

TAX CREDIT REVIEW AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides for a review of certain tax credits.

Highlighted Provisions:

This bill:

► requires the Revenue and Taxation Interim Committee to review certain credits under the Individual Income Tax Act, the Corporate Income Tax, the Motor and Special Fuel Tax Act, the Taxation of Admitted Insurers, and the Governor's Office of Economic Development; and

► establishes requirements for the review by the Revenue and Taxation Interim Committee.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-7-614.2, as last amended by Laws of Utah 2015, Chapter 283

59-7-614.5, as last amended by Laws of Utah 2015, Chapter 283

59-7-614.7, as enacted by Laws of Utah 2012, Chapter 410

59-7-614.8, as last amended by Laws of Utah 2015, Chapter 283



- 28 **59-7-619**, as enacted by Laws of Utah 2015, Chapter 356
- 29 **59-9-107**, as enacted by Laws of Utah 2014, Chapter 435
- 30 **59-10-1013**, as last amended by Laws of Utah 2011, Chapter 384
- 31 **59-10-1014**, as last amended by Laws of Utah 2015, Chapter 133
- 32 **59-10-1024**, as last amended by Laws of Utah 2011, Chapter 384
- 33 **59-10-1029**, as enacted by Laws of Utah 2012, Chapter 410
- 34 **59-10-1030**, as last amended by Laws of Utah 2015, Chapter 283
- 35 **59-10-1034**, as enacted by Laws of Utah 2015, Chapter 356
- 36 **59-10-1106**, as last amended by Laws of Utah 2015, Chapter 133
- 37 **59-10-1107**, as last amended by Laws of Utah 2015, Chapter 283
- 38 **59-10-1108**, as last amended by Laws of Utah 2015, Chapter 283
- 39 **59-13-202**, as last amended by Laws of Utah 2006, Chapter 223
- 40 **63N-2-213**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 41 **63N-2-305**, as renumbered and amended by Laws of Utah 2015, Chapter 283

42 ENACTS:

- 43 **59-7-159**, Utah Code Annotated 1953
- 44 **59-10-137**, Utah Code Annotated 1953



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

47 Section 1. Section **59-7-159** is enacted to read:

48 **59-7-159. Review of credits allowed under this chapter.**

49 (1) As used in this section, "committee" means the Revenue and Taxation Interim
50 Committee.

51 (2) (a) The committee shall review the tax credits allowed under this chapter as
52 provided in Subsection (3) and make recommendations to the Legislature concerning whether
53 the tax credits should be continued, modified, or repealed.

54 (b) In conducting the review required under Subsection (2)(a), the committee shall:

55 (i) schedule time on at least one committee agenda to conduct the review;

56 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
57 under review to provide testimony;

58 (iii) invite the Office of Legislative Fiscal Analyst to present a summary and analysis

59 of the information regarding the tax credit that the Office of Legislative Fiscal Analyst is
60 required by law to receive from:

61 (A) the Governor's Office of Economic Development; or

62 (B) the Office of Energy Development;

63 (iv) ensure that the committee's recommendations under this section include an
64 evaluation of:

65 (A) the cost of the tax credit to the state;

66 (B) the purpose and effectiveness of the tax credit; and

67 (C) the extent to which the state benefits from the tax credit; and

68 (v) undertake other review efforts as determined by the committee chairs or as
69 otherwise required by law.

70 (3) (a) On or before November 30, 2016, and every three years after November 30,
71 2016, the committee shall conduct the review required under Subsection (2) of the tax credits
72 allowed under the following sections:

73 (i) Section [59-7-605](#);

74 (ii) Section [59-7-610](#);

75 (iii) Section [59-7-614](#);

76 (iv) Section [59-7-614.7](#);

77 (v) Section [59-7-614.8](#); and

78 (vi) Section [59-7-618](#).

79 (b) On or before November 30, 2017, and every three years after November 30, 2017,
80 the committee shall conduct the review required under Subsection (2) of the tax credits allowed
81 under the following sections:

82 (i) Section [59-7-601](#);

83 (ii) Section [59-7-607](#);

84 (iii) Section [59-7-612](#);

85 (iv) Section [59-7-614.1](#);

86 (v) Section [59-7-614.5](#); and

87 (vi) Section [59-7-614.6](#).

88 (c) On or before November 30, 2018, and every three years after November 30, 2018,
89 the committee shall conduct the review required under Subsection (2) of the tax credits allowed

90 under the following sections:

91 (i) Section 59-7-609;

92 (ii) Section 59-7-614.2;

93 (iii) Section 59-7-617;

94 (iv) Section 59-7-619; and

95 (v) Section 59-7-620.

96 Section 2. Section **59-7-614.2** is amended to read:

97 **59-7-614.2. Refundable economic development tax credit.**

98 (1) As used in this section:

99 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as
100 defined in Section **63N-2-103**.

101 (b) "Community development and renewal agency" [~~is as~~] means the same as that term
102 is defined in Section **17C-1-102**.

103 (c) "Local government entity" [~~is as~~] means the same as that term is defined in Section
104 **63N-2-103**.

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

106 (2) Subject to the other provisions of this section, a business entity, local government
107 entity, or community development and renewal agency may claim a refundable tax credit for
108 economic development.

109 (3) The tax credit under this section is the amount listed as the tax credit amount on the
110 tax credit certificate that the office issues to the business entity, local government entity, or
111 community development and renewal agency for the taxable year.

112 (4) A community development and renewal agency may claim a tax credit under this
113 section only if a local government entity assigns the tax credit to the community development
114 and renewal agency in accordance with Section **63N-2-104**.

115 (5) (a) In accordance with any rules prescribed by the commission under Subsection
116 (5)(b), the commission shall make a refund to the following that claim a tax credit under this
117 section:

118 (i) a local government entity;

119 (ii) a community development and renewal agency; or

120 (iii) a business entity if the amount of the tax credit exceeds the business entity's tax

121 liability for a taxable year.

122 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
123 commission may make rules providing procedures for making a refund to a business entity,
124 local government entity, or community development and renewal agency as required by
125 Subsection (5)(a).

126 (6) (a) [~~On or before October 1, 2013, and every five years after October 1, 2013~~] In
127 accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study
128 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
129 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
130 repealed.

