

1 **TECHNOLOGY AND LIFE SCIENCE ECONOMIC**
2 **DEVELOPMENT ACT AND RELATED TAX CREDITS**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: David Clark**

6 Senate Sponsor: Curtis S. Bramble

8 **LONG TITLE**

9 **General Description:**

10 This bill enacts the Technology and Life Science Economic Development Act and
11 provides for income tax credits related to certain technology and life science
12 companies.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ enacts a nonrefundable income tax credit related to certain capital gain transactions
16 related to a life science establishment;
- 17 ▶ enacts a nonrefundable income tax credit related to the purchase of an ownership
18 interest in certain life science establishments;
- 19 ▶ enacts a refundable income tax credit for certain business entities that generate an
20 increase in state tax revenues;
- 21 ▶ enacts the Technology and Life Science Economic Development Act, including:
 - 22 • defining terms;
 - 23 • granting rulemaking authority;
 - 24 • authorizing the Governor's Office of Economic Development to enter into an
25 agreement with certain persons;
 - 26 • establishing procedures to certify a tax credit and issue a tax credit certificate;
 - 27 and
 - 28 • requiring certain reports and studies; and
 - 29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 This bill appropriates:

32 ▶ to the Governor's Office of Economic Development - Administration as a one-time
33 appropriation:

34 • from the General Fund, \$200,000, subject to intent language stating that the
35 appropriation shall be used to administer the tax credits enacted in this bill.

36 **Other Special Clauses:**

37 This bill provides effective dates.

38 This bill provides for retrospective operation.

39 **Utah Code Sections Affected:**

40 ENACTS:

- 41 **59-7-614.6**, Utah Code Annotated 1953
- 42 **59-10-1025**, Utah Code Annotated 1953
- 43 **59-10-1026**, Utah Code Annotated 1953
- 44 **59-10-1109**, Utah Code Annotated 1953
- 45 **63M-1-2901**, Utah Code Annotated 1953
- 46 **63M-1-2902**, Utah Code Annotated 1953
- 47 **63M-1-2903**, Utah Code Annotated 1953
- 48 **63M-1-2904**, Utah Code Annotated 1953
- 49 **63M-1-2905**, Utah Code Annotated 1953
- 50 **63M-1-2906**, Utah Code Annotated 1953
- 51 **63M-1-2907**, Utah Code Annotated 1953
- 52 **63M-1-2908**, Utah Code Annotated 1953
- 53 **63M-1-2909**, Utah Code Annotated 1953
- 54 **63M-1-2910**, Utah Code Annotated 1953
- 55 **63M-1-2911**, Utah Code Annotated 1953



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

58 Section 1. Section **59-7-614.6** is enacted to read:

59 **59-7-614.6. Refundable tax credit for certain business entities generating state tax**
60 **revenue increases.**

61 (1) As used in this section:

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

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

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

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

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

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

68 (b) if the eligible business entity is a pass-through entity, pass through to one or more
69 pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part
70 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that
71 the eligible business entity could otherwise claim under this section.

72 (3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit an eligible
73 business entity may claim or pass through is the amount listed on the tax credit certificate that
74 the office issues to the eligible business entity for a taxable year in accordance with Section
75 63M-1-2908.

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

79 (4) An eligible business entity may only claim or pass through a tax credit under this
80 section:

81 (a) for a taxable year for which the eligible business entity holds a tax credit certificate
82 issued in accordance with Section 63M-1-2908; and

83 (b) subject to obtaining a tax credit certificate for each taxable year as required by
84 Subsection (4)(a):

85 (i) for the taxable year in which the eligible business entity first generates eligible new

86 state tax revenues; and

87 (ii) for two taxable years immediately following the year described in Subsection

88 (4)(b)(i).

89 (5) An eligible business entity may not:

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

91 (b) claim or pass through a tax credit in an amount greater than the amount listed on a

92 tax credit certificate issued in accordance with Section 63M-1-2908 for a taxable year.

