Division of Corporations and Commercial Code.

1193 (b)

1161 (i){(b)} [For purposes of determining whether a project meets the definition of a high cost infrastructure project,]Except as provided in Subsection (1)(b)(ii),the office shall consider a project to be a new project ,for purposes of determining whether a project meets the definition of a high cost infrastructure project, if the project began no earlier than the taxable year before the year in which the applicant submits an application or a preliminary application for a tax credit.

1199

SB0234 compared with SB0234S03

(ii) For the taxable year beginning on or after January 1, 2025, and beginning before January 1, 2026, the office may consider a project to be a new project if the applicant applies for a tax credit in accordance with Subsection (5)(a).

- 1165 (2)
- (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure Board shall evaluate the project's net benefit to the state, including:
- 1168 (i) whether the project is likely to increase the property tax revenue for the municipality or county where the project will be located;
- 1170 (ii) whether the project would contribute to the economy of the state and the municipality, tribe, or county where the project will be located;
- 1172 (iii) whether the project would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;
- 1174 (iv) whether the project is supported by a business case for providing the revenue necessary to finance the construction and operation of the project;
- 1176 (v) whether the project would have a positive environmental impact on the state;
- 1177 (vi) whether the project promotes responsible energy development;
- 1178 (vii) whether the project would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability;
- 1180 (viii) whether the project is less likely to be completed without a tax credit issued to the applicant under this part; and
- 1182 (ix) other relevant factors that the board specifies in the board's evaluation.
- 1183 (b) Before the office enters into an agreement described in Subsection (3) with an applicant regarding an energy delivery project, in addition to the criteria described in Subsection (2)(a) the Utah Energy Infrastructure Board shall determine that the project:
- 1187 (i) is strategically situated to maximize connections to an energy source project located in the state that is:
- 1189 (A) existing;
- 1190 (B) under construction;
- 1191 (C) planned; or
- 1192 (D) foreseeable;

SB0234 compared with SB0234S03

- 1193 (ii) is supported by a project plan related to:
- 1194 (A) engineering;
- 1195 (B) environmental issues;
- 1196 (C) energy production;
- 1197 (D) load or other capacity; and
- 1198 (E) any other issue related to the building and operation of energy delivery infrastructure; and
- 1200 (iii) complies with the regulations of the following regarding the building of energy delivery infrastructure:
- 1202 (A) the Federal Energy Regulatory Commission;
- 1203 (B) the North American Electric Reliability Council; and
- 1204 (C) the Public Service Commission of Utah.
- 1205 (c) The Utah Energy Infrastructure Board may recommend that the office deny an applicant a tax credit if, as determined by the Utah Energy Infrastructure Board:
- 1207 (i) the project does not sufficiently benefit the state based on the criteria described in Subsection (2)(a); or
- 1209 (ii) for an energy delivery project, the project does not satisfy the conditions described in Subsection (2)(b).
- 1211 (3) Subject to the procedures described in Section 79-6-604, if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure Board under Subsection (2), the office shall enter into an agreement with the applicant to authorize the tax credit in accordance with this part.
- 1216 (4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):
- 1218 (a) for the lesser of:
- 1219 (i) the economic life of the high cost infrastructure project;
- 1220 (ii) 20 years; or
- 1221 (iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:
- 1225 (A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or

SB0234 compared with SB0234S03

- 1227 (B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the
infrastructure construction associated with the high cost infrastructure project;
- 1230 (b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of the high cost
infrastructure project's total infrastructure-related revenue over the time period described in
Subsection (4)(a);
- 1233 (c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's
infrastructure-related revenue during that taxable year;
- 1235 (d) that the infrastructure cost-burdened entity may use against severance tax or income tax, but not
both; and
- 1237 ~~[(d)]~~ (e) if the high cost infrastructure project is a fuel standard compliance project, in a total amount
that is:
- 1239 (i) determined by the Utah Energy Infrastructure Board, based on:
- 1240 (A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and
- 1242 (B) how soon the applicant plans to complete the high cost infrastructure project; and
- 1244 (ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue
over the time period described in Subsection (4)(a).
- 1283 (5)
- (a) For the taxable year beginning on or after January 1, 2025, and beginning before January 1, 2026,
the office shall grant a tax credit certificate to an infrastructure cost-burdened entity:
- 1286 (i) that applies for a tax credit described in Section 59-5-305;
- 1287 (ii) that meets the requirements of Subsection (4) except that the first taxable year for which the
infrastructure cost-burdened entity claims a tax credit is the taxable year beginning on or after
January 1, 2024, and beginning before January 1, 2025; and
- 1290 (iii) in an amount that does not exceed the high cost infrastructure project's infrastructure-related
revenue during the taxable year beginning on or after January 1, 2024, and beginning before
January 1, 2025.
- 1293 (b) The tax credit described in Subsection (5)(a) is in addition to a tax credit for which the infrastructure
cost-burdened entity may claim against income tax or severance tax for the taxable year beginning
on or after January 1, 2025, and beginning before January 1, 2026.
- 1246 ~~[(5)]~~ (6) An infrastructure cost-burdened entity shall, for each taxable year:
- 1247