131 (b) For purposes of the study required by this Subsection (6), the office shall provide
132 the following information to the [~~Revenue and Taxation Interim Committee~~] Office of
133 Legislative Fiscal Analyst:

134 (i) the amount of tax credit that the office grants to each business entity, local
135 government entity, or community development and renewal agency for each calendar year;

136 (ii) the criteria that the office uses in granting a tax credit;

137 (iii) (A) for a business entity, the new state revenues generated by the business entity
138 for the calendar year; or

139 (B) for a local government entity, regardless of whether the local government entity
140 assigns the tax credit in accordance with Section 63N-2-104, the new state revenues generated
141 as a result of a new commercial project within the local government entity for each calendar
142 year;

143 (iv) the information contained in the office's latest report to the Legislature under
144 Section 63N-2-106; and

145 (v) any other information that the [~~Revenue and Taxation Interim Committee~~] Office of
146 Legislative Fiscal Analyst requests.

147 (c) As part of the study required by this Subsection (6), the Office of Legislative Fiscal
148 Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis
149 of the information provided to the Office of Legislative Fiscal Analyst by the office under
150 Subsection (6)(b).

151 [~~(e)~~] (d) The Revenue and Taxation Interim Committee shall ensure that [~~its~~] the

152 Revenue and Taxation Interim Committee's recommendations under Subsection (6)(a) include
153 an evaluation of:

- 154 (i) the cost of the tax credit to the state;
155 (ii) the purpose and effectiveness of the tax credit; and
156 (iii) the extent to which the state benefits from the tax credit.

157 Section 3. Section **59-7-614.5** is amended to read:

158 **59-7-614.5. Refundable motion picture tax credit.**

159 (1) As used in this section:

160 (a) "Motion picture company" means a taxpayer that meets the definition of a motion
161 picture company under Section [63N-8-102](#).

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

163 (c) "State-approved production" [~~has the same meaning as~~] means the same as that
164 term is defined in Section [63N-8-102](#).

165 (2) For a taxable [~~years~~] year beginning on or after January 1, 2009, a motion picture
166 company may claim a refundable tax credit for a state-approved production.

167 (3) The tax credit under this section is the amount listed as the tax credit amount on the
168 tax credit certificate that the office issues to a motion picture company under Section
169 [63N-8-103](#) for the taxable year.

170 (4) (a) In accordance with any rules prescribed by the commission under Subsection
171 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
172 credit under this section if the amount of the tax credit exceeds the motion picture company's
173 tax liability for a taxable year.

174 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
175 commission may make rules providing procedures for making a refund to a motion picture
176 company as required by Subsection (4)(a).

177 (5) (a) [~~On or before October 1, 2014, and every five years after October 1, 2014~~] In
178 accordance with Section [59-7-159](#), the Revenue and Taxation Interim Committee shall study
179 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
180 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
181 repealed.

182 (b) For purposes of the study required by this Subsection (5), the office shall provide

183 the following information to the [~~Revenue and Taxation Interim Committee~~] Office of
 184 Legislative Fiscal Analyst:

185 (i) the amount of tax credit that the office grants to each motion picture company for
 186 each calendar year;

187 (ii) the criteria that the office uses in granting the tax credit;

188 (iii) the dollars left in the state, as defined in Section 63N-8-102, by each motion
 189 picture company for each calendar year;

190 (iv) the information contained in the office's latest report to the Legislature under
 191 Section 63N-8-105; and

192 (v) any other information requested by the [~~Revenue and Taxation Interim Committee~~]
 193 Office of Legislative Fiscal Analyst.

194 (c) As part of the study required by this Subsection (5), the Office of Legislative Fiscal
 195 Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis
 196 of the information provided to the Office of Legislative Fiscal Analyst by the office under
 197 Subsection (5)(b).

198 [~~(c)~~] (d) The Revenue and Taxation Interim Committee shall ensure that [its] the
 199 Revenue and Taxation Interim Committee's recommendations under Subsection (5)(a) include
 200 an evaluation of:

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

202 (ii) the effectiveness of the tax credit; and

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

204 Section 4. Section 59-7-614.7 is amended to read:

205 **59-7-614.7. Nonrefundable alternative energy development tax credit.**

206 (1) As used in this section:

207 (a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section
 208 63M-4-502.

209 (b) "Alternative energy project" [~~is as~~] means the same as that term is defined in
 210 Section 63M-4-502.

211 (c) "Office" [~~is as~~] means the same as that term is defined in Section 63M-4-401.

212 (2) Subject to the other provisions of this section, an alternative energy entity may
 213 claim a nonrefundable tax credit for alternative energy development as provided in this section.

214 (3) The tax credit under this section is the amount listed as the tax credit amount on a
215 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative
216 Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

217 (4) An alternative energy entity may carry forward a tax credit under this section for a
218 period that does not exceed the next seven taxable years if:

219 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
220 taxable year; and

221 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
222 under this chapter for that taxable year.

223 (5) (a) [~~On or before October 1, 2017, and every five years after October 1, 2017~~] In
224 accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study
225 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
226 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
227 repealed.

228 (b) For purposes of the study required by this Subsection (5), the office shall provide
229 the following information to the [~~Revenue and Taxation Interim Committee~~] Office of
230 Legislative Fiscal Analyst:

231 (i) the amount of tax credit that the office grants to each alternative energy entity for
232 each taxable year;

233 (ii) the new state revenues generated by each alternative energy project;

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

236 (iv) any other information that the [~~Revenue and Taxation Interim Committee~~] Office
237 of Legislative Fiscal Analyst requests.

238 (c) As part of the study required by this Subsection (5), the Office of Legislative Fiscal
239 Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis
240 of the information provided to the Office of Legislative Fiscal Analyst by the office under
241 Subsection (5)(b).

242 [~~(c)~~] (d) The Revenue and Taxation Interim Committee shall ensure that [its] the
243 Revenue and Taxation Interim Committee's recommendations under Subsection (5)(a) include
244 an evaluation of:

- 245 (i) the cost of the tax credit to the state;
246 (ii) the purpose and effectiveness of the tax credit; and
247 (iii) the extent to which the state benefits from the tax credit.

248 Section 5. Section **59-7-614.8** is amended to read:

249 **59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.**

250 (1) As used in this section:

251 (a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section
252 63N-2-702.

253 (b) "Alternative energy manufacturing project" [~~is as~~] means the same as that term is
254 defined in Section 63N-2-702.

255 (c) "Office" means the Governor's Office of Economic Development.

256 (2) Subject to the other provisions of this section, an alternative energy entity may
257 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
258 section.

259 (3) The tax credit under this section is the amount listed as the tax credit amount on a
260 tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative
261 Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

262 (4) An alternative energy entity may carry forward a tax credit under this section for a
263 period that does not exceed the next seven taxable years if:

264 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
265 taxable year; and

266 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
267 under this chapter for that taxable year.