93 Section 2. Section **59-10-1025** is enacted to read:

94 **59-10-1025. Nonrefundable tax credit for investment in certain life science**
95 **establishments.**

96 (1) As used in this section:

97 (a) "Commercial domicile" means the principal place from which the trade or business
98 of a Utah small business corporation is directed or managed.

99 (b) "Eligible claimant, estate, or trust" is as defined in Section 63M-1-2902.

100 (c) "Life science establishment" means an establishment described in one of the
101 following NAICS codes of the 2007 North American Industry Classification System of the
102 federal Executive Office of the President, Office of Management and Budget:

103 (i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

104 (ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

105 Manufacturing; or

106 (iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.

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

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

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

110 (g) "Qualifying ownership interest" means an ownership interest that is:

111 (i) (A) common stock;

112 (B) preferred stock; or

113 (C) an ownership interest in a pass-through entity;

114 (ii) originally issued to:
115 (A) an eligible claimant, estate, or trust; or
116 (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit
117 under this section was a pass-through entity taxpayer of the pass-through entity on the day on
118 which the qualifying ownership interest was issued and remains a pass-through entity taxpayer
119 of the pass-through entity until the last day of the taxable year for which the eligible claimant,
120 estate, or trust claims a tax credit under this section; and

121 (iii) issued:
122 (A) by a Utah small business corporation;
123 (B) on or after January 1, 2011; and
124 (C) for money or other property, except for stock or securities.
125 (h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" is
126 as defined in Section 59-10-1022.

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

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

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

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

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

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

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

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

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

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

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

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

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

159 (b) may not exceed the lesser of:

160 (i) the amount listed on the tax credit certificate issued in accordance with Section
161 63M-1-2908; or

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

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

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

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

168 (5) If a Utah small business corporation in which an eligible claimant, estate, or trust
169 purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the

170 eligible claimant, estate, or trust may not claim both the tax credit provided in this section and
171 a capital loss on the qualifying ownership interest.

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

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

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

177 (1) As used in this section:

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

180 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
181 commission may by rule define the term "transaction."

182 (b) "Commercial domicile" means the principal place from which the trade or business
183 of a Utah small business corporation is directed or managed.

184 (c) "Eligible claimant, estate, or trust" is as defined in Section 63M-1-2902.

185 (d) "Life science establishment" means an establishment described in one of the
186 following NAICS codes of the 2007 North American Industry Classification System of the
187 federal Executive Office of the President, Office of Management and Budget:

188 (i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

189 (ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
190 Manufacturing; or

191 (iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.

192 (e) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

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

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

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

196 (i) "Qualifying ownership interest" means an ownership interest that is:

197 (i) (A) common stock;

198 (B) preferred stock; or
199 (C) an ownership interest in a pass-through entity;
200 (ii) originally issued to:
201 (A) an eligible claimant, estate, or trust; or
202 (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit
203 under this section was a pass-through entity taxpayer of the pass-through entity on the day on
204 which the qualifying ownership interest was issued and remains a pass-through entity taxpayer
205 of the pass-through entity until the last day of the taxable year for which the eligible claimant,
206 estate, or trust claims a tax credit under this section; and
207 (iii) issued:
208 (A) by a Utah small business corporation;
209 (B) on or after January 1, 2011; and
210 (C) for money or other property, except for stock or securities.
211 (j) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
212 (k) (i) Except as provided in Subsection (1)(k)(ii), "Utah small business corporation" is
213 as defined in Section 59-10-1022.
214 (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal
215 Revenue Code, is considered to include a pass-through entity.
216 (2) Subject to the other provisions of this section, for a taxable year beginning on or
217 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate
218 issued to the eligible claimant, estate, or trust in accordance with Section 63M-1-2908 for that
219 taxable year and meets the requirements of Subsection (3) may claim a nonrefundable tax
220 credit equal to the lesser of:
221 (a) the amount shown on the tax credit certificate issued to the eligible claimant, estate,
222 or trust by the office in accordance with Section 63M-1-2908; or
223 (b) the product of:
224 (i) the total amount of the eligible claimant's, estate's, or trust's short-term capital gain
225 or long-term capital gain on a capital gain transaction that occurs on or after January 1, 2011;

