

Derrin R. Owens proposes the following substitute bill:

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Severance Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Derrin R. Owens
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- repeals and reenacts the severance tax credit for mining exploration to create an agreement and post-performance certificate process;
- authorizes a taxpayer to claim the high cost infrastructure tax credit against severance tax liability instead of income tax liability;
- 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;
- creates a new severance tax credit part and moves existing tax credits to the new part;
- addresses federal agency consultation before certain acts related to federal designations and minerals; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

- 40-6-16 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 190
- 59-5-101 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of Utah 2009, Chapter 344
- 59-5-102 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of Utah 2021, Chapter 280

29 **59-7-619 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of
30 Utah 2023, Chapter 473

31 **59-10-1034 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws
32 of Utah 2021, Chapters 64, 280 and last amended by Coordination Clause, Laws of Utah 2021,
33 Chapter 280

34 **79-6-401 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of
35 Utah 2024, Third Special Session, Chapter 4

36 **79-6-602 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of
37 Utah 2024, Chapter 192

38 **79-6-603 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of
39 Utah 2024, Chapter 44

40 **79-6-604 (Effective 05/07/25) (Applies beginning 01/01/25)**, as last amended by Laws of
41 Utah 2022, Chapter 44

42 ENACTS:

43 **59-5-301 (Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated
44 1953

45 **59-5-302 (Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated
46 1953

47 **59-5-303 (Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated
48 1953

49 **59-5-305 (Effective 05/07/25) (Applies beginning 01/01/25)**, Utah Code Annotated
50 1953

51 **63L-2-202 (Effective 05/07/25)**, Utah Code Annotated 1953

52 REPEALS AND REENACTS:

53 **40-6-24 (Effective 05/07/25) (Applies beginning 01/01/22)**, as enacted by Laws of Utah
54 2022, Chapter 108

55 RENUMBERS AND AMENDS:

56 **59-5-304 (Effective 05/07/25) (Applies beginning 01/01/22)**, (Renumbered from
57 59-5-216, as enacted by Laws of Utah 2022, Chapter 108)



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

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

61 **40-6-16 (Effective 05/07/25). Duties of division.**

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

- 63 (1) develop and implement an inspection program that will include production data,
 64 pre-drilling checks, and site security reviews;
- 65 (2) publish a monthly production report;
- 66 (3) publish a monthly gas processing plant report;
- 67 (4) review and evaluate, before a hearing, evidence submitted with the petition to be
 68 presented to the board;
- 69 (5) require adequate assurance of approved water rights in accordance with rules and orders
 70 enacted under Section 40-6-5;
- 71 (6) notify the county executive of the county in which the drilling will take place in writing
 72 of the issuance of a drilling permit;
- 73 (7) complete the verification of natural gas to hydrogen conversion plants required by
 74 Section ~~[59-5-102]~~ 59-5-303;
- 75 (8) enter agreements and issue tax credit certificates in accordance with Section 40-6-24;
 76 and
- 77 (9) through the division's director, implement Title 19, Chapter 12, Pollution Control Act.
 78 Section 2. Section **40-6-24** is repealed and reenacted to read:
- 79 **40-6-24 (Effective 05/07/25) (Applies beginning 01/01/22). Tax credit for mining**
 80 **exploration.**
- 81 (1) As used in this section:
- 82 (a) "Activity" means:
- 83 (i) surveying by a geophysical method or by a geochemical method;
 84 (ii) drilling one or more exploration holes;
 85 (iii) conducting underground exploration;
 86 (iv) surface trenching or bulk sampling;
 87 (v) taking aerial photographs;
 88 (vi) geological and geophysical logging;
 89 (vii) sample analysis; or
 90 (viii) metallurgical testing.
- 91 (b) "Assigned tax credit certificate" means a tax credit certificate the division issues to a
 92 person to which a claimant assigns the claimant's tax credit certificate.
- 93 (c)(i) "Certified expenditure" means a cost incurred for an activity in direct support of
 94 an eligible exploration activity conducted at a specific site.
- 95 (ii) "Certified expenditure" includes:
- 96 (A) the cost of obtaining an approval, a permit, a license, or a certificate for an

- 97 eligible exploration activity;
- 98 (B) a direct labor cost and the cost of benefits for employees directly associated
- 99 with work described in Subsection (1)(c)(i);
- 100 (C) the cost of leasing equipment from a third party;
- 101 (D) the cost of owning, maintaining, or operating equipment;
- 102 (E) insurance and bond premiums associated with the activities described in
- 103 Subsections (1)(c)(ii)(A) through (D);
- 104 (F) the cost of a consultant or an independent contractor; and
- 105 (G) any general expense related to operating the business engaged in the eligible
- 106 exploration activity to the extent the expense is directly attributable to the work
- 107 described in Subsection (1)(c)(i).
- 108 (iii) "Certified expenditure" does not include:
- 109 (A) return on investment; or
- 110 (B) insurance or bond premiums not described in Subsection (1)(c)(ii)(E).
- 111 (d)(i) "Claimant" means a person that:
- 112 (A) is engaged in the business of mining or extracting minerals;
- 113 (B) is subject to a severance tax under Title 59, Chapter 5, Part 2, Mining
- 114 Severance Tax, as a direct result of minerals produced from eligible
- 115 exploration activities; and
- 116 (C) makes a certified expenditure.
- 117 (ii) "Claimant" does not include a person in the business of mining or extracting
- 118 minerals on the Great Salt Lake from:
- 119 (A) the brines of the Great Salt Lake, except for a person using a nonevaporative
- 120 mining or extraction method; or
- 121 (B) a material or secondary source, including tails, slag, waste dumps, or another
- 122 similar secondary source, derived from the brines of the Great Salt Lake.
- 123 (e) "Eligible claimant" means a person that is a claimant or a person to which a claimant
- 124 assigns a tax credit in accordance with Subsection (7).
- 125 (f) "Eligible exploration activity" means an activity performed in the state that is
- 126 associated with:
- 127 (i) producing a mineral from a natural deposit that is not part of a mine that exists at
- 128 the time the activity begins;
- 129 (ii) producing a mineral not under production within a mine that exists at the time the
- 130 activity begins;

- 131 (iii) recovering a mineral not under production from a secondary source at the time
132 the activity begins, including tails, slag, waste dumps, or another similar
133 secondary source, whether in solution or otherwise;
- 134 (iv) expanding production of a mineral using a mining method not used within a mine
135 that exists at the time the activity begins; or
- 136 (v) expanding existing production of a mineral that requires a new exploration or
137 mining permit or the modification of a permit issued before the activity begins.
- 138 (g) "Geochemical method" means a method of gathering geochemical data, including
139 collecting soil, rock, water, air, vegetation, or any other similar item and performing
140 a chemical analysis on the item.
- 141 (h) "Geophysical method" means a method of gathering geophysical data that is used in
142 mineral exploration, including seismic, gravity, magnetic, radiometric, radar,
143 electromagnetic, and other remote sensing measurements.
- 144 (i) "Mine" means the same as that term is defined in Section 59-5-201.
- 145 (j) "Mineral" means:
- 146 (i) a metalliferous mineral as defined in Section 59-5-201; or
147 (ii) a metalliferous compound as defined in Section 59-5-202.
- 148 (k) "Tax credit certificate" means a certificate the division issues that:
- 149 (i) lists the claimant's name and taxpayer identification number;
150 (ii) lists the amount of the claimant's tax credit authorized under this section; and
151 (iii) includes other information as determined by the division.
- 152 (2) Before claiming a tax credit under Section 59-5-304, a person shall apply to the division
153 to enter an agreement and, upon becoming an eligible claimant, to receive a tax credit
154 certificate.
- 155 (3)(a) Except as provided in Subsection (3)(b), a person shall enter an agreement with
156 the division before beginning eligible exploration activities.
- 157 (b) A person that has certified expenditures from an eligible exploration activity for a
158 taxable year beginning on or after January 1, 2022, and before January 1, 2026, shall
159 enter an agreement with the division as provided by rule.
- 160 (4)(a) The agreement shall provide:
- 161 (i) the eligible exploration activities for which the person may incur certified
162 expenditures eligible to receive a tax credit certificate;
- 163 (ii) the type of mineral the person intends to produce;
164 (iii) the maximum number of years a person has between the beginning of eligible