268 (5) (a) [~~On or before October 1, 2017, and every five years after October 1, 2017~~] In
269 accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study
270 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
271 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
272 repealed.

273 (b) For purposes of the study required by this Subsection (5), the office shall provide
274 the following information to the [~~Revenue and Taxation Interim Committee~~] Office of
275 Legislative Fiscal Analyst:

276 (i) the amount of tax credit that the office grants to each alternative energy entity for
277 each taxable year;

278 (ii) the new state revenues generated by each alternative energy manufacturing project;

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

280 Section ~~[63N-2-705]~~ [63N-1-301](#); and

281 (iv) any other information that the ~~[Revenue and Taxation Interim Committee]~~ Office
282 of Legislative Fiscal Analyst requests.

283 (c) As part of the study required by this Subsection (5), the Office of Legislative Fiscal
284 Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis
285 of the information provided to the Office of Legislative Fiscal Analyst by the office under
286 Subsection (5)(b).

287 ~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that [its] the
288 Revenue and Taxation Interim Committee's recommendations under Subsection (5)(a) include
289 an evaluation of:

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

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

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

293 Section 6. Section **59-7-619** is amended to read:

294 **59-7-619. Nonrefundable high cost infrastructure development tax credit.**

295 (1) As used in this section:

296 (a) "High cost infrastructure project" means the same as that term is defined in Section
297 [63M-4-602](#).

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

300 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
301 [63M-4-602](#).

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

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

306 (3) The tax credit under this section is the amount listed as the tax credit amount on a

307 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost
308 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the
309 taxable year.

310 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this
311 section for a period that does not exceed the next seven taxable years if:

312 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this
313 section for a taxable year; and

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

316 (5) (a) [~~On or before October 1, 2020, and every five years after October 1, 2020~~] In
317 accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study
318 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
319 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
320 repealed.

321 (b) For purposes of the study required by this Subsection (5), the office shall provide
322 the following information to the [~~Revenue and Taxation Interim Committee~~] Office of
323 Legislative Fiscal Analyst:

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

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

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

329 (iv) any other information that the [~~Revenue and Taxation Interim Committee~~] Office
330 of Legislative Fiscal Analyst requests.

331 (c) As part of the study required by this Subsection (5), the Office of Legislative Fiscal
332 Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis
333 of the information provided to the Office of Legislative Fiscal Analyst by the office under
334 Subsection (5)(b).

335 [~~(c)~~] (d) The Revenue and Taxation Interim Committee shall ensure that the Revenue
336 and Taxation Interim Committee's recommendations under Subsection (5)(a) include an
337 evaluation of:

- 338 (i) the cost of the tax credit to the state;
339 (ii) the purpose and effectiveness of the tax credit; and
340 (iii) the extent to which the state benefits from the tax credit.

341 Section 7. Section **59-9-107** is amended to read:

342 **59-9-107. Nonrefundable small business jobs credit.**

343 (1) As used in this section:

344 (a) "Credit allowance date" [~~is as~~] means the same as that term is defined in Section
345 [63N-2-602](#).

346 (b) "Office" [~~is as~~] means the same as that term is defined in Section [63N-1-102](#).

347 (c) "Tax credit certificate" [~~is as~~] means the same as that term is defined in Section
348 [63N-2-602](#).

349 (2) An entity may claim a nonrefundable tax credit against a tax liability under this
350 chapter in accordance with this section if the entity is issued a tax credit certificate by the office
351 under Subsection [63N-2-603](#)(11). The office shall issue a tax credit certificate to an entity that
352 is allocated tax credits under Subsection [63N-2-603](#)(11)(e).

353 (3) The tax credit under this section is the amount listed as the tax credit amount on the
354 tax credit certificate issued to the entity for the calendar year.

355 (4) An entity may carry forward a tax credit under this section for seven years if:

- 356 (a) the entity is allowed to claim a tax credit under this section for a calendar year; and
357 (b) the amount of the tax credit exceeds the entity's tax liability under this chapter for
358 that calendar year.

359 (5) An entity required to pay a retaliatory tax levied under this chapter for a reason
360 other than claiming the tax credit may claim the tax credit after the retaliatory tax amount is
361 calculated, and the tax credit may be used to offset retaliatory tax liability.

362 (6) Notwithstanding the other provisions of this section, this section does not apply to
363 an admitted insurer to the extent that the admitted insurer writes workers' compensation
364 insurance in this state and has premiums taxed under Subsection [59-9-101](#)(2).

365 (7) (a) On or before November 30, 2018, and every three years after November 30,
366 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by
367 this section and make recommendations concerning whether the tax credits should be
368 continued, modified, or repealed.

369 (b) In conducting the review required under Subsection (7)(a), the Revenue and
370 Taxation Interim Committee shall:

- 371 (i) schedule time on at least one committee agenda to conduct the review;
- 372 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
373 under review to provide testimony;
- 374 (iii) ensure that the Revenue and Taxation Interim Committee's recommendations
375 under this section include an evaluation of:

- 376 (A) the cost of the tax credit to the state;
- 377 (B) the purpose and effectiveness of the tax credit; and
- 378 (C) the extent to which the state benefits from the tax credit; and
- 379 (iv) undertake other review efforts as determined by the chairs of the Revenue and
380 Taxation Interim Committee.

381 Section 8. Section **59-10-137** is enacted to read:

382 **59-10-137. Review of credits allowed under this chapter.**

383 (1) As used in this section, "committee" means the Revenue and Taxation Interim
384 Committee.

385 (2) (a) The committee shall review the tax credits allowed under this chapter as
386 provided in Subsection (3) and make recommendations concerning whether the tax credits
387 should be continued, modified, or repealed.

388 (b) In conducting the review required under Subsection (2)(a), the committee shall:

- 389 (i) schedule time on at least one committee agenda to conduct the review;
- 390 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
391 under review to provide testimony;
- 392 (iii) invite the Office of Legislative Fiscal Analyst to present a summary and analysis
393 of the information regarding the tax credit that the Office of Legislative Fiscal Analyst is
394 required by law to receive from:

- 395 (A) the Governor's Office of Economic Development; or
- 396 (B) the Office of Energy Development;
- 397 (iv) ensure that the committee's recommendations under this section include an
398 evaluation of:

- 399 (A) the cost of the tax credit to the state;

400 (B) the purpose and effectiveness of the tax credit; and
401 (C) the extent to which the state benefits from the tax credit; and
402 (v) undertake other review efforts as determined by the committee chairs or as
403 otherwise required by law.

404 (3) (a) On or before November 30, 2016, and every three years after November 30,
405 2016, the committee shall conduct the review required under Subsection (2) of the tax credits
406 allowed under the following sections:

- 407 (i) Section 59-10-1007;
- 408 (ii) Section 59-10-1009;
- 409 (iii) Section 59-10-1014;
- 410 (iv) Section 59-10-1017;
- 411 (v) Section 59-10-1018;
- 412 (vi) Section 59-10-1019;
- 413 (vii) Section 59-10-1024;
- 414 (viii) Section 59-10-1029;
- 415 (ix) Section 59-10-1030;
- 416 (x) Section 59-10-1033; and
- 417 (xi) Section 59-10-1106.

418 (b) On or before November 30, 2017, and every three years after November 30, 2017,
419 the committee shall conduct the review required under Subsection (2) of the tax credits allowed
420 under the following sections:

- 421 (i) Section 59-10-1004;
- 422 (ii) Section 59-10-1010;
- 423 (iii) Section 59-10-1015;
- 424 (iv) Section 59-10-1025;
- 425 (v) Section 59-10-1027;
- 426 (vi) Section 59-10-1031;
- 427 (vii) Section 59-10-1032;
- 428 (viii) Section 59-10-1035;
- 429 (ix) Section 59-10-1104;
- 430 (x) Section 59-10-1105;

431 (xi) Section [59-10-1108](#); and

432 (xii) Section [59-10-1109](#).

433 (c) On or before November 30, 2018, and every three years after November 30, 2018,

434 the committee shall conduct the review required under Subsection (2) of the tax credits allowed

435 under the following sections:

436 (i) Section [59-10-1005](#);

437 (ii) Section [59-10-1006](#);

438 (iii) Section [59-10-1012](#);

439 (iv) Section [59-10-1013](#);

440 (v) Section [59-10-1021](#);

441 (vi) Section [59-10-1022](#);

442 (vii) Section [59-10-1023](#);

443 (viii) Section [59-10-1028](#);

444 (ix) Section [59-10-1034](#); and

445 (x) Section [59-10-1107](#).

446 Section 9. Section **59-10-1013** is amended to read:

447 **59-10-1013. Tax credits for machinery, equipment, or both primarily used for**
448 **conducting qualified research or basic research -- Carry forward -- Commission to report**
449 **modification or repeal of certain federal provisions -- Revenue and Taxation Interim**
450 **Committee study.**

451 (1) As used in this section:

452 (a) "Basic research" [~~is~~ as] means the same as that term is defined in Section 41(e)(7),
453 Internal Revenue Code, except that the term includes only basic research conducted in this
454 state.

455 (b) "Equipment" includes:

456 (i) a computer;

457 (ii) computer equipment; and

458 (iii) computer software.

459 (c) "Purchase price":

460 (i) includes the cost of installing an item of machinery or equipment; and

461 (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an

462 item of machinery or equipment.

463 (d) "Qualified organization" [~~is as~~] means the same as that term is defined in Section
464 41(e)(6), Internal Revenue Code.

465 (e) "Qualified research" [~~is as~~] means the same as that term is defined in Section 41(d),
466 Internal Revenue Code, except that the term includes only qualified research conducted in this
467 state.

468 (2) (a) Except as provided in Subsection (2)(c), for a taxable [~~years~~] year beginning on
469 or after January 1, 1999, but beginning before December 31, 2010, a claimant, estate, or trust
470 meeting the requirements of this section may claim the following nonrefundable tax credits:

471 (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

472 (A) purchased by the claimant, estate, or trust during the taxable year;

473 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

474 (C) that is primarily used to conduct qualified research in this state; and

475 (ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for
476 machinery, equipment, or both:

477 (A) purchased by the claimant, estate, or trust during the taxable year;

478 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

479 (C) that is donated to a qualified organization; and

480 (D) that is primarily used to conduct basic research in this state.

481 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under
482 this section for the taxable year for which the claimant, estate, or trust purchases the machinery,
483 equipment, or both.

484 (c) If a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a
485 purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax
486 credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to
487 conduct qualified research in the state for a time period that is less than 12 consecutive months.

488 (3) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in
489 this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

490 (4) If the amount of a tax credit claimed by a claimant, estate, or trust under this section
491 exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the
492 amount of the tax credit exceeding the tax liability:

493 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
494 and

495 (b) may not be carried back to a taxable year preceding the current taxable year.

496 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
497 commission may make rules for purposes of this section prescribing a certification process for
498 qualified organizations to ensure that machinery, equipment, or both provided to the qualified
499 organization is to be primarily used to conduct basic research in this state.

500 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
501 commission shall report the modification or repeal to the Revenue and Taxation Interim
502 Committee within 60 days after the day on which the modification or repeal becomes effective.

503 (7) (a) The Revenue and Taxation Interim Committee shall review the tax credits
504 provided for in this section on or before October 1 of the year after the year in which the
505 commission reports under Subsection (6) a modification or repeal of a provision of Section 41,
506 Internal Revenue Code.

507 (b) The review required by Subsection (7)(a) is in addition to the review required by
508 Section 59-10-137.

509 ~~[(b)]~~ (c) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim
510 Committee is not required to review the tax credits provided for in this section if the only
511 modification to a provision of Section 41, Internal Revenue Code, is the extension of the
512 termination date provided for in Section 41(h), Internal Revenue Code.

513 ~~[(c)]~~ (d) The Revenue and Taxation Interim Committee shall address in a review under
514 this section the:

- 515 (i) cost of the tax credits provided for in this section;
516 (ii) purpose and effectiveness of the tax credits provided for in this section;
517 (iii) whether the tax credits provided for in this section benefit the state; and
518 (iv) whether the tax credits provided for in this section should be:
519 (A) continued;
520 (B) modified; or
521 (C) repealed.

522 ~~[(d)]~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits
523 provided for in this section, the committee shall issue a report [its] of the committee's findings

524 [~~to the Legislative Management Committee on or before the November interim meeting of the~~
525 ~~year in which the Revenue and Taxation Interim Committee reviews the tax credits~~].

526 Section 10. Section **59-10-1014** is amended to read:

527 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**
528 **Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

529 (1) As used in this section:

530 (a) (i) "Active solar system" means a system of equipment that is capable of:

531 (A) collecting and converting incident solar radiation into thermal, mechanical, or
532 electrical energy; and

533 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
534 apparatus to storage or to the point of use.

535 (ii) "Active solar system" includes water heating, space heating or cooling, and
536 electrical or mechanical energy generation.

537 (b) "Biomass system" means a system of apparatus and equipment for use in:

538 (i) converting material into biomass energy, as defined in Section [59-12-102](#); and

539 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

540 (c) "Direct use geothermal system" means a system of apparatus and equipment that
541 enables the direct use of geothermal energy to meet energy needs, including heating a building,
542 an industrial process, and aquaculture.

543 (d) "Geothermal electricity" means energy that is:

544 (i) contained in heat that continuously flows outward from the earth; and

545 (ii) used as a sole source of energy to produce electricity.

546 (e) "Geothermal energy" means energy generated by heat that is contained in the earth.

547 (f) "Geothermal heat pump system" means a system of apparatus and equipment that:

548 (i) enables the use of thermal properties contained in the earth at temperatures well
549 below 100 degrees Fahrenheit; and

550 (ii) helps meet heating and cooling needs of a structure.

551 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable
552 of:

553 (i) intercepting and converting kinetic water energy into electrical or mechanical
554 energy; and

555 (ii) transferring this form of energy by separate apparatus to the point of use or storage.

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

557 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
558 a building and its operable components to provide for collection, storage, and distribution of
559 heating or cooling during the appropriate times of the year by utilizing the climate resources
560 available at the site.

561 (ii) "Passive solar system" includes those portions and components of a building that
562 are expressly designed and required for the collection, storage, and distribution of solar energy.

563 (j) (i) "Principal recovery portion" means the portion of a lease payment that
564 constitutes the cost a person incurs in acquiring a residential energy system.

565 (ii) "Principal recovery portion" does not include:

566 (A) an interest charge; or

567 (B) a maintenance expense.

568 (k) "Residential energy system" means the following used to supply energy to or for a
569 residential unit:

570 (i) an active solar system;

571 (ii) a biomass system;

572 (iii) a direct use geothermal system;

573 (iv) a geothermal heat pump system;

574 (v) a hydroenergy system;

575 (vi) a passive solar system; or

576 (vii) a wind system.

577 (l) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
578 unit that:

579 (A) is located in the state; and

580 (B) serves as a dwelling for a person, group of persons, or a family.

581 (ii) "Residential unit" does not include property subject to a fee under:

582 (A) Section [59-2-404](#);

583 (B) Section [59-2-405](#);

584 (C) Section [59-2-405.1](#);

585 (D) Section [59-2-405.2](#); or

586 (E) Section [59-2-405.3](#).

587 (m) "Wind system" means a system of apparatus and equipment that is capable of:

588 (i) intercepting and converting wind energy into mechanical or electrical energy; and

589 (ii) transferring these forms of energy by a separate apparatus to the point of use or

590 storage.

591 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in

592 this section against a tax due under this chapter for a taxable year.

593 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust
594 may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit
595 the claimant, estate, or trust owns or uses if:

596 (i) the claimant, estate, or trust:

597 (A) purchases and completes a residential energy system to supply all or part of the
598 energy required for the residential unit; or

599 (B) participates in the financing of a residential energy system to supply all or part of
600 the energy required for the residential unit;

601 (ii) the residential energy system is completed and placed in service on or after January
602 1, 2007; and

603 (iii) the claimant, estate, or trust obtains a written certification from the office in
604 accordance with Subsection (4).

605 (b) (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit is equal to 25% of
606 the reasonable costs of each residential energy system installed with respect to each residential
607 unit the claimant, estate, or trust owns or uses.

608 (ii) A tax credit under this Subsection (3) may include installation costs.

609 (iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the
610 taxable year in which the residential energy system is completed and placed in service.

611 (iv) If the amount of a tax credit under this Subsection (3) exceeds a claimant's,
612 estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit
613 exceeding the liability may be carried forward for a period that does not exceed the next four
614 taxable years.

615 (v) The total amount of tax credit a claimant, estate, or trust may claim under this
616 Subsection (3) may not exceed \$2,000 per residential unit.

617 (vi) A claimant, estate, or trust may claim a tax credit with respect to additional
618 residential energy systems or parts of residential energy systems for a subsequent taxable year
619 if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per
620 residential unit.

621 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that leases a
622 residential energy system installed on a residential unit may claim a tax credit under this
623 Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to
624 claim the tax credit.

625 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential
626 energy system may claim as a tax credit under this Subsection (3) only the principal recovery
627 portion of the lease payments.

628 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential
629 energy system may claim a tax credit under this Subsection (3) for a period that does not
630 exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

631 (d) If a claimant, estate, or trust sells a residential unit to another person before the
632 claimant, estate, or trust claims the tax credit under this Subsection (3):

633 (i) the claimant, estate, or trust may assign the tax credit to the other person; and

634 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and
635 Income Taxes, the other person may claim the tax credit as if the other person had met the
636 requirements of Section 59-7-614 to claim the tax credit; or

637 (B) if the other person files a return under this chapter, the other person may claim the
638 tax credit under this section as if the other person had met the requirements of this section to
639 claim the tax credit.

640 (4) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
641 claimant, estate, or trust shall obtain a written certification from the office.

642 (b) The office shall issue a claimant, estate, or trust a written certification if the office
643 determines that:

644 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
645 credit; and

646 (ii) the office determines that the residential energy system with respect to which the
647 claimant, estate, or trust seeks to claim a tax credit:

648 (A) has been completely installed;

649 (B) is a viable system for saving or producing energy from renewable resources; and

650 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
651 energy system uses the state's renewable and nonrenewable energy resources in an appropriate
652 and economic manner.

653 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
654 office may make rules:

655 (i) for determining whether a residential energy system meets the requirements of
656 Subsection (4)(b)(ii); and

657 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs
658 of a residential energy system, as an amount per unit of energy production.

659 (d) A claimant, estate, or trust that obtains a written certification from the office shall
660 retain the certification for the same time period a person is required to keep books and records
661 under Section [59-1-1406](#).

662 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
663 commission may make rules to address the certification of a tax credit under this section.

664 (6) A tax credit under this section is in addition to any tax credits provided under the
665 laws or rules and regulations of the United States.

666 (7) A purchaser of one or more solar units that claims a tax credit under Section
667 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
668 section for that purchase.

669 ~~[(8)(a) On or before October 1, 2017, and every five years after 2017, the Revenue and
670 Taxation Interim Committee shall review each tax credit provided by this section and report its
671 recommendations to the Legislative Management Committee concerning whether the tax credit
672 should be continued, modified, or repealed.]~~

673 ~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (8)(a)
674 shall include information concerning the cost of the tax credit, the purpose and effectiveness of
675 the tax credit, and the state's benefit from the tax credit.]~~

676 Section 11. Section **59-10-1024** is amended to read:

677 **59-10-1024. Nonrefundable tax credit for qualifying solar projects.**

678 (1) As used in this section:

679 (a) "Active solar system" [~~is as~~] means the same as that term is defined in Section
680 59-10-1014.

681 (b) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units
682 from a qualifying political subdivision.

683 (c) "Qualifying political subdivision" means:

684 (i) a city or town in this state;

685 (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;

686 or

687 (iii) a special service district created under Title 17D, Chapter 1, Special Service
688 District Act.

689 (d) "Qualifying solar project" means the portion of an active solar system:

690 (i) that a qualifying political subdivision:

691 (A) constructs;

692 (B) controls; or

693 (C) owns;

694 (ii) with respect to which the qualifying political subdivision described in Subsection

695 (1)(c)(i) sells one or more solar units; and

696 (iii) that generates electrical output that is furnished:

697 (A) to one or more residential units; or

698 (B) for the benefit of one or more residential units.

699 (e) "Residential unit" [~~is as~~] means the same as that term is defined in Section

700 59-10-1014.

701 (f) "Solar unit" means a portion of the electrical output:

702 (i) of a qualifying solar project;

703 (ii) that a qualifying political subdivision sells to a purchaser; and

704 (iii) the purchase of which requires that the purchaser agree to bear a proportionate
705 share of the expense of the qualifying solar project:

706 (A) in accordance with a written agreement between the purchaser and the qualifying
707 political subdivision;

708 (B) in exchange for a credit on the purchaser's electrical bill; and

709 (C) as determined by a formula established by the qualifying political subdivision.

710 (2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009, a
711 purchaser may claim a nonrefundable tax credit equal to the product of:

712 (a) the amount the purchaser pays to purchase one or more solar units during the
713 taxable year; and

714 (b) 25%.

715 (3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a
716 return.

717 (4) A purchaser may carry forward a tax credit under this section for a period that does
718 not exceed the next four taxable years if:

719 (a) the purchaser is allowed to claim a tax credit under this section for a taxable year;
720 and

721 (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter
722 for that taxable year.

723 (5) Subject to Section 59-10-1014, a tax credit under this section is in addition to any
724 other tax credit allowed by this chapter.

725 ~~[(6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the~~
726 ~~Revenue and Taxation Interim Committee shall review the tax credit allowed by this section~~
727 ~~and report its recommendations to the Legislative Management Committee concerning whether~~
728 ~~the tax credit should be continued, modified, or repealed.]~~

729 ~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a)~~
730 ~~shall include information concerning the cost of the tax credit, the purpose and effectiveness of~~
731 ~~the tax credit, and the state's benefit from the tax credit.]~~

732 Section 12. Section 59-10-1029 is amended to read:

733 **59-10-1029. Nonrefundable alternative energy development tax credit.**

734 (1) As used in this section:

735 (a) "Alternative energy entity" ~~[is as]~~ means the same as that term is defined in Section
736 63M-4-502.

737 (b) "Alternative energy project" ~~[is as]~~ means the same as that term is defined in
738 Section 63M-4-502.

739 (c) "Office" ~~[is as defined]~~ means the Office of Energy Development created in Section
740 63M-4-401.

741 (2) Subject to the other provisions of this section, an alternative energy entity may
742 claim a nonrefundable tax credit for alternative energy development as provided in this section.

743 (3) The tax credit under this section is the amount listed as the tax credit amount on a
744 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative
745 Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

746 (4) An alternative energy entity may carry forward a tax credit under this section for a
747 period that does not exceed the next seven taxable years if:

748 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
749 taxable year; and

750 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
751 under this chapter for that taxable year.

752 (5) (a) [~~On or before October 1, 2017, and every five years after October 1, 2017~~] In
753 accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study
754 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
755 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
756 repealed.

757 (b) For purposes of the study required by this Subsection (5), the office shall provide
758 the following information to the [~~Revenue and Taxation Interim Committee~~] Office of
759 Legislative Fiscal Analyst:

760 (i) the amount of tax credit that the office grants to each alternative energy entity for
761 each taxable year;

762 (ii) the new state revenues generated by each alternative energy project;

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

765 (iv) any other information that the [~~Revenue and Taxation Interim Committee~~] Office
766 of Legislative Fiscal Analyst requests.

767 (c) As part of the study required by this Subsection (5), the Office of Legislative Fiscal
768 Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis
769 of the information provided to the Office of Legislative Fiscal Analyst by the office under
770 Subsection (5)(b).

771 [~~(e)~~] (d) The Revenue and Taxation Interim Committee shall ensure that [~~its~~] the

772 Revenue and Taxation Interim Committee's recommendations under Subsection (5)(a) include
773 an evaluation of:

- 774 (i) the cost of the tax credit to the state;
775 (ii) the purpose and effectiveness of the tax credit; and
776 (iii) the extent to which the state benefits from the tax credit.

777 Section 13. Section **59-10-1030** is amended to read:

778 **59-10-1030. Nonrefundable alternative energy manufacturing tax credit.**

779 (1) As used in this section:

780 (a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section
781 [63N-2-702](#).

782 (b) "Alternative energy manufacturing project" [~~is as~~] means the same as that term is
783 defined in Section [63N-2-702](#).

784 (c) "Office" means the Governor's Office of Economic Development.

785 (2) Subject to the other provisions of this section, an alternative energy entity may
786 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
787 section.

788 (3) The tax credit under this section is the amount listed as the tax credit amount on a
789 tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative
790 Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

791 (4) An alternative energy entity may carry forward a tax credit under this section for a
792 period that does not exceed the next seven taxable years if:

793 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
794 taxable year; and

795 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
796 under this chapter for that taxable year.

797 (5) (a) [~~On or before October 1, 2017, and every five years after October 1, 2017~~] In
798 accordance with Section [59-10-137](#), the Revenue and Taxation Interim Committee shall study
799 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
800 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
801 repealed.