226 and
 227 (ii) the tax rate imposed under Subsection 59-10-104(2)(b).
 228 (3) An eligible claimant, estate, or trust may claim the nonrefundable tax credit
 229 allowed by Subsection (2) if:
 230 (a) the gross proceeds of the capital gain transaction result from the sale of a qualifying
 231 ownership interest:
 232 (i) held for at least two taxable years before the sale of the qualifying ownership
 233 interest; and
 234 (ii) in a Utah small business corporation that is a life science establishment; and
 235 (b) on each day of the taxable year of the capital gain transaction, the Utah small
 236 business corporation described in Subsection (3)(a)(ii) has at least 50% of its employees in the
 237 state.
 238 (4) An eligible claimant, estate, or trust may not:
 239 (a) carry forward or carry back a tax credit under this section; or
 240 (b) claim a tax credit for a taxable year for which the eligible claimant, estate, or trust
 241 does not hold a tax credit certificate issued to the eligible claimant, estate, or trust for that
 242 taxable year by the office in accordance with Section 63M-1-2908.
 243 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 244 commission may make rules:
 245 (a) defining the term "gross proceeds"; and
 246 (b) prescribing the circumstances under which an eligible claimant, estate, or trust has
 247 a qualifying ownership interest in a Utah small business corporation.
 248 Section 4. Section **59-10-1109** is enacted to read:
 249 **59-10-1109. Refundable tax credit for certain business entities generating state tax**
 250 **revenue increases.**
 251 (1) As used in this section:
 252 (a) "Eligible business entity" is as defined in Section 63M-1-2902.
 253 (b) "Eligible new state tax revenues" is as defined in Section 63M-1-2902.

254 (c) "Office" means the Governor's Office of Economic Development.
255 (d) "Pass-through entity" is as defined in Section 59-10-1402.
256 (e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.
257 (2) Subject to the other provisions of this section, an eligible business entity may:
258 (a) claim a refundable tax credit as provided in Subsection (3); or
259 (b) if the eligible business entity is a pass-through entity, pass through to one or more
260 pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part
261 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that
262 the eligible business entity could otherwise claim under this section.
263 (3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit is:
264 (i) for an eligible business entity, an amount up to the amount listed on the tax credit
265 certificate that the office issues to the eligible business entity for the taxable year in accordance
266 with Section 63M-1-2908; or
267 (ii) for a pass-through entity taxpayer, an amount up to the amount of a tax credit that
268 an eligible business entity passes through to the pass-through entity taxpayer of the
269 pass-through entity in accordance with Subsection (2)(b) or Subsection 59-7-614.6(2)(b).
270 (b) A tax credit under this section may not exceed the eligible new state tax revenues
271 generated by an eligible business entity for the taxable year for which the eligible business
272 entity claims a tax credit under this section.
273 (4) An eligible business entity or pass-through entity taxpayer to which an eligible
274 business entity passes through a tax credit in accordance with Subsection (2)(b) or Subsection
275 59-7-614.6(2)(b) may only claim or pass through a tax credit under this section for:
276 (a) a taxable year for which the eligible business entity holds a tax credit certificate
277 issued in accordance with Section 63M-1-2908; and
278 (b) subject to obtaining a tax credit certificate for each taxable year as required by
279 Subsection (4)(a):
280 (i) the taxable year in which the eligible business entity first generates eligible new
281 state tax revenues; and

282 (ii) two taxable years following the year described in Subsection (4)(b)(i).

283 (5) An eligible business entity or a pass-through entity taxpayer may not:

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

285 (b) claim a tax credit under both this section and Section 59-7-614.6.

286 Section 5. Section **63M-1-2901** is enacted to read:

287 **Part 29. Technology and Life Science Economic Development Act**

288 **63M-1-2901. Title.**

289 This part is known as the "Technology and Life Science Economic Development Act."

290 Section 6. Section **63M-1-2902** is enacted to read:

291 **63M-1-2902. Definitions.**

292 As used in this part:

293 (1) "Board" means the Governor's Office of Economic Development Board of
294 Directors.

295 (2) "Claimant" is as defined in Section 59-10-1002.

296 (3) "Eligible business entity" means a person that:

297 (a) enters into an agreement with the office in accordance with this part to receive a tax
298 credit certificate for a tax credit under Section 59-7-614.6 or 59-10-1109;

299 (b) is:

300 (i) a life science establishment; or

301 (ii) described in NAICS Code 334413, Semiconductor and Related Device

302 Manufacturing, of the 2007 North American Industry Classification System of the federal

303 Executive Office of the President, Office of Management and Budget;

304 (c) has at least 50% of its employees in the state for each day of a taxable year the
305 eligible business entity claims a tax credit under Section 59-7-614.6 or 59-10-1109; and

306 (d) receives a tax credit certificate from the office in accordance with this part.

307 (4) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:

308 (a) enters into an agreement with the office in accordance with this part to receive a tax
309 credit certificate for a tax credit under Section 59-10-1025 or 59-10-1026; and

- 310 (b) receives a tax credit certificate from the office in accordance with this part.
- 311 (5) "Eligible new state tax revenues" means an increased amount of tax revenues
- 312 generated as a result of an eligible product or project by an eligible business entity or a new
- 313 incremental job within the state under the following:
- 314 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 315 (b) Title 59, Chapter 10, Individual Income Tax Act; and
- 316 (c) Title 59, Chapter 12, Sales and Use Tax Act.
- 317 (6) "Eligible product or project" means any product or project produced by an eligible
- 318 business entity that was not produced prior to the date of an agreement with the office under
- 319 Section 63M-1-2908:
- 320 (a) by the eligible business entity; and
- 321 (b) within the state.
- 322 (7) "Life science establishment" is as defined in Section 59-10-1025.
- 323 (8) "New incremental job within the state" means, with respect to an eligible business
- 324 entity, an employment position that:
- 325 (a) did not exist within the state before:
- 326 (i) the eligible business entity entered into an agreement with the office in accordance
- 327 with this part; and
- 328 (ii) the eligible product was produced or the eligible project began;
- 329 (b) is not shifted from one location in the state to another location in the state; and
- 330 (c) is established to the satisfaction of the office, including by amounts paid or
- 331 withheld by the eligible business entity under Title 59, Chapter 10, Individual Income Tax Act.
- 332 (9) "Office" means the Governor's Office of Economic Development.
- 333 (10) "Tax credit" means a tax credit under:
- 334 (a) Section 59-7-614.6;
- 335 (b) Section 59-10-1025;
- 336 (c) Section 59-10-1026; or
- 337 (d) Section 59-10-1109.

338 (11) "Tax credit applicant" means a person that applies to the office to receive a tax
339 credit certificate under this part.

340 (12) "Tax credit certificate" means a certificate issued by the office that:

341 (a) lists the name of the tax credit certificate recipient;

342 (b) lists the tax credit certificate recipient's taxpayer identification number;

343 (c) lists the amount of the tax credit certificate recipient's tax credits authorized under
344 this part for a taxable year; and

345 (d) includes other information as determined by the office.

346 (13) "Tax credit certificate recipient" means:

347 (a) an eligible business entity that receives a tax credit certificate in accordance with
348 this part for a tax credit under Section 59-7-614.6 or 59-10-1109; or

349 (b) an eligible claimant, estate, or trust that receives a tax credit certificate in
350 accordance with this part for a tax credit under Section 59-10-1025 or 59-10-1026.

351 Section 7. Section **63M-1-2903** is enacted to read:

352 **63M-1-2903. Tax credits issued by office.**

353 (1) The office may issue tax credit certificates under this part only to the extent that the
354 Legislature expressly sets aside money for the office to issue the tax credit certificates under
355 this part.

356 (2) For fiscal year 2011-12 only, the office may issue a total of \$1,300,000 in tax credit
357 certificates in accordance with this part.

358 (3) If the total amount of tax credit certificates the office issues in a fiscal year is less
359 than the amount of tax credit certificates the office may issue under this part in a fiscal year, the
360 office may issue the remaining amount of tax credit certificates in a fiscal year after the fiscal
361 year for which there is a remaining amount of tax credit certificates.

362 Section 8. Section **63M-1-2904** is enacted to read:

363 **63M-1-2904. Person may not claim or pass through a tax credit without tax credit**
364 **certificate.**

365 A person may not claim or pass through a tax credit unless the person has received a tax

366 credit certificate from the office for the taxable year for which the person claims or passes
367 through the tax credit.

368 Section 9. Section **63M-1-2905** is enacted to read:

369 **63M-1-2905. Application process.**

370 (1) A tax credit applicant may annually apply to the office to receive a tax credit
371 certificate by filing an application with the office:

372 (a) on or before July 1; and

373 (b) on a form and in the manner prescribed by the office.

374 (2) The application shall include:

375 (a) tax return information as required by the office that is necessary for the office to
376 determine eligibility for and the amount of a tax credit; and

377 (b) other documentation as required by the office.

378 (3) As part of the application required by this section, a tax credit applicant shall sign a
379 separate document that expressly directs and authorizes the State Tax Commission to disclose
380 to the office the tax credit certificate recipient's tax returns and other information concerning
381 the tax credit certificate that:

382 (a) would otherwise be subject to confidentiality under Section 59-1-403 or Section
383 6103, Internal Revenue Code; and

384 (b) are necessary for the office to determine eligibility for and the amount of a tax
385 credit under this part.

386 (4) Upon receipt of the document described in Subsection (3), the State Tax
387 Commission shall provide the office with the tax returns and other information requested by
388 the office that the tax credit applicant directed or authorized the State Tax Commission to
389 provide to the office, including information necessary to determine eligibility for the amount of
390 a tax credit.

391 (5) If the office determines that the information a tax credit applicant provides is
392 inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:

393 (a) deny the tax credit; or

394 (b) inform the tax credit applicant that the information is inadequate and ask the tax
395 credit applicant to submit new or additional documentation.

396 Section 10. Section **63M-1-2906** is enacted to read:

397 **63M-1-2906. Criteria for tax credits.**

398 (1) A tax credit applicant shall establish as part of the application required by Section
399 63M-1-2905 that the tax credit applicant:

400 (a) meets all of the criteria to receive the tax credit for which the tax credit applicant
401 applies, except for the requirement to obtain a tax credit certificate; and

402 (b) will provide a long-term economic benefit to the state.

403 (2) The office may not issue a tax credit certificate to a tax credit applicant that fails to
404 meet the requirements of Subsection (1)(a).

405 Section 11. Section **63M-1-2907** is enacted to read:

406 **63M-1-2907. Rulemaking authority.**

407 The office shall, by rule, made in accordance with Title 63G, Chapter 3, Utah
408 Administrative Rulemaking Act, establish:

409 (1) criteria to prioritize the issuance of tax credits amongst tax credit applicants in a
410 manner consistent with this part; and

411 (2) procedures for documenting the office's application of the criteria described in
412 Subsection (1).

413 Section 12. Section **63M-1-2908** is enacted to read:

414 **63M-1-2908. Agreement between tax credit applicant and office -- Tax credit**
415 **certificate.**

416 (1) Subject to the other provisions of this part, the office, with advice from the board,
417 shall determine on or before the August 1 immediately following the July 1 described in
418 Subsection 63M-1-2905(1):

419 (a) the tax credit applicant or applicants to which a tax credit certificate may be
420 provided; and

421 (b) the amount of tax credit a tax credit applicant may receive.

422 (2) The office, with advice from the board, may enter into an agreement to grant a tax
423 credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit
424 applicant meets the conditions established in the agreement and under this part.