- 165 exploration activities and the production of minerals as a direct result of the
166 eligible exploration activities;
- 167 (iv) the requirements for reporting certified expenditures and production of minerals
168 as a direct result of eligible exploration activity, including:
169 (A) a description of the mine where the eligible exploration activity occurred;
170 (B) evidence that the certified expenditure occurred and the amount of the
171 certified expenditure; and
172 (C) the means for verifying that severance tax liability occurs as a direct result of
173 an eligible exploration activity; and
- 174 (v) a requirement that if a claimant intends to assign a tax credit, the claimant shall
175 provide to the division a written notice of intent to assign the tax credit to another
176 person, in a form the division approves, that includes:
177 (A) written certification or other proof that the claimant irrevocably elects not to
178 claim a tax credit for certified expenditures the claimant assigns; and
179 (B) contact information for the person to which the claimant is assigning the tax
180 credit certificate.
- 181 (b) The parties to the agreement may modify the terms of the agreement.
- 182 (c)(i) The division shall approve certified expenditures upon receiving a report of a
183 certified expenditure unless the division determines that the expenditure does not
184 meet the definition of certified expenditure.
- 185 (ii) If the division determines that an expenditure does not meet the definition of
186 certified expenditure, the division shall provide the person a written explanation
187 that states each reason the division denied the expenditure and give the person an
188 opportunity to correct any deficiency or provide additional information.
- 189 (5)(a) A person with an agreement may apply for a tax credit certificate upon becoming
190 an eligible claimant.
- 191 (b) The person shall include in the application for a tax credit certificate the following
192 information for the taxable year in which the person seeks a tax credit certificate:
193 (i) proof that the person is an eligible claimant;
194 (ii) a description of the mineral that the eligible claimant produced and evidence to
195 support that the mineral is produced from an eligible exploration activity; and
196 (iii) any other information the division requests.
- 197 (6)(a) After the division receives an application for a tax credit certificate, the division
198 shall:

- 199 (i) verify that the person is an eligible claimant; and
200 (ii) determine whether the eligible claimant has approved certified expenditures.
201 (b) Subject to Subsection (6)(c), the division shall issue a tax credit certificate in an
202 amount equal to the amount of the eligible claimant's certified expenditures.
203 (c)(i) The division may not issue a tax credit certificate if the aggregate value of tax
204 credit certificates issued for certified expenditures related to eligible exploration
205 activities at the same mine exceeds \$20,000,000.
206 (ii) Notwithstanding Subsection (6)(c)(i), the division may issue a tax credit
207 certificate up to an aggregate value of \$30,000,000 for certified expenditures
208 related to eligible exploration activities at the same mine if the certified
209 expenditures that exceed \$20,000,000 are for eligible exploration activities
210 undertaken to produce a mineral for which the United States is greater than 50%
211 net import reliant, as provided in the Mineral Commodity Summaries published
212 by the United States Geological Survey, in the calendar year in which an eligible
213 exploration activity commences.
214 (7)(a) If the claimant meets the requirements of Subsection (4)(a)(v), the division shall
215 issue an assigned tax credit certificate to the person identified by the claimant in an
216 amount equal to the claimant's tax credit certificate.
217 (b) A person that receives an assigned tax credit certificate may claim the tax credit
218 under Section 59-5-304 as if the person met the requirements of Section 59-5-304, if
219 the person files a return under Title 59, Chapter 5, Part 2, Mining Severance Tax.
220 (8) An eligible claimant that receives a tax credit certificate with this section shall retain the
221 tax credit certificate and records to support the tax credit certificate for the same time
222 period that a person is required to keep books and records under Section 59-1-1406.
223 (9) For each taxable year, an eligible claimant shall file with the division a report stating:
224 (a) the amount of severance tax liability incurred for the taxable year as a direct result of
225 an eligible exploration activity; and
226 (b) the information the division needs to verify that the severance tax liability is a direct
227 result of an eligible exploration activity.
228 (10) The division shall submit annually to the State Tax Commission an electronic list that
229 includes:
230 (a) the name and identifying information for:
231 (i) each claimant to which the division issues a tax credit certificate; and
232 (ii) each person to which the division issues an assigned tax credit certificate in

- 233 accordance with Subsection (7);
- 234 (b) for each person described in Subsection (10)(a), the amount of the tax credit stated
- 235 on the tax credit certificate;
- 236 (c) for each person described in Subsection (10)(a)(ii), information necessary to identify
- 237 the original tax credit certificate and the assigned tax credit certificate; and
- 238 (d) the amount of severance tax liability for each eligible claimant that the division
- 239 verifies is a direct result of an eligible exploration activity.
- 240 (11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 241 division may make rules governing the administration of the agreement and tax credit
- 242 certificate process described in this section.

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

244 **59-5-101 (Effective 05/07/25) (Applies beginning 01/01/25). Definitions.**

245 As used in this part:

- 246 (1) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
- 247 (2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 248 (3) "Condensate" means [~~those~~] the hydrocarbons, regardless of gravity, that occur naturally
- 249 in the gaseous phase in the reservoir that are separated from the natural gas as liquids
- 250 through the process of condensation either in the reservoir, in the wellbore, or at the
- 251 surface in field separators.
- 252 (4) "Crude oil" means [~~those~~] the hydrocarbons, regardless of gravity, that occur naturally in
- 253 the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid
- 254 form.
- 255 (5) "Development well" means any oil and gas producing well other than a wildcat well.
- 256 (6) "Division" means the Division of Oil, Gas, and Mining established under Title 40,
- 257 Chapter 6, Board and Division of Oil, Gas, and Mining.
- 258 (7) "Enhanced recovery project" means:
- 259 (a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a
- 260 reservoir for the purpose of:
- 261 (i) augmenting reservoir energy;
- 262 (ii) modifying the properties of the fluids or gases in a reservoir; or
- 263 (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and
- 264 gas through the joint use of two or more well bores; and
- 265 (b) a project initially approved by the board as a new or expanded enhanced recovery
- 266 project on or after January 1, 1996.

- 267 (8)(a) "Gas" means:
- 268 (i) natural gas;
- 269 (ii) natural gas liquids; or
- 270 (iii) any mixture of natural gas and natural gas liquids.
- 271 (b) "Gas" does not include solid hydrocarbons.
- 272 (9) "Incremental production" means that part of production, certified by the [~~Division of~~
273 ~~Oil, Gas, and Mining~~] division, which is achieved from an enhanced recovery project
274 that would not have economically occurred under the reservoir conditions existing
275 before the project and that has been approved by the division as incremental production.
- 276 (10) "Natural gas" means [~~those~~] the hydrocarbons, other than oil and other than natural gas
277 liquids separated from natural gas, that occur naturally in the gaseous phase in the
278 reservoir and are produced and recovered at the wellhead in gaseous form.
- 279 (11) "Natural gas liquids" means [~~those~~] the hydrocarbons initially in reservoir natural gas,
280 regardless of gravity, that are separated in gas processing plants from the natural gas as
281 liquids at the surface through the process of condensation, absorption, adsorption, or
282 other methods.
- 283 (12)(a) "Oil" means:
- 284 (i) crude oil;
- 285 (ii) condensate; or
- 286 (iii) any mixture of crude oil and condensate.
- 287 (b) "Oil" does not include solid hydrocarbons.
- 288 (13) "Oil or gas field" means a geographical area overlying oil or gas structures[~~.- The~~] , the
289 boundaries of [~~oil or gas fields~~] which shall conform with the boundaries as fixed by the [
290 ~~Board~~] board and [~~Division of Oil, Gas, and Mining~~] division under Title 40, Chapter 6,
291 Board and Division of Oil, Gas, and Mining.
- 292 (14) "Oil shale" means a group of fine black to dark brown shales containing bituminous
293 material that yields petroleum upon distillation.
- 294 (15) "Operator" means any person engaged in the business of operating an oil or gas well,
295 regardless of whether the person is:
- 296 (a) a working interest owner;
- 297 (b) an independent contractor; or
- 298 (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the
299 commission by rule made in accordance with Title 63G, Chapter 3, Utah
300 Administrative Rulemaking Act.

301 (16) "Owner" means any person having a working interest, royalty interest, payment out of
302 production, or any other interest in the oil or gas produced or extracted from an oil or
303 gas well in the state, or in the proceeds of this production.

304 (17)(a) Subject to Subsections (17)(b) and (c), "processing costs" means the reasonable
305 actual costs of processing oil or gas to remove:

306 (i) natural gas liquids; or

307 (ii) contaminants.

308 (b) If processing costs are determined on the basis of an arm's-length contract,
309 processing costs are the actual costs.

310 (c)(i) If processing costs are determined on a basis other than an arm's-length
311 contract, processing costs are those reasonable costs associated with:

312 (A) actual operating and maintenance expenses, including oil or gas used or
313 consumed in processing;

314 (B) overhead directly attributable and allocable to the operation and maintenance;
315 and

316 (C)(I) depreciation and a return on undepreciated capital investment; or

317 (II) a cost equal to a return on the investment in the processing facilities as
318 determined by the commission.

319 (ii) Subsection (17)(c)(i) includes situations where the producer performs the
320 processing for the producer's product.

321 (18) "Producer" means any working interest owner in any lands in any oil or gas field from
322 which gas or oil is produced.

323 [~~(19) "Recompletion" means any downhole operation that is:~~]

324 [~~(a) conducted to reestablish the producibility or serviceability of a well in any geologic
325 interval; and]~~]

326 [~~(b) approved by the division as a recompletion.~~]

327 [~~(20)~~ (19) "Research and development" means the process of inquiry or experimentation
328 aimed at the discovery of facts, devices, technologies, or applications and the process of
329 preparing those devices, technologies, or applications for marketing.

330 [~~(21)~~ (20) "Royalty interest owner" means the owner of an interest in oil or gas, or in the
331 proceeds of production from the oil or gas who does not have the obligation to share in
332 the expenses of developing and operating the property.

333 [~~(22)~~ (21) "Solid hydrocarbons" means:

334 (a) coal;

- 335 (b) gilsonite;
- 336 (c) ozocerite;
- 337 (d) elaterite;
- 338 (e) oil shale;
- 339 (f) tar sands; and
- 340 (g) all other hydrocarbon substances that occur naturally in solid form.
- 341 ~~[(23)]~~ (22) "Stripper well" means:
- 342 (a) an oil well whose average daily production for the days the well has produced has
- 343 been 20 barrels or less of crude oil a day during any consecutive 12-month period; or
- 344 (b) a gas well whose average daily production for the days the well has produced has
- 345 been 60 MCF or less of natural gas a day during any consecutive 90-day period.
- 346 ~~[(24)]~~ (23) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
- 347 and require further processing other than mechanical blending before becoming finished
- 348 petroleum products.
- 349 ~~[(25)]~~ (24)(a) Subject to Subsections ~~[(25)(b)]~~ (24)(b) and (c), "transportation costs"
- 350 means the reasonable actual costs of transporting oil or gas products from the well to
- 351 the point of sale.
- 352 (b) If transportation costs are determined on the basis of an arm's-length contract,
- 353 transportation costs are the actual costs.
- 354 (c)(i) If transportation costs are determined on a basis other than an arm's-length
- 355 contract, transportation costs are those reasonable costs associated with:
- 356 (A) actual operating and maintenance expenses, including fuel used or consumed
- 357 in transporting the oil or gas;
- 358 (B) overhead costs directly attributable and allocable to the operation and
- 359 maintenance; and
- 360 (C) depreciation and a return on undepreciated capital investment.
- 361 (ii) Subsection ~~[(25)(e)(i)]~~ (24)(c)(i) includes situations where the producer performs
- 362 the transportation for the producer's product.
- 363 (d) Regardless of whether transportation costs are determined on the basis of an
- 364 arm's-length contract or a basis other than an arm's-length contract, transportation
- 365 costs include:
- 366 (i) carbon dioxide removal;
- 367 (ii) compression;
- 368 (iii) dehydration;

369 (iv) gathering;
 370 (v) separating;
 371 (vi) treating; or
 372 (vii) a process similar to Subsections ~~[(25)(d)(i)]~~ (24)(d)(i) through (vi), as determined
 373 by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
 374 Administrative Rulemaking Act.

375 ~~[(26)]~~ (25) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

376 ~~[(27)]~~ (26) "Well~~[-or wells]~~" means any extractive means from which oil or gas is produced
 377 or extracted, located within an oil or gas field, and operated by one person.

378 ~~[(28)]~~ (27) "Wildcat well" means an oil and gas producing well which is drilled and
 379 completed in a pool, as defined under Section 40-6-2, in which a well has not been
 380 previously completed as a well capable of producing in commercial quantities.

381 ~~[(29)]~~ (28) "Working interest owner" means the owner of an interest in oil or gas burdened
 382 with a share of the expenses of developing and operating the property.

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

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

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

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

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

390 **59-5-102 (Effective 05/07/25) (Applies beginning 01/01/25). Definitions --**

391 **Severance tax -- Computation -- Rate -- Annual exemption -- Tax rate reduction.**

392 (1) As used in this section:

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

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

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

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

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

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

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

- 403 (i) for oil, the total volume of barrels minus:
- 404 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate
- 405 and the total volume of barrels; and
- 406 (B) the number of barrels that are exempt under Subsection (2)(b)(ii); and
- 407 (ii) for natural gas, the total volume of MCFs minus:
- 408 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate
- 409 and the total volume of MCFs; and
- 410 (B) the number of MCFs that are exempt under Subsection (2)(b)(ii).
- 411 ~~[(f)]~~ (d) "Total value" means the value, as determined by Section 59-5-103.1, of all oil or
- 412 gas that is:
- 413 (i) produced; and
- 414 (ii)(A) saved;
- 415 (B) sold; or
- 416 (C) transported from the field where the oil or gas was produced.
- 417 ~~[(g)]~~ (e) "Total volume" means:
- 418 (i) for oil, the number of barrels:
- 419 (A) produced; and
- 420 (B)(I) saved;
- 421 (II) sold; or
- 422 (III) transported from the field where the oil was produced; and
- 423 (ii) for natural gas, the number of MCFs:
- 424 (A) produced; and
- 425 (B)(I) saved;
- 426 (II) sold; or
- 427 (III) transported from the field where the natural gas was produced.
- 428 ~~[(h)]~~ (f) "Value of oil or gas taken in kind" means the volume of oil or gas taken in kind
- 429 multiplied by the market price for oil or gas at the location where the oil or gas was
- 430 produced on the date the oil or gas was taken in kind.
- 431 (2)(a) Except as provided in Subsection (2)(b), a person owning an interest in oil or gas
- 432 produced from a well in the state, including a working interest, royalty interest,
- 433 payment out of production, or any other interest, or in the proceeds of the production
- 434 of oil or gas, shall pay to the state a severance tax on the owner's interest in the
- 435 taxable value of the oil or gas:
- 436 (i) produced; and

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

- 471 figure calculated in Subsection (3)(b)(i) that is subject to the rate described in
472 Subsection (4)(b)(ii);
- 473 (iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and
474 (iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.
- 475 (c) The severance tax on natural gas liquids shall be calculated by multiplying the
476 taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).
- 477 (4) Subject to Subsection ~~[(9)]~~ (7):
- 478 (a) the severance tax rate for oil is as follows:
- 479 (i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for
480 oil; and
- 481 (ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;
- 482 (b) the severance tax rate for natural gas is as follows:
- 483 (i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per
484 MCF for gas; and
- 485 (ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas;
486 and
- 487 (c) the severance tax rate for natural gas liquids is 4% of the taxable value of the natural
488 gas liquids.
- 489 (5) If oil or gas is shipped outside the state:
- 490 (a) the shipment constitutes a sale; and
- 491 (b) the oil or gas is subject to the tax imposed by this section.
- 492 (6)(a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is
493 not imposed until the oil or gas is:
- 494 (i) sold;
- 495 (ii) transported; or
- 496 (iii) delivered.
- 497 (b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax
498 imposed by this section.
- 499 ~~[(7)(a) Subject to other provisions of this Subsection (7), a taxpayer that pays for all or
500 part of the expenses of a recompletion or workover may claim a nonrefundable tax
501 credit equal to the amount stated on a tax credit certificate that the office issues to the
502 taxpayer.]~~
- 503 ~~[(b) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:]~~
- 504 ~~[(i) 20% of the taxpayer's payment of expenses of a well recompletion or workover~~

505 during the calendar year; and]

506 [(ii) \$30,000.]

507 ~~[(e) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the~~

508 ~~next three calendar years if the tax credit exceeds the taxpayer's tax liability under~~

509 ~~this part for the calendar year in which the taxpayer claims the tax credit.]~~

510 ~~[(d)(i) To claim a tax credit under this Subsection (7), a taxpayer shall follow the~~

511 ~~procedures and requirements of this Subsection (7)(d).]~~

512 ~~[(ii) The taxpayer shall prepare a summary of the taxpayer's expenses of a well~~

513 ~~recompletion or workover during the calendar year that the well recompletion or~~

514 ~~workover is completed.]~~

515 ~~[(iii) An independent certified public accountant shall:]~~

516 ~~[(A) review the summary from the taxpayer; and]~~

517 ~~[(B) provide a report on the accuracy and validity of the amount of expenses of a~~

518 ~~well recompletion or workover that the taxpayer included in the summary, in~~

519 ~~accordance with the agreed upon procedures.]~~

520 ~~[(iv) The taxpayer shall submit the taxpayer's summary and the independent certified~~

521 ~~public accountant's report to the division to verify that the expenses certified by~~

522 ~~the independent certified public accountant are well recompletion or workover~~

523 ~~expenses.]~~

524 ~~[(v) The division shall return to the taxpayer:]~~

525 ~~[(A) the taxpayer's summary;]~~

526 ~~[(B) the report by the independent certified public accountant; and]~~

527 ~~[(C) a report by the division that includes the amount of approved well~~

528 ~~recompletion or workover expenses.]~~

529 ~~[(vi) The taxpayer shall apply to the office for a tax credit certificate to receive a~~

530 ~~written certification, on a form approved by the commission, that includes:]~~

531 ~~[(A) the amount of the taxpayer's payments of expenses of a well recompletion or~~

532 ~~workover during the calendar year; and]~~

533 ~~[(B) the amount of the taxpayer's tax credit.]~~

534 ~~[(vii) A taxpayer that receives a tax credit certificate shall retain the tax credit~~

535 ~~certificate for the same time period that a person is required to keep books and~~

536 ~~records under Section 59-1-1406.]~~

537 ~~[(e) The office shall submit to the commission an electronic list that includes:]~~

538 ~~[(i) the name and identifying information of each taxpayer to which the office issues~~

539 a tax credit certificate; and]

540 [(ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.]

541 [(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:]

542 [(i) the office may make rules to govern the application process for receiving a tax

543 credit certificate under this Subsection (7); and]

544 [(ii) the division shall make rules to establish the agreed upon procedures described

545 in Subsection (7)(d)(iii).]

546 [(8)(a) Subject to the other provisions of this Subsection (8), a taxpayer may claim a tax

547 credit against a severance tax owing on natural gas under this section if:]

548 [(i) the taxpayer is required to pay a severance tax on natural gas under this section;]

549 [(ii) the taxpayer owns or operates a plant in the state that converts natural gas to

550 hydrogen fuel; and]

551 [(iii) all of the natural gas for which the taxpayer owes a severance tax under this

552 section is used for the production in the state of hydrogen fuel for use in zero

553 emission motor vehicles.]

554 [(b) The taxpayer may claim a tax credit equal to the lesser of:]

555 [(i) the amount of tax that the taxpayer owes under this section; and]

556 [(ii) \$5,000,000.]

557 [(c)(i) To claim a tax credit under this Subsection (8), a taxpayer shall follow the

558 procedures and requirements of this Subsection (8)(c).]

559 [(ii) The taxpayer shall request that the division verify that the taxpayer owns or

560 operates a plant in this state:]

561 [(A) that converts natural gas to hydrogen fuel; and]

562 [(B) at which all natural gas is converted to hydrogen fuel for use in zero emission

563 motor vehicles.]

564 [(d) The division shall submit to the commission an electronic list that includes the name

565 and identifying information of each taxpayer for which the division completed the

566 verification described in Subsection (8)(c).]

567 [(9)] (7) A 50% reduction in the tax rate is imposed upon the incremental production

568 achieved from an enhanced recovery project.

569 [(10)] (8) The taxes imposed by this section are:

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

571 (b) delinquent, unless otherwise deferred, on June 1 following the calendar year when

572 the oil or gas is:

- 573 (i) produced; and
 574 (ii)(A) saved;
 575 (B) sold; or
 576 (C) transported from the field.

577 ~~[(11)]~~ (9) With respect to the tax imposed by this section on each owner of an interest in the
 578 production of oil or gas or in the proceeds of the production of oil or gas in the state,
 579 each owner is liable for the tax in proportion to the owner's interest in the production or
 580 in the proceeds of the production.

581 ~~[(12)]~~ (10) The tax imposed by this section shall be reported and paid by each producer that
 582 takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf
 583 of each owner entitled to participate in the oil or gas sold by the producer or transported
 584 by the producer from the field where the oil or gas is produced.

585 ~~[(13)]~~ (11) Each producer shall deduct the tax imposed by this section from the amounts due
 586 to other owners for the production or the proceeds of the production.

587 Section 5. Section **59-5-301** is enacted to read:

588 **Part 3. Tax Credits**

589 **59-5-301 (Effective 05/07/25) (Applies beginning 01/01/25). Definitions.**

590 As used in this part:

- 591 (1) "Division" means the Division of Oil, Gas, and Mining established under Title 40,
 592 Chapter 6, Board and Division of Oil, Gas, and Mining.
- 593 (2) "High cost infrastructure project" means the same as that term is defined in Section
 594 79-6-602.
- 595 (3) "Infrastructure cost-burdened entity" means the same as that term is defined in Section
 596 79-6-602.
- 597 (4) "Infrastructure-related revenue" means the same as that term is defined in Section
 598 79-6-602.
- 599 (5) "Natural gas" means the same as that term is defined in Section 59-5-101.
- 600 (6) "Natural gas liquids" means the same as that term is defined in Section 59-5-101.
- 601 (7) "Office" means the Office of Energy Development created in Section 79-6-401.
- 602 (8) "Recompletion" means any downhole operation that is:
- 603 (a) conducted to reestablish the producibility or serviceability of a well in any geologic
 604 interval; and
- 605 (b) approved by the division as a recompletion.
- 606 (9) "Well" means the same as that term is defined in Section 59-5-101.

607 (10)(a) "Workover" means any downhole operation that is:
608 (i) conducted to sustain, restore, or increase the producibility or serviceability of a
609 well in the geologic intervals in which the well is currently completed; and
610 (ii) approved by the division as a workover.

611 (b) "Workover" does not include operations that are conducted primarily as routine
612 maintenance or to replace worn or damaged equipment.

613 Section 6. Section **59-5-302** is enacted to read:

614 **59-5-302 (Effective 05/07/25) (Applies beginning 01/01/25). Tax credit for**
615 **recompletion or workover.**

616 (1) A taxpayer that pays for all or part of the expenses of a recompletion or workover may
617 claim a nonrefundable tax credit against taxes due under Section 59-5-102 equal to the
618 amount stated on a tax credit certificate that the office issues to the taxpayer.

619 (2) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:

620 (a) 20% of the taxpayer's payment of expenses of a well recompletion or workover
621 during the calendar year; and

622 (b) \$30,000.

623 (3) A taxpayer may carry forward a tax credit allowed under this section for the next three
624 calendar years if the tax credit exceeds the taxpayer's tax liability under Section 59-5-102
625 for the calendar year in which the taxpayer claims the tax credit.

626 (4)(a) To claim a tax credit, a taxpayer shall follow the procedures and requirements of
627 this Subsection (4).

628 (b) The taxpayer shall prepare a summary of the taxpayer's expenses of a recompletion
629 or workover during the calendar year that the taxpayer completed the recompletion or
630 workover.

631 (c) An independent certified public accountant shall:

632 (i) review the summary from the taxpayer; and

633 (ii) provide a report on the accuracy and validity of the amount of expenses of a
634 recompletion or workover that the taxpayer included in the summary, in
635 accordance with the agreed upon procedures.

636 (d) The taxpayer shall submit the taxpayer's summary and the independent certified
637 public accountant's report to the division to verify that the expenses certified by the
638 independent certified public accountant are recompletion or workover expenses.

639 (e) The division shall return to the taxpayer:

640 (i) the taxpayer's summary;

- 641 (ii) the report by the independent certified public accountant; and
 642 (iii) a report by the division that includes the amount of approved recompletion or
 643 workover expenses.
- 644 (f) The taxpayer shall apply to the office for a tax credit certificate to receive a written
 645 certification, on a form the commission approves, that includes:
- 646 (i) the amount of the taxpayer's payments of expenses of a recompletion or workover
 647 during the calendar year; and
- 648 (ii) the amount of the taxpayer's tax credit.
- 649 (g) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate
 650 for the same time period that a person is required to keep books and records under
 651 Section 59-1-1406.
- 652 (5) The office shall submit to the commission an electronic list that includes:
- 653 (a) the name and identifying information of each taxpayer to which the office issues a
 654 tax credit certificate; and
- 655 (b) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.
- 656 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 657 (a) the office may make rules to govern the application process for receiving a tax credit
 658 certificate; and
- 659 (b) the division shall make rules to establish the agreed upon procedures described in
 660 Subsection (4).
- 661 Section 7. Section **59-5-303** is enacted to read:
- 662 **59-5-303 (Effective 05/07/25) (Applies beginning 01/01/25). Tax credit for**
 663 **natural gas converted to hydrogen fuel.**
- 664 (1) A taxpayer may claim a tax credit against a severance tax owing on natural gas under
 665 Section 59-5-102 if:
- 666 (a) the taxpayer is required to pay a severance tax on natural gas under Section 59-5-102;
 667 (b) the taxpayer owns or operates a plant in the state that converts natural gas to
 668 hydrogen fuel; and
- 669 (c) all of the natural gas for which the taxpayer owes a severance tax under Section
 670 59-5-102 is used for the production in the state of hydrogen fuel for use in zero
 671 emission motor vehicles.
- 672 (2) The taxpayer may claim a tax credit equal to the lesser of:
- 673 (a) the amount of tax that the taxpayer owes under Section 59-5-102; and
 674 (b) \$5,000,000.

- 675 (3)(a) To claim a tax credit, a taxpayer shall follow the procedures and requirements of
 676 this Subsection (3).
- 677 (b) The taxpayer shall request that the division verify that the taxpayer owns or operates
 678 a plant in this state:
- 679 (i) that converts natural gas to hydrogen fuel; and
 680 (ii) at which all natural gas is converted to hydrogen fuel for use in zero emission
 681 motor vehicles.
- 682 (4) The division shall submit to the commission an electronic list that includes the name
 683 and identifying information of each taxpayer for which the division completed the
 684 verification described in Subsection (3).

685 Section 8. Section **59-5-304**, which is renumbered from Section 59-5-216 is renumbered
 686 and amended to read:

687 **[59-5-216] 59-5-304 (Effective 05/07/25) (Applies beginning 01/01/22). Tax credit**
 688 **for mining exploration.**

689 (1) As used in this section:

690 (a) "Assigned tax credit certificate" means the same as that term is defined in Section
 691 40-6-24.

692 ~~[(a)]~~ (b) "Eligible claimant" means a person:

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

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

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

699 (2) Subject to Subsection (3), an eligible claimant may claim a nonrefundable tax credit
 700 against severance tax otherwise due under ~~[this part]~~ Part 2, Mining Severance Tax, in an
 701 amount equal to the amount stated on the tax credit certificate~~[for the taxable year]~~.

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

705 ~~(b)~~ An eligible claimant may not claim in any taxable year a tax credit under Subsection
 706 (2) that exceeds the severance tax liability that directly results from eligible
 707 exploration activity.

708 (4) An eligible claimant may carry forward to the next 15 taxable years the amount of the

709 eligible claimant's tax credit that exceeds the amount described in Subsection (3).

710 Section 9. Section **59-5-305** is enacted to read:

711 **59-5-305 (Effective 05/07/25) (Applies beginning 01/01/25). High cost**
 712 **infrastructure tax credit.**

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

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

719 (2) The tax credit under this section is the amount listed as the tax credit amount on a tax
 720 credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost
 721 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for
 722 the taxable year.

723 (3) An infrastructure cost-burdened entity may carry forward a tax credit under this section
 724 for a period that does not exceed the next seven taxable years if the amount of the
 725 severance tax credit exceeds the infrastructure cost-burdened entity's tax liability under
 726 this chapter for that taxable year.

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

728 **59-7-619 (Effective 05/07/25) (Applies beginning 01/01/25). Nonrefundable high**
 729 **cost infrastructure development tax credit.**

730 (1) As used in this section:

731 (a) "High cost infrastructure project" means the same as that term is defined in Section
 732 79-6-602.

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

735 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
 736 79-6-602.

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

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

741 (b) A corporation that is an infrastructure cost-burdened entity may not claim a tax credit
 742 under this section and under Section 59-5-305 using the same tax credit certificate.

- 743 (3) The tax credit under this section is the amount listed as the tax credit amount on a tax
744 credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost
745 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for
746 the taxable year.
- 747 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this section
748 for a period that does not exceed the next seven taxable years if:
- 749 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this
750 section for a taxable year; and
- 751 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax
752 liability under this chapter for that taxable year.
- 753 (5)(a) In accordance with Section 59-7-159, the Revenue and Taxation Interim
754 Committee shall study the tax credit allowed by this section and make
755 recommendations concerning whether the tax credit should be continued, modified,
756 or repealed.
- 757 (b)(i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required
758 by this Subsection (5), the office shall provide the following information, if
759 available to the office, to the Office of the Legislative Fiscal Analyst:
- 760 (A) the amount of tax credit that the office grants to each infrastructure
761 cost-burdened entity for each taxable year;
- 762 (B) the infrastructure-related revenue generated by each high cost infrastructure
763 project;
- 764 (C) the information contained in the office's latest report under Section 79-6-605;
765 and
- 766 (D) any other information that the Office of the Legislative Fiscal Analyst
767 requests.
- 768 (ii)(A) In providing the information described in Subsection (5)(b)(i), the office
769 shall redact information that identifies a recipient of a tax credit under this
770 section.
- 771 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A),
772 reporting the information described in Subsection (5)(b)(i) might disclose the
773 identity of a recipient of a tax credit, the office may file a request with the
774 Revenue and Taxation Interim Committee to provide the information described
775 in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened
776 entities that receive the tax credit under this section.

- 777 (c) As part of the study required by this Subsection (5), the Office of the Legislative
778 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a
779 summary and analysis of the information provided to the Office of the Legislative
780 Fiscal Analyst by the office under Subsection (5)(b).
- 781 (d) The Revenue and Taxation Interim Committee shall ensure that the
782 recommendations described in Subsection (5)(a) include an evaluation of:
783 (i) the cost of the tax credit to the state;
784 (ii) the purpose and effectiveness of the tax credit; and
785 (iii) the extent to which the state benefits from the tax credit.
- 786 (6) Notwithstanding Section 59-7-903, the commission may not remove the tax credit
787 described in this section from the tax return for a taxable year beginning before January
788 1, 2027.
- 789 Section 11. Section **59-10-1034** is amended to read:
790 **59-10-1034 (Effective 05/07/25) (Applies beginning 01/01/25). Nonrefundable**
791 **high cost infrastructure development tax credit.**
- 792 (1) As used in this section:
793 (a) "High cost infrastructure project" means the same as that term is defined in Section
794 79-6-602.
795 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in
796 Section 79-6-602.
797 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
798 79-6-602.
799 (d) "Office" means the Office of Energy Development created in Section 79-6-401.
- 800 (2)(a) Subject to the other provisions of this section, a claimant, estate, or trust that is an
801 infrastructure cost-burdened entity may claim a nonrefundable tax credit for
802 development of a high cost infrastructure project as provided in this section.
803 (b) A claimant, estate, or trust that is an infrastructure cost-burdened entity may not
804 claim a tax credit under this section and under Section 59-5-305 using the same tax
805 credit certificate.
- 806 (3) The tax credit under this section is the amount listed as the tax credit amount on a tax
807 credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost
808 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for
809 the taxable year.
- 810 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this section

- 811 for a period that does not exceed the next seven taxable years if:
- 812 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this
813 section for a taxable year; and
- 814 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax
815 liability under this chapter for that taxable year.
- 816 (5)(a) In accordance with Section 59-10-137, the Revenue and Taxation Interim
817 Committee shall study the tax credit allowed by this section and make
818 recommendations concerning whether the tax credit should be continued, modified,
819 or repealed.
- 820 (b)(i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required
821 by this Subsection (5), the office shall provide the following information, if
822 available to the office, to the Office of the Legislative Fiscal Analyst:
- 823 (A) the amount of tax credit that the office grants to each infrastructure
824 cost-burdened entity for each taxable year;
- 825 (B) the infrastructure-related revenue generated by each high cost infrastructure
826 project;
- 827 (C) the information contained in the office's latest report under Section 79-6-605;
828 and
- 829 (D) any other information that the Office of the Legislative Fiscal Analyst
830 requests.
- 831 (ii)(A) In providing the information described in Subsection (5)(b)(i), the office
832 shall redact information that identifies a recipient of a tax credit under this
833 section.
- 834 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A),
835 reporting the information described in Subsection (5)(b)(i) might disclose the
836 identity of a recipient of a tax credit, the office may file a request with the
837 Revenue and Taxation Interim Committee to provide the information described
838 in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened
839 entities that receive the tax credit under this section.
- 840 (c) As part of the study required by this Subsection (5), the Office of the Legislative
841 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a
842 summary and analysis of the information provided to the Office of the Legislative
843 Fiscal Analyst by the office under Subsection (5)(b).
- 844 (d) The Revenue and Taxation Interim Committee shall ensure that the

845 recommendations described in Subsection (5)(a) include an evaluation of:

- 846 (i) the cost of the tax credit to the state;
- 847 (ii) the purpose and effectiveness of the tax credit; and
- 848 (iii) the extent to which the state benefits from the tax credit.

849 Section 12. Section **63L-2-202** is enacted to read:

850 **63L-2-202 (Effective 05/07/25). Federal impacts related to critical mineral**
 851 **deposits.**

852 (1) As used in this section:

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

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

- 857 (i) national monument;
- 858 (ii) national conservation area;
- 859 (iii) wilderness area or wilderness study area;
- 860 (iv) area of critical environmental concern;
- 861 (v) research natural area; or
- 862 (vi) national recreation area.

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

867 Section 13. Section **79-6-401** is amended to read:

868 **79-6-401 (Effective 05/07/25) (Applies beginning 01/01/25). Office of Energy**
 869 **Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential**
 870 **information -- Fees -- Transition for employees.**

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

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

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

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

- 879 (a) serve as the primary resource for advancing energy and mineral development in the
880 state;
- 881 (b) implement:
- 882 (i) the state energy policy under Section 79-6-301; and
883 (ii) the governor's energy and mineral development goals and objectives;
- 884 (c) advance energy education, outreach, and research, including the creation of
885 elementary, higher education, and technical college energy education programs;
- 886 (d) promote energy and mineral development workforce initiatives;
- 887 (e) support collaborative research initiatives targeted at Utah-specific energy and
888 mineral development;
- 889 (f) in coordination with the Department of Environmental Quality and other relevant
890 state agencies:
- 891 (i) develop effective policy strategies to advocate for and protect the state's interests
892 relating to federal energy and environmental entities, programs, and regulations;
- 893 (ii) participate in the federal environmental rulemaking process by:
- 894 (A) advocating for positive reform of federal energy and environmental
895 regulations and permitting;
- 896 (B) coordinating with other states to develop joint advocacy strategies; and
897 (C) conducting other government relations efforts; and
- 898 (iii) direct the funding of legal efforts to combat federal overreach and unreasonable
899 delays regarding energy and environmental permitting; and
- 900 (g) fund the development of detailed and accurate forecasts of the state's long-term
901 energy supply and demand, including a baseline projection of expected supply and
902 demand and analysis of potential alternative scenarios.
- 903 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds
904 Procedures Act, the office may:
- 905 (a) seek federal grants or loans;
- 906 (b) seek to participate in federal programs; and
- 907 (c) in accordance with applicable federal program guidelines, administer federally
908 funded state energy programs.
- 909 (5) The office shall perform the duties required by Sections 11-42a-106, ~~59-5-102~~ 59-5-302,
910 59-7-614.7, 59-10-1029, Part 5, Alternative Energy Development Tax Credit Act, and
911 Part 6, High Cost Infrastructure Development Tax Credit Act.
- 912 (6)(a) For purposes of administering this section, the office may make rules, by

- 913 following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as
914 confidential, and not as a public record, information that the office receives from any
915 source.
- 916 (b) The office shall maintain information the office receives from any source at the level
917 of confidentiality assigned by the source.
- 918 (7) The office may charge application, filing, and processing fees in amounts determined by
919 the office in accordance with Section 63J-1-504 as dedicated credits for performing
920 office duties described in this part.
- 921 (8)(a) An employee of the office on April 30, 2024, is an at-will employee.
- 922 (b) For an employee described in Subsection (8)(a) who was employed by the office on
923 April 30, 2024, the employee shall have the same salary and benefit options an
924 employee had when the office was part of the office of the governor.
- 925 (c) An employee of the office hired on or after May 1, 2024, shall receive compensation
926 as provided in Title 63A, Chapter 17, Utah State Personnel Management Act.
- 927 (9)(a) The office shall prepare a strategic energy plan to achieve the state's energy
928 policy, including:
- 929 (i) technological and infrastructure innovation needed to meet future energy demand
930 including:
- 931 (A) energy production technologies;
- 932 (B) battery and storage technologies;
- 933 (C) smart grid technologies;
- 934 (D) energy efficiency technologies; and
- 935 (E) any other developing energy technology, energy infrastructure planning, or
936 investments that will assist the state in meeting energy demand;
- 937 (ii) the state's efficient use and development of:
- 938 (A) energy resources, including natural gas, coal, clean coal, hydrogen, oil, oil
939 shale, and oil sands;
- 940 (B) renewable energy resources, including geothermal, solar, hydrogen, wind,
941 biomass, biofuel, and hydroelectric;
- 942 (C) nuclear power; and
- 943 (D) earth minerals;
- 944 (iii) areas of energy-related academic research;
- 945 (iv) specific areas of workforce development necessary for an evolving energy
946 industry;

- 947 (v) the development of partnerships with national laboratories; and
948 (vi) a proposed state budget for economic development and investment.
- 949 (b) In preparing the strategic energy plan, the office shall:
- 950 (i) consult with stakeholders, including representatives from:
- 951 (A) energy companies in the state;
952 (B) private and public institutions of higher education within the state conducting
953 energy-related research; and
954 (C) other state agencies; and
- 955 (ii) use modeling and industry standard data to:
- 956 (A) define the energy services required by a growing economy;
957 (B) calculate energy needs;
958 (C) develop state strategy for energy transportation, including transmission lines,
959 pipelines, and other infrastructure needs;
960 (D) optimize investments to meet energy needs at the least cost and least risk
961 while meeting the policy outlined in this section;
962 (E) address state needs and investments through a prospective 30-year period,
963 divided into five-year working plans; and
964 (F) update the plan at least every two years.
- 965 (c) The office shall report annually to the Public Utilities, Energy, and Technology
966 Interim Committee on or before the October interim meeting describing:
- 967 (i) progress towards creation and implementation of the strategic energy plan;
968 (ii) the plan's compliance with the state energy policy; and
969 (iii) a proposed budget for the office to continue development of the strategic energy
970 plan.
- 971 (10) The director shall:
- 972 (a) annually review and propose updates to the state's energy policy, as contained in
973 Section 79-6-301;
- 974 (b) promote as the governor considers necessary:
- 975 (i) the development of cost-effective energy resources both renewable and
976 nonrenewable; and
977 (ii) educational programs, including programs supporting conservation and energy
978 efficiency measures;
- 979 (c) coordinate across state agencies to assure consistency with state energy policy,
980 including:

- 981 (i) working with the State Energy Program to promote access to federal assistance for
982 energy-related projects for state agencies and members of the public;
- 983 (ii) working with the Division of Emergency Management to assist the governor in
984 carrying out the governor's energy emergency powers under Title 53, Chapter 2a,
985 Part 10, Energy Emergency Powers of the Governor Act;
- 986 (iii) participating in the annual review of the energy emergency plan and the
987 maintenance of the energy emergency plan and a current list of contact persons
988 required by Section 53-2a-902; and
- 989 (iv) identifying and proposing measures necessary to facilitate low-income
990 consumers' access to energy services;
- 991 (d) coordinate with the Division of Emergency Management ongoing activities designed
992 to test an energy emergency plan to ensure coordination and information sharing
993 among state agencies and political subdivisions in the state, public utilities and other
994 energy suppliers, and other relevant public sector persons as required by Sections
995 53-2a-902, 53-2a-1004, 53-2a-1008, and 53-2a-1010;
- 996 (e) coordinate with requisite state agencies to study:
- 997 (i) the creation of a centralized state repository for energy-related information;
- 998 (ii) methods for streamlining state review and approval processes for energy-related
999 projects; and
- 1000 (iii) the development of multistate energy transmission and transportation
1001 infrastructure;
- 1002 (f) coordinate energy-related regulatory processes within the state;
- 1003 (g) compile, and make available to the public, information about federal, state, and local
1004 approval requirements for energy-related projects;
- 1005 (h) act as the state's advocate before federal and local authorities for energy-related
1006 infrastructure projects or coordinate with the appropriate state agency; and
- 1007 (i) help promote the Division of Facilities Construction and Management's measures to
1008 improve energy efficiency in state buildings.
- 1009 (11) The director has standing to testify on behalf of the governor at the Public Service
1010 Commission created in Section 54-1-1.
- 1011 (12) The office shall include best practices in developing actionable goals and
1012 recommendations as part of preparing and updating every two years the strategic energy
1013 plan required under Subsection (9).
- 1014 (13) The office shall maintain and regularly update a public website that provides an

1015 accessible dashboard of relevant metrics and reports and makes available the data used
1016 to create the strategic energy plan.

1017 Section 14. Section **79-6-602** is amended to read:

1018 **79-6-602 (Effective 05/07/25) (Applies beginning 01/01/25). Definitions.**

1019 As used in this part:

1020 (1) "Applicant" means a person that conducts business in the state and that applies for a tax
1021 credit under this part.

1022 (2)(a) "Energy delivery project" means a project that is designed to:

1023 (i) increase the capacity for the delivery of energy to a user of energy inside or
1024 outside the state;

1025 (ii) increase the capability of an existing energy delivery system or related facility to
1026 deliver energy to a user of energy inside or outside the state; or

1027 (iii) increase the production and delivery of geothermal energy through horizontal
1028 drilling to create injection and production wells.

1029 (b) "Energy delivery project" includes:

1030 (i) a hydroelectric energy storage system;

1031 (ii) a utility-scale battery storage system; or

1032 (iii) a nuclear power generation system.

1033 (3) "Emissions reduction project" means a project that is designed to reduce the emissions
1034 of an existing electrical generation facility, refinery, smelter, kiln, mineral processing
1035 facility, manufacturing facility, oil or gas production facility, or other industrial facility,
1036 by utilizing selective catalytic reduction technology, carbon capture utilization and
1037 sequestration technology, or any other emissions reduction technology or equipment.

1038 (4) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in
1039 order to make the refinery capable of producing fuel that complies with the United
1040 States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in
1041 40 C.F.R. Sec. 79.54.

1042 (5) "High cost infrastructure project" means:

1043 (a) for an energy delivery project, fuel standard compliance project, mineral processing
1044 project, or underground mine infrastructure project, a project:

1045 (i)(A) that expands or creates new industrial, mining, manufacturing, or
1046 agriculture activity in the state, not including a retail business;

1047 (B) that involves new investment of at least \$50,000,000 made by an existing
1048 industrial, mining, manufacturing, or agriculture entity located within a county

- 1049 of the first or second class;
- 1050 (C) that involves new investment of at least \$25,000,000 made by an existing
- 1051 industrial, mining, manufacturing, or agriculture entity located within a county
- 1052 of the third, fourth, fifth, or sixth class, or a municipality with a population of
- 1053 10,000 or less located within a county of the second class; or
- 1054 (D) for the construction of a plant or other facility for the storage or production of
- 1055 fuel used for transportation, electricity generation, or industrial use;
- 1056 (ii) that requires or is directly facilitated by infrastructure construction; and
- 1057 (iii) for which the cost of infrastructure construction to the entity creating the project
- 1058 is greater than:
- 1059 (A) 10% of the total cost of the project; or
- 1060 (B) \$10,000,000; and
- 1061 (b) for an emissions reduction project, water purification project, or water resource
- 1062 forecasting project, a project:
- 1063 (i) that involves:
- 1064 (A) new investment of at least \$50,000,000 made by an existing industrial,
- 1065 mining, manufacturing, or agriculture entity located within a county of the first
- 1066 or second class; or
- 1067 (B) new investment of at least \$25,000,000 made by an existing industrial,
- 1068 mining, manufacturing, or agriculture entity located within a county of the
- 1069 third, fourth, fifth, or sixth class, or a municipality with a population of 10,000
- 1070 or less located within a county of the second class; and
- 1071 (ii) that requires or is directly facilitated by infrastructure construction.
- 1072 (6) "Infrastructure" means:
- 1073 (a) an energy delivery project;
- 1074 (b) a railroad as defined in Section 54-2-1;
- 1075 (c) a fuel standard compliance project;
- 1076 (d) a road improvement project;
- 1077 (e) a water self-supply project;
- 1078 (f) a water removal system project;
- 1079 (g) a solution-mined subsurface salt cavern;
- 1080 (h) a project that is designed to:
- 1081 (i) increase the capacity for water delivery to a water user in the state; or
- 1082 (ii) increase the capability of an existing water delivery system or related facility to

- 1083 deliver water to a water user in the state;
- 1084 (i) an underground mine infrastructure project;
- 1085 (j) an emissions reduction project;
- 1086 (k) a mineral processing project;
- 1087 (l) a water purification project; or
- 1088 (m) a water resource forecasting project.
- 1089 (7)(a) "Infrastructure cost-burdened entity" means an applicant that enters into an
 1090 agreement with the office that qualifies the applicant to receive a tax credit as
 1091 provided in this part.
- 1092 (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as
 1093 defined in Section 59-10-1402, of a person described in Subsection (7)(a).
- 1094 (8) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating
 1095 a high cost infrastructure project, in a taxable year, that is directly attributable to a high
 1096 cost infrastructure project, under:
- 1097 (a) Subsection 59-24-103.5(2)(e);
- 1098 (b) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;
- 1099 (c) Title 59, Chapter 5, Part 2, Mining Severance Tax;
- 1100 (d) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 1101 (e) Title 59, Chapter 10, Individual Income Tax Act; and
- 1102 (f) Title 59, Chapter 12, Sales and Use Tax Act.
- 1103 (9) "Mineral processing project" means a project that is designed to:
- 1104 (a) process, smelt, refine, convert, separate, or otherwise beneficiate metalliferous
 1105 minerals as defined in Section 59-5-201 or a metalliferous compound as defined in
 1106 Section 59-5-202;
- 1107 (b) calcine limestone or manufacture cement;
- 1108 (c) process, refine, or otherwise beneficiate chloride compounds, salts, potash, gypsum,
 1109 sulfur or sulfuric acid, ammonium nitrate, phosphate, or uintaite; or
- 1110 (d) convert or gasify coal to recover chemical compounds, gases, or minerals.
- 1111 (10) "Office" means the Office of Energy Development created in Section 79-6-401.
- 1112 (11) "Tax credit" means a tax credit under Section 59-5-305, 59-7-619, or 59-10-1034.
- 1113 (12) "Tax credit certificate" means a certificate issued by the office to an infrastructure
 1114 cost-burdened entity that:
- 1115 (a) lists the name of the infrastructure cost-burdened entity;
- 1116 (b) lists the infrastructure cost-burdened entity's taxpayer identification number;

- 1117 (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure
 1118 cost-burdened entity under this part; and
- 1119 (d) includes other information as determined by the office.
- 1120 (13)(a) "Underground mine infrastructure project" means a project that:
- 1121 (i) is designed to create permanent underground infrastructure to facilitate
 1122 underground mining operations; and
- 1123 (ii) services multiple levels or areas of an underground mine or multiple underground
 1124 mines.
- 1125 (b) "Underground mine infrastructure project" includes:
- 1126 (i) an underground access or a haulage road, entry, ramp, or decline;
 1127 (ii) a vertical or incline mine shaft;
 1128 (iii) a ventilation shaft or an air course; or
 1129 (iv) a conveyor or a truck haulageway.
- 1130 (14) "Water purification project" means a project that, in order to meet applicable quality
 1131 standards established under Title 19, Chapter 5, Water Quality Act, is designed to reduce
 1132 the existing total dissolved solids or other naturally existing impurities contained in
 1133 water sources:
- 1134 (a) located at a distance of not less than 2,000 feet below the surface;
 1135 (b) associated with existing mineral operations; or
 1136 (c) associated with deep water mining operations designed primarily for the
 1137 revitalization of the Great Salt Lake.
- 1138 (15) "Water resource forecasting project" means a project that includes a network of
 1139 permanent physical data collection systems designed to improve forecasting for the
 1140 availability of seasonal water flows within the state, including flash flooding and other
 1141 event-driven water flows resulting from localized severe weather events.
- 1142 Section 15. Section **79-6-603** is amended to read:
- 1143 **79-6-603 (Effective 05/07/25) (Applies beginning 01/01/25). Tax credit -- Amount**
 1144 **-- Eligibility -- Reporting.**
- 1145 (1)(a) Before the office enters into an agreement described in Subsection (3) with an
 1146 applicant regarding a project, the office, in consultation with the Utah Energy
 1147 Infrastructure Board created in Section 79-6-902, and other state agencies as
 1148 necessary, shall, in accordance with the procedures described in Section 79-6-604,
 1149 certify:
- 1150 (i) that the project meets the definition of a high cost infrastructure project under this

- 1151 part;
- 1152 (ii) that the high cost infrastructure project will generate infrastructure-related
1153 revenue;
- 1154 (iii) the economic life of the high cost infrastructure project; and
- 1155 (iv) that the applicant has received a certificate of existence from the Division of
1156 Corporations and Commercial Code.
- 1157 (b)(i) [~~For purposes of determining whether a project meets the definition of a high~~
1158 ~~cost infrastructure project,] Except as provided in Subsection (1)(b)(ii), the office
1159 shall consider a project to be a new project, for purposes of determining whether a
1160 project meets the definition of a high cost infrastructure project, if the project
1161 began no earlier than the taxable year before the year in which the applicant
1162 submits an application or a preliminary application for a tax credit.~~
- 1163 (ii) For the taxable year beginning on or after January 1, 2025, and beginning before
1164 January 1, 2026, the office may consider a project to be a new project if the
1165 applicant applies for a tax credit in accordance with Subsection (5)(a).
- 1166 (2)(a) Before the office enters into an agreement described in Subsection (3) with an
1167 applicant regarding a project, the Utah Energy Infrastructure Board shall evaluate the
1168 project's net benefit to the state, including:
- 1169 (i) whether the project is likely to increase the property tax revenue for the
1170 municipality or county where the project will be located;
- 1171 (ii) whether the project would contribute to the economy of the state and the
1172 municipality, tribe, or county where the project will be located;
- 1173 (iii) whether the project would provide new infrastructure for an area where the type
1174 of infrastructure the project would create is underdeveloped;
- 1175 (iv) whether the project is supported by a business case for providing the revenue
1176 necessary to finance the construction and operation of the project;
- 1177 (v) whether the project would have a positive environmental impact on the state;
- 1178 (vi) whether the project promotes responsible energy development;
- 1179 (vii) whether the project would upgrade or improve an existing entity in order to
1180 ensure the entity's continued operation and economic viability;
- 1181 (viii) whether the project is less likely to be completed without a tax credit issued to
1182 the applicant under this part; and
- 1183 (ix) other relevant factors that the board specifies in the board's evaluation.
- 1184 (b) Before the office enters into an agreement described in Subsection (3) with an

1185 applicant regarding an energy delivery project, in addition to the criteria described in
1186 Subsection (2)(a) the Utah Energy Infrastructure Board shall determine that the
1187 project:

1188 (i) is strategically situated to maximize connections to an energy source project
1189 located in the state that is:

1190 (A) existing;

1191 (B) under construction;

1192 (C) planned; or

1193 (D) foreseeable;

1194 (ii) is supported by a project plan related to:

1195 (A) engineering;

1196 (B) environmental issues;

1197 (C) energy production;

1198 (D) load or other capacity; and

1199 (E) any other issue related to the building and operation of energy delivery
1200 infrastructure; and

1201 (iii) complies with the regulations of the following regarding the building of energy
1202 delivery infrastructure:

1203 (A) the Federal Energy Regulatory Commission;

1204 (B) the North American Electric Reliability Council; and

1205 (C) the Public Service Commission of Utah.

1206 (c) The Utah Energy Infrastructure Board may recommend that the office deny an
1207 applicant a tax credit if, as determined by the Utah Energy Infrastructure Board:

1208 (i) the project does not sufficiently benefit the state based on the criteria described in
1209 Subsection (2)(a); or

1210 (ii) for an energy delivery project, the project does not satisfy the conditions
1211 described in Subsection (2)(b).

1212 (3) Subject to the procedures described in Section 79-6-604, if an applicant meets the
1213 requirements of Subsection (1) to receive a tax credit, and the applicant's project
1214 receives a favorable recommendation from the Utah Energy Infrastructure Board under
1215 Subsection (2), the office shall enter into an agreement with the applicant to authorize
1216 the tax credit in accordance with this part.

1217 (4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high
1218 cost infrastructure project, under an agreement described in Subsection (3):

- 1219 (a) for the lesser of:
- 1220 (i) the economic life of the high cost infrastructure project;
- 1221 (ii) 20 years; or
- 1222 (iii) a time period, the first taxable year of which is the taxable year when the
- 1223 construction of the high cost infrastructure project begins and the last taxable year
- 1224 of which is the taxable year in which the infrastructure cost-burdened entity has
- 1225 recovered, through the tax credit, an amount equal to:
- 1226 (A) 50% of the cost of the infrastructure construction associated with the high cost
- 1227 infrastructure project; or
- 1228 (B) if the high cost infrastructure project is a fuel standard compliance project,
- 1229 30% of the cost of the infrastructure construction associated with the high cost
- 1230 infrastructure project;
- 1231 (b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of
- 1232 the high cost infrastructure project's total infrastructure-related revenue over the time
- 1233 period described in Subsection (4)(a);
- 1234 (c) for a taxable year, in an amount that does not exceed the high cost infrastructure
- 1235 project's infrastructure-related revenue during that taxable year;
- 1236 (d) that the infrastructure cost-burdened entity may use against severance tax or income
- 1237 tax, but not both; and
- 1238 ~~[(d)]~~ (e) if the high cost infrastructure project is a fuel standard compliance project, in a
- 1239 total amount that is:
- 1240 (i) determined by the Utah Energy Infrastructure Board, based on:
- 1241 (A) the applicant's likelihood of completing the high cost infrastructure project
- 1242 without a tax credit; and
- 1243 (B) how soon the applicant plans to complete the high cost infrastructure project;
- 1244 and
- 1245 (ii) equal to or less than 30% of the high cost infrastructure project's total
- 1246 infrastructure-related revenue over the time period described in Subsection (4)(a).
- 1247 (5)(a) For the taxable year beginning on or after January 1, 2025, and beginning before
- 1248 January 1, 2026, the office shall grant a tax credit certificate to an infrastructure
- 1249 cost-burdened entity:
- 1250 (i) that applies for a tax credit described in Section 59-5-305;
- 1251 (ii) that meets the requirements of Subsection (4) except that the first taxable year for
- 1252 which the infrastructure cost-burdened entity claims a credit is taxable year 2024;

1253 and
 1254 (iii) in an amount that does not exceed the high cost infrastructure project's
 1255 infrastructure-related revenue during the taxable year beginning on or after
 1256 January 1, 2024, and beginning before January 1, 2025.
 1257 (b) The tax credit described in Subsection (5)(a) is in addition to a tax credit for which
 1258 the infrastructure cost-burdened entity may claim against income tax or severance tax
 1259 for the taxable year beginning on or after January 1, 2025, and beginning before
 1260 January 1, 2026.

1261 ~~[(5)]~~ (6) An infrastructure cost-burdened entity shall, for each taxable year:
 1262 (a) file a report with the office showing the high cost infrastructure project's
 1263 infrastructure-related revenue during the taxable year;
 1264 (b) subject to Subsection ~~[(7)]~~ (8), file a report with the office that is prepared by an
 1265 independent certified public accountant that verifies the infrastructure-related revenue
 1266 described in Subsection ~~[(5)(a)]~~ (6)(a); and
 1267 (c) provide the office with information required by the office to certify the economic life
 1268 of the high cost infrastructure project.

1269 ~~[(6)]~~ (7) An infrastructure cost-burdened entity shall retain records supporting a claim for a
 1270 tax credit for the same period of time during which a person is required to keep books
 1271 and records under Section 59-1-1406.

1272 ~~[(7)]~~ (8) An infrastructure cost-burdened entity for which a report is prepared under
 1273 Subsection ~~[(5)(b)]~~ (6)(b) shall pay the costs of preparing the report.

1274 ~~[(8)]~~ (9) The office shall certify, for each taxable year, the infrastructure-related revenue
 1275 generated by an infrastructure cost-burdened entity.

1276 Section 16. Section **79-6-604** is amended to read:

1277 **79-6-604 (Effective 05/07/25) (Applies beginning 01/01/25). Tax credit --**

1278 **Application procedure.**

1279 (1) An applicant shall provide the office with:

- 1280 (a) an application for a tax credit certificate;
- 1281 (b) documentation that the applicant meets the requirements described in Subsection
- 1282 79-6-603(1), to the satisfaction of the office, for the taxable year for which the
- 1283 applicant seeks to claim a tax credit; and
- 1284 (c) documentation that expressly directs and authorizes the State Tax Commission to
- 1285 disclose to the office the applicant's returns and other information concerning the
- 1286 applicant that would otherwise be subject to confidentiality under Section 59-1-403

- 1287 or Section 6103, Internal Revenue Code.
- 1288 (2)(a) The office shall, for an applicant, submit the documentation described in
1289 Subsection (1)(c) to the State Tax Commission.
- 1290 (b) Upon receipt of the documentation described in Subsection (1)(c), the State Tax
1291 Commission shall provide the office with the documentation described in Subsection
1292 (1)(c).
- 1293 (3) If, after the office reviews the documentation from the State Tax Commission under
1294 Subsection (2)(b) and the information the applicant submits to the office under Section
1295 79-6-603, the office, in consultation with the Utah Energy Infrastructure Board created
1296 in Section 79-6-902, determines that the applicant is not eligible for the tax credit under
1297 Section 79-6-603, or that the applicant's documentation is inadequate, the office shall:
- 1298 (a) deny the tax credit; or
- 1299 (b) inform the applicant that the documentation supporting the applicant's claim for a tax
1300 credit was inadequate and request that the applicant supplement the applicant's
1301 documentation.
- 1302 (4) Except as provided in Subsection (5), if, after the office reviews the documentation
1303 described in Subsection (2)(b) and the information described in Subsection 79-6-603(6),
1304 the office, in consultation with the Utah Energy Infrastructure Board created in Section
1305 79-6-902, determines that the documentation supporting an applicant's claim for a tax
1306 credit adequately demonstrates that the applicant is eligible for the tax credit under
1307 Section 79-6-603, the office shall, on the basis of the documentation:
- 1308 (a) enter, with the applicant, into the agreement described in Subsection 79-6-603(3);
1309 (b) issue a tax credit certificate to the applicant; and
1310 (c) provide a duplicate copy of the tax credit certificate described in Subsection (4)(b) to
1311 the State Tax Commission.
- 1312 (5) The office may deny an applicant a tax credit based on the recommendation of the Utah
1313 Energy Infrastructure Board, as provided in Subsection 79-6-603(2).
- 1314 (6) An infrastructure cost-burdened entity may not claim a tax credit[~~under Section~~
1315 ~~59-7-619 or 59-10-1034~~] unless the infrastructure cost-burdened entity receives a tax
1316 credit certificate from the office.
- 1317 (7) An infrastructure cost-burdened entity that claims a tax credit shall retain the tax credit
1318 certificate in accordance with Subsection 79-6-603(7).
- 1319 (8) Except for the information that is necessary for the office to disclose in order to make
1320 the report described in Section 79-6-605, the office shall treat a document an applicant

1321 or infrastructure cost-burdened entity provides to the office as a protected record under
1322 Section 63G-2-305.

1323 Section 17. **Effective Date.**

1324 This bill takes effect on May 7, 2025.

1325 Section 18. **Retrospective operation.**

1326 (1) Except as provided in Subsections (2) and (3), this bill has retrospective operation for a
1327 taxable year beginning on or after January 1, 2025.

1328 (2) The actions affecting the following sections have retrospective operation for a taxable
1329 year beginning on or after January 1, 2022:

1330 (a) Section 40-6-24 (Effective 05/07/25)(Applies beginning 01/01/22); and

1331 (b) Section 59-5-304 (Effective 05/07/25)(Applies beginning 01/01/22).

1332 (3) The actions affecting the following sections have no retrospective operation:

1333 (a) Section 40-6-16 (Effective 05/07/25); and

1334 (b) Section 63L-2-202 (Effective 05/07/25).