802 (b) For purposes of the study required by this Subsection (5), the office shall provide

803 the following information to the [~~Revenue and Taxation Interim Committee~~] Office of
804 Legislative Fiscal Analyst:

805 (i) the amount of tax credit that the office grants to each alternative energy entity for
806 each taxable year;

807 (ii) the new state revenues generated by each alternative energy manufacturing project;

808 (iii) the information contained in the office's latest report to the Legislature under
809 Section [63N-2-705](#); and

810 (iv) any other information that the [~~Revenue and Taxation Interim Committee~~] Office
811 of Legislative Fiscal Analyst requests.

812 (c) As part of the study required by this Subsection (5), the Office of Legislative Fiscal
813 Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis
814 of the information provided to the Office of Legislative Fiscal Analyst by the office under
815 Subsection (5)(b).

816 [~~(c)~~] (d) The Revenue and Taxation Interim Committee shall ensure that its
817 recommendations under Subsection (5)(a) include an evaluation of:

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

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

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

821 Section 14. Section **59-10-1034** is amended to read:

822 **59-10-1034. Nonrefundable high cost infrastructure development tax credit.**

823 (1) As used in this section:

824 (a) "High cost infrastructure project" means the same as that term is defined in Section
825 [63M-4-602](#).

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

828 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
829 [63M-4-602](#).

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

831 (2) Subject to the other provisions of this section, a claimant, estate, or trust that is an
832 infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a
833 high cost infrastructure project as provided in this section.

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

838 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this
839 section for a period that does not exceed the next seven taxable years if:

840 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this
841 section for a taxable year; and

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

844 (5) (a) ~~[On or before October 1, 2020, and every five years after October 1, 2020]~~ In
845 accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study
846 the tax credit allowed by this section and make recommendations ~~[to the Legislative~~
847 ~~Management Committee]~~ concerning whether the tax credit should be continued, modified, or
848 repealed.

849 (b) For purposes of the study required by this Subsection (5), the office shall provide
850 the following information to the ~~[Revenue and Taxation Interim Committee]~~ Office of
851 Legislative Fiscal Analyst:

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

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

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

857 (iv) any other information that the ~~[Revenue and Taxation Interim Committee]~~ Office
858 of Legislative Fiscal Analyst requests.

859 (c) As part of the study required by this Subsection (5), the Office of Legislative Fiscal
860 Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis
861 of the information provided to the Office of Legislative Fiscal Analyst by the office under
862 Subsection (5)(b).

863 ~~[(c)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that the Revenue
864 and Taxation Interim Committee's recommendations under Subsection (5)(a) include an

865 evaluation of:

- 866 (i) the cost of the tax credit to the state;
867 (ii) the purpose and effectiveness of the tax credit; and
868 (iii) the extent to which the state benefits from the tax credit.

869 Section 15. Section **59-10-1106** is amended to read:

870 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**
871 **Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

872 (1) As used in this section:

873 (a) "Active solar system" [~~has the same meaning as~~] means the same as that term is
874 defined in Section 59-10-1014.

875 (b) "Biomass system" [~~has the same meaning as~~] means the same as that term is
876 defined in Section 59-10-1014.

877 (c) "Commercial energy system" [~~has the same meaning as~~] means the same as that
878 term is defined in Section 59-7-614.

879 (d) "Commercial enterprise" [~~has the same meaning as~~] means the same as that term is
880 defined in Section 59-7-614.

881 (e) (i) "Commercial unit" [~~has the same meaning as~~] means the same as that term is
882 defined in Section 59-7-614.

883 (ii) Notwithstanding Subsection (1)(e)(i):

884 (A) with respect to an active solar system used for agricultural water pumping or a
885 wind system, each individual energy generating device is considered to be a commercial unit;
886 or

887 (B) if an energy system is the building or structure that a claimant, estate, or trust uses
888 to transact business, a commercial unit is the complete energy system itself.

889 (f) "Direct use geothermal system" [~~has the same meaning as~~] means the same as that
890 term is defined in Section 59-10-1014.

891 (g) "Geothermal electricity" [~~has the same meaning as~~] means the same as that term is
892 defined in Section 59-10-1014.

893 (h) "Geothermal energy" [~~has the same meaning as~~] means the same as that term is
894 defined in Section 59-10-1014.

895 (i) "Geothermal heat pump system" [~~has the same meaning as~~] means the same as that

896 term is defined in Section 59-10-1014.

897 (j) "Hydroenergy system" [~~has the same meaning as~~] means the same as that term is
898 defined in Section 59-10-1014.

899 (k) "Office" means the Office of Energy Development created in Section 63M-4-401.

900 (l) "Passive solar system" [~~has the same meaning as~~] means the same as that term is
901 defined in Section 59-10-1014.

902 (m) "Principal recovery portion" [~~has the same meaning as~~] means the same as that
903 term is defined in Section 59-10-1014.

904 (n) "Wind system" [~~has the same meaning as~~] means the same as that term is defined in
905 Section 59-10-1014.

906 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in
907 this section against a tax due under this chapter for a taxable year.

908 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust
909 may claim a refundable tax credit under this Subsection (3) with respect to a commercial
910 energy system if:

911 (i) the commercial energy system does not use:

912 (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a
913 total of 660 or more kilowatts of electricity; or

914 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

915 (ii) the claimant, estate, or trust purchases or participates in the financing of the
916 commercial energy system;

917 (iii) (A) the commercial energy system supplies all or part of the energy required by
918 commercial units owned or used by the claimant, estate, or trust; or

919 (B) the claimant, estate, or trust sells all or part of the energy produced by the
920 commercial energy system as a commercial enterprise;

921 (iv) the commercial energy system is completed and placed in service on or after
922 January 1, 2007; and

923 (v) the claimant, estate, or trust obtains a written certification from the office in
924 accordance with Subsection (6).

925 (b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 10% of the
926 reasonable costs of the commercial energy system.

- 927 (ii) A tax credit under this Subsection (3) may include installation costs.
- 928 (iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the
929 taxable year in which the commercial energy system is completed and placed in service.
- 930 (iv) A tax credit under this Subsection (3) may not be carried forward or carried back.
- 931 (v) The total amount of tax credit a claimant, estate, or trust may claim under this
932 Subsection (3) may not exceed \$50,000 per commercial unit.
- 933 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a
934 lessee of a commercial energy system installed on a commercial unit may claim a tax credit
935 under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably
936 elects not to claim the tax credit.
- 937 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax
938 credit under this Subsection (3) only the principal recovery portion of the lease payments.
- 939 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit
940 under this Subsection (3) for a period that does not exceed seven taxable years after the date the
941 lease begins, as stated in the lease agreement.
- 942 (4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust
943 may claim a refundable tax credit under this Subsection (4) with respect to a commercial
944 energy system if:
- 945 (i) the commercial energy system uses wind, geothermal electricity, or biomass
946 equipment capable of producing a total of 660 or more kilowatts of electricity;
- 947 (ii) (A) the commercial energy system supplies all or part of the energy required by
948 commercial units owned or used by the claimant, estate, or trust; or
949 (B) the claimant, estate, or trust sells all or part of the energy produced by the
950 commercial energy system as a commercial enterprise;
- 951 (iii) the commercial energy system is completed and placed in service on or after
952 January 1, 2007; and
- 953 (iv) the claimant, estate, or trust obtains a written certification from the office in
954 accordance with Subsection (6).
- 955 (b) (i) Subject to Subsections (4)(b)(ii) and (iii), a tax credit under this Subsection (4)
956 is equal to the product of:
- 957 (A) 0.35 cents; and

958 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

959 (ii) A tax credit under this Subsection (4) may be claimed for production occurring
960 during a period of 48 months beginning with the month in which the commercial energy
961 system is placed in commercial service.

962 (iii) A tax credit under this Subsection (4) may not be carried forward or back.

963 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
964 on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or
965 trust confirms that the lessor irrevocably elects not to claim the tax credit.

966 (5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust
967 may claim a refundable tax credit as provided in this Subsection (5) if:

968 (i) the claimant, estate, or trust owns a commercial energy system that uses solar
969 equipment capable of producing a total of 660 or more kilowatts of electricity;

970 (ii) (A) the commercial energy system supplies all or part of the energy required by
971 commercial units owned or used by the claimant, estate, or trust; or

972 (B) the claimant, estate, or trust sells all or part of the energy produced by the
973 commercial energy system as a commercial enterprise;

974 (iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

975 (iv) the commercial energy system is completed and placed in service on or after
976 January 1, 2015; and

977 (v) the claimant, estate, or trust obtains a written certification from the office in
978 accordance with Subsection (6).

979 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)
980 is equal to the product of:

981 (A) 0.35 cents; and

982 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

983 (ii) A tax credit under this Subsection (5) may be claimed for production occurring
984 during a period of 48 months beginning with the month in which the commercial energy
985 system is placed in commercial service.

986 (iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

987 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
988 on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or

989 trust confirms that the lessor irrevocably elects not to claim the tax credit.

990 (6) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
991 claimant, estate, or trust shall obtain a written certification from the office.

992 (b) The office shall issue a claimant, estate, or trust a written certification if the office
993 determines that:

994 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
995 credit; and

996 (ii) the office determines that the commercial energy system with respect to which the
997 claimant, estate, or trust seeks to claim a tax credit:

998 (A) has been completely installed;

999 (B) is a viable system for saving or producing energy from renewable resources; and

1000 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial
1001 energy system uses the state's renewable and nonrenewable resources in an appropriate and
1002 economic manner.

1003 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1004 office may make rules:

1005 (i) for determining whether a commercial energy system meets the requirements of
1006 Subsection (6)(b)(ii); and

1007 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs
1008 of a commercial energy system, as an amount per unit of energy production.

1009 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1010 retain the certification for the same time period a person is required to keep books and records
1011 under Section [59-1-1406](#).

1012 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1013 commission may make rules to address the certification of a tax credit under this section.

1014 (8) A tax credit under this section is in addition to any tax credits provided under the
1015 laws or rules and regulations of the United States.

1016 (9) A purchaser of one or more solar units that claims a tax credit under Section
1017 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
1018 section for that purchase.

1019 ~~[(10) (a) On or before October 1, 2017, and every five years after 2017, the Revenue~~

1020 ~~and Taxation Interim Committee shall review each tax credit provided by this section and~~
1021 ~~report its recommendations to the Legislative Management Committee concerning whether the~~
1022 ~~credit should be continued, modified, or repealed.]~~

1023 ~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (10)(a)~~
1024 ~~shall include information concerning the cost of the credit, the purpose and effectiveness of the~~
1025 ~~credit, and the state's benefit from the credit.]~~

1026 Section 16. Section **59-10-1107** is amended to read:

1027 **59-10-1107. Refundable economic development tax credit.**

1028 (1) As used in this section:

1029 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1030 ~~[²]business entity²]~~ as defined in Section [63N-2-103](#).

1031 (b) "Office" means the Governor's Office of Economic Development.

1032 (2) Subject to the other provisions of this section, a business entity may claim a
1033 refundable tax credit for economic development.

1034 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1035 tax credit certificate that the office issues to the business entity for the taxable year.

1036 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1037 (4)(b), the commission shall make a refund to a business entity that claims a tax credit under
1038 this section if the amount of the tax credit exceeds the business entity's tax liability for a
1039 taxable year.

1040 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1041 commission may make rules providing procedures for making a refund to a business entity as
1042 required by Subsection (4)(a).

1043 (5) (a) ~~[On or before October 1, 2013, and every five years after October 1, 2013]~~ In
1044 accordance with Section [59-10-137](#), the Revenue and Taxation Interim Committee shall study
1045 the tax credit allowed by this section and make recommendations ~~[to the Legislative~~
1046 ~~Management Committee]~~ concerning whether the tax credit should be continued, modified, or
1047 repealed.

1048 (b) For purposes of the study required by this Subsection (5), the office shall provide
1049 the following information to the ~~[Revenue and Taxation Interim Committee]~~ Office of
1050 Legislative Fiscal Analyst:

1051 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

1052 (ii) the criteria the office uses in granting a tax credit;

1053 (iii) the new state revenues generated by each taxpayer for each calendar year;

1054 (iv) the information contained in the office's latest report to the Legislature under

1055 Section [63N-2-106](#); and

1056 (v) any other information that the ~~[Revenue and Taxation Interim Committee]~~ Office of

1057 Legislative Fiscal Analyst requests.

1058 (c) As part of the study required by this Subsection (5), the Office of Legislative Fiscal

1059 Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis

1060 of the information provided to the Office of Legislative Fiscal Analyst by the office under

1061 Subsection (5)(b).

1062 ~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that [its] the

1063 Revenue and Taxation Interim Committee's recommendations under Subsection (5)(a) include

1064 an evaluation of:

1065 (i) the cost of the tax credit to the state;

1066 (ii) the purpose and effectiveness of the tax credit; and

1067 (iii) the extent to which the state benefits from the tax credit.

1068 Section 17. Section **59-10-1108** is amended to read:

1069 **59-10-1108. Refundable motