

- 26 **63M-1-2903**, as enacted by Laws of Utah 2011, Chapter 306
- 27 **63M-1-2905**, as enacted by Laws of Utah 2011, Chapter 306
- 28 **63M-1-2908**, as enacted by Laws of Utah 2011, Chapter 306
- 29 **63M-1-2909**, as enacted by Laws of Utah 2011, Chapter 306
- 30 **63M-1-2910**, as enacted by Laws of Utah 2011, Chapter 306

31 REPEALS:

- 32 **59-10-1026**, as enacted by Laws of Utah 2011, Chapter 306

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

35 Section 1. Section **59-7-614.6** is amended to read:

36 **59-7-614.6. Refundable tax credit for certain business entities generating state tax**
37 **revenue increases.**

38 (1) As used in this section:

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

40 **(b) "Eligible new state tax revenues" is as defined in Section 63M-1-2902.**

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

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

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

44 (f) "Qualifying agreement" means an agreement under Subsection 63M-1-2908 that
45 includes a provision for an eligible business entity to make new capital expenditures of at least
46 **H→ [\$750 million] \$1 billion ←H** in the state.

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

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

49 (b) if the eligible business entity is a pass-through entity, pass through to one or more
50 pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part
51 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that
52 the eligible business entity could otherwise claim under this section.

53 (3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit an eligible
54 business entity may claim or pass through is the amount listed on the tax credit certificate that
55 the office issues to the eligible business entity for a taxable year in accordance with Section
56 63M-1-2908.

274 Section 5. Section **63M-1-2903** is amended to read:

275 **63M-1-2903. Tax credits issued by office.**

276 (1) (a) The office may issue tax credit certificates under this part only to the extent that
277 the Legislature, by statute, expressly [~~sets aside money for~~] authorizes the office to issue the tax
278 credit certificates under this part for a fiscal year.

279 (b) The Legislature intends that a statutory authorization under Subsection (1)(a)
280 specify:

281 (i) the total allocation to the tax credits under Section 59-7-614.6 and 59-10-1109; and

282 (ii) the allocation to the tax credit under Section 59-10-1025.

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

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

289 (b) ~~H~~→ [H] **Except as provided in Subsection (3)(c), if** ~~←H~~ the total amount of tax credit
289a certificates the office issues in a quarter of a fiscal
290 year is less than the amount of tax credit certificates the office may issue under this part in that
291 quarter, the office may issue the remaining amount of tax credit certificates in a quarter after
292 the quarter for which there is a remaining amount of tax credit certificates.

292a ~~H~~→ (c) **For fiscal year 2011-12 only, if the total amount of tax credit certificates the office**
292b **issues in fiscal year 2011-12 is less than the amount of tax credit certificates the office may**
292c **issue in tax credit certificates under Subsection (2), the office:**

292d **(i) may issue the remaining amount of tax credit certificates in a fiscal year after fiscal year**
292e **2011-12; and**

292f **(ii) is not required to allocate the tax credit certificates to any particular quarter.** ~~←H~~

293 Section 6. Section **63M-1-2905** is amended to read:

294 **63M-1-2905. Application process.**

295 (1) A tax credit applicant may [~~annually~~] apply to the office to receive a tax credit
296 certificate by filing an application with the office:

297 (a) [~~on or before July 1~~] on or before the quarterly deadline established by the office by
298 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

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

300 (2) The application shall include:

305 separate document that expressly directs and authorizes the State Tax Commission to disclose
 306 to the office the tax credit certificate recipient's tax returns and other information concerning
 307 the tax credit certificate that:

308 (a) would otherwise be subject to confidentiality under Section 59-1-403 or Section
 309 6103, Internal Revenue Code; and

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

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

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

319 (a) deny the tax credit; or

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

322 Section 7. Section **63M-1-2908** is amended to read:

323 **63M-1-2908. Agreement between tax credit applicant and office -- Tax credit**
 324 **certificate.**

325 (1) (a) Except as provided in Subsection 63M-1-2903(3)(b), for each quarter of a fiscal
 326 year ~~H~~→ after fiscal year 2011-12 ←~~H~~ , the office shall allocate:

327 (i) 25% of the total amounts made available for allocation in accordance with Section
 328 63M-1-2903 for the tax credits under Sections 59-7-614.6 and 59-10-1109; and

329 (ii) 25% of the amounts made available for allocation in accordance with Section
 330 63M-1-2903 for the tax credit under Section 59-10-1025.

331 [~~(1)~~] (b) Subject to the other provisions of this part, the office, with advice from the
 332 board, shall determine [~~on or before the August 1 immediately following the July 1 described~~
 333 ~~in Subsection 63M-1-2905(1)] quarterly:~~

334 [~~(a)~~] (i) the tax credit applicant or applicants to which a tax credit certificate may be
 335 provided; and

336 ~~(b)~~ (ii) the amount of tax credit a tax credit applicant may receive.

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

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

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

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

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

348 Section 8. Section **63M-1-2909** is amended to read:

349 **63M-1-2909. Issuance of tax credit certificates.**

350 (1) For a tax credit applicant that seeks to claim a tax credit [~~under Section 59-7-614.6,~~
351 ~~59-10-1025, or 59-10-1109~~], the office may issue a tax credit certificate to the tax credit
352 applicant:

353 (a) for the first taxable year for which the tax credit applicant qualifies for the tax credit
354 and enters into an agreement with the office; [~~and~~]

355 (b) for two taxable years immediately following the taxable year described in
356 Subsection (1)(a)~~[-]; and~~

357 [~~(2) For a tax credit applicant that seeks to claim a tax credit under Section~~
358 ~~59-10-1026, the office may issue a tax credit certificate to the tax credit applicant only for the~~
359 ~~taxable year for which the tax credit applicant qualifies for the tax credit and enters into an~~
360 ~~agreement with the office.]~~

361 (c) for the seven taxable years immediately following the last of the two taxable years
362 described in Subsection (1)(b) if:

363 (i) the agreement with the office described in Section 63M-1-2908 includes a provision
364 that the tax credit applicant will make new capital expenditures of at least ~~H→~~ [\$750 million]
364a \$1 billion ←H in the
365 state; and

366 (ii) the tax credit applicant makes new capital expenditures of at least ~~H→~~ [\$750 million]
366a \$1 billion ←H in