425 (3) The agreement described in Subsection (2) shall:

426 (a) detail the requirements that the tax credit applicant shall meet prior to receiving a
427 tax credit certificate;

428 (b) require the tax credit certificate recipient to retain records supporting a claim for a
429 tax credit for at least four years after the tax credit certificate recipient claims a tax credit under
430 this part; and

431 (c) require the tax credit certificate recipient to submit to audits for verification of the
432 tax credit claimed, including audits by the office and by the State Tax Commission.

433 Section 13. Section **63M-1-2909** is enacted to read:

434 **63M-1-2909. Issuance of tax credit certificates.**

435 (1) For a tax credit applicant that seeks to claim a tax credit under Section 59-7-614.6,
436 59-10-1025, or 59-10-1109, the office may issue a tax credit certificate to the tax credit
437 applicant:

438 (a) for the first taxable year for which the tax credit applicant qualifies for the tax credit
439 and enters into an agreement with the office; and

440 (b) for two taxable years immediately following the taxable year described in
441 Subsection (1)(a).

442 (2) For a tax credit applicant that seeks to claim a tax credit under Section 59-10-1026,
443 the office may issue a tax credit certificate to the tax credit applicant only for the taxable year
444 for which the tax credit applicant qualifies for the tax credit and enters into an agreement with
445 the office.

446 (3) The office shall provide a duplicate copy of each tax credit certificate to the State
447 Tax Commission.

448 Section 14. Section **63M-1-2910** is enacted to read:

449 **63M-1-2910. Report to the Legislature -- Study by legislative committees.**

450 (1) The office shall annually report to the Workforce Services and Community and
451 Economic Development Interim Committee and Revenue and Taxation Interim Committee
452 describing:

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

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

456 (c) the economic impact on the state related to providing tax credits under this part.

457 (2) (a) On or before November 1, 2011, and every five years after November 1, 2011,
458 the Workforce Services and Community and Economic Development Interim Committee and
459 Revenue and Taxation Interim Committee shall:

460 (i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, 59-10-1026,
461 and 59-10-1109; and

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

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

465 (i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, 59-10-1026, and
466 59-10-1109;

467 (ii) the purposes and effectiveness of the tax credits; and

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

469 Section 15. Section **63M-1-2911** is enacted to read:

470 **63M-1-2911. Reports of tax credits.**

471 (1) Before December 1 of each year, the office shall submit a report to the Governor's
472 Office of Planning and Budget, the Office of Legislative Fiscal Analyst, and the Division of
473 Finance identifying:

474 (a) the total amount listed on tax credit certificates the office issues under this part; and

475 (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
476 credit applicants.

477 (2) By the first business day of each month, the office shall submit a report to the

478 Governor's Office of Planning and Budget, the Office of Legislative Fiscal Analyst, and the
479 Division of Finance identifying:

- 480 (a) each new agreement entered into by the office since the last report;
- 481 (b) the total amount listed on tax credit certificates the office issues under this part; and
- 482 (c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
483 credit applicants.

484 Section 16. **Appropriation.**

485 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
486 following sums of money are appropriated from resources not otherwise appropriated out of the
487 funds or accounts indicated for the fiscal year beginning July 1, 2011 and ending June 30,
488 2012. These are additions to amounts previously appropriated for fiscal year 2012.

489 To Governor's Office of Economic Development - Administration

490 <u>From General Fund - One-time</u>	\$200,000
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491 Schedule of Programs:

492 <u>Governor's Office of Economic Development</u>	\$200,000
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493 It is the intent of the Legislature that the appropriation be spent to administer the tax
494 credits enacted in this bill.

495 Section 17. **Effective date -- Retrospective operation.**

496 (1) Except as provided in Subsection (2), this bill takes effect on May 10, 2011.

497 (2) The amendments to and enactments of the following sections have retrospective
498 operation for a taxable year beginning on or after January 1, 2011:

- 499 (a) Section 59-7-614.6;
- 500 (b) Section 59-10-1025;
- 501 (c) Section 59-10-1026; and
- 502 (d) Section 59-10-1109.