SB0234 compared with SB0234S03

- (a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;
- 1249 (b) subject to Subsection ~~{(7)}~~ [(7)](8), file a report with the office that is prepared by an independent certified public accountant that verifies the infrastructure-related revenue described in Subsection ~~{(5)(a)}~~ [(5)(a)](6)(a); and
- 1252 (c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.
- 1254 ~~{(6)}~~ (7) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.
- 1257 ~~{(7)}~~ (8) An infrastructure cost-burdened entity for which a report is prepared under Subsection ~~{(5)(b)}~~ [(5)(b)](6)(b) shall pay the costs of preparing the report.
- 1259 ~~{(8)}~~ (9) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.
- 1312 Section 18. Section **79-6-604** is amended to read:
- 1313 **79-6-604. Tax credit -- Application procedure.**
- 1264 (1) An applicant shall provide the office with:
- 1265 (a) an application for a tax credit certificate;
- 1266 (b) documentation that the applicant meets the requirements described in Subsection 79-6-603(1), to the satisfaction of the office, for the taxable year for which the applicant seeks to claim a tax credit; and
- 1269 (c) documentation that expressly directs and authorizes the State Tax Commission to disclose to the office the applicant's returns and other information concerning the applicant that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code.
- 1273 (2)
- (a) The office shall, for an applicant, submit the documentation described in Subsection (1)(c) to the State Tax Commission.
- 1275 (b) Upon receipt of the documentation described in Subsection (1)(c), the State Tax Commission shall provide the office with the documentation described in Subsection (1)(c).
- 1278 (3) If, after the office reviews the documentation from the State Tax Commission under Subsection (2)(b) and the information the applicant submits to the office under Section 79-6-603, the office, in consultation with the Utah Energy Infrastructure Board created in Section 79-6-902, determines

SB0234 compared with SB0234S03

that the applicant is not eligible for the tax credit under Section 79-6-603, or that the applicant's documentation is inadequate, the office shall:

- 1283 (a) deny the tax credit; or
- 1284 (b) inform the applicant that the documentation supporting the applicant's claim for a tax credit was inadequate and request that the applicant supplement the applicant's documentation.
- 1287 (4) Except as provided in Subsection (5), if, after the office reviews the documentation described in Subsection (2)(b) and the information described in Subsection ~~[79-6-603(6)]~~ 79-6-603(5), the office, in consultation with the Utah Energy Infrastructure Board created in Section 79-6-902, determines that the documentation supporting an applicant's claim for a tax credit adequately demonstrates that the applicant is eligible for the tax credit under Section 79-6-603, the office shall, on the basis of the documentation:
- 1293 (a) enter, with the applicant, into the agreement described in Subsection 79-6-603(3);
- 1294 (b) issue a tax credit certificate to the applicant; and
- 1295 (c) provide a duplicate copy of the tax credit certificate described in Subsection (4)(b) to the State Tax Commission.
- 1297 (5) The office may deny an applicant a tax credit based on the recommendation of the Utah Energy Infrastructure Board, as provided in Subsection 79-6-603(2).
- 1299 (6) An infrastructure cost-burdened entity may not claim a tax credit~~[under Section 59-7-619 or 59-10-1034]~~ unless the infrastructure cost-burdened entity receives a tax credit certificate from the office.
- 1302 (7) An infrastructure cost-burdened entity that claims a tax credit shall retain the tax credit certificate in accordance with Subsection ~~[79-6-603(7)]~~ 79-6-603(6).
- 1304 (8) Except for the information that is necessary for the office to disclose in order to make the report described in Section 79-6-605, the office shall treat a document an applicant or infrastructure cost-burdened entity provides to the office as a protected record under Section 63G-2-305.

1359 Section 19. **Effective date.**

Effective Date.

This bill takes effect on May 7, 2025.

1361 Section 20. **Retrospective Operation.**

Retrospective operation.

{~~This~~} ~~The~~ actions affecting the following sections have retrospective operation for a taxable

SB0234 compared with SB0234S03

year beginning on or after January 1, 2025:

- 1313 (1) Section 40-6-24;
- 1314 (2) Section 59-5-101;
- 1315 (3) Section 59-5-102;
- 1316 (4) Section 59-5-301;
- 1317 (5) Section 59-5-302;
- 1318 (6) Section 59-5-303;
- 1319 (7) Section 59-5-304;
- 1320 (8) Section 59-5-305;
- 1321 (9) Section 59-7-619;
- 1322 (10) Section 59-10-1034;
- 1375 (11) Section 79-6-401;
- 1323 ~~{(11)}~~ (12) Section 79-6-602;
- 1324 ~~{(12)}~~ (13) Section 79-6-603; and
- 1325 ~~{(13)}~~ (14) Section 79-6-604.

3-4-25 4:50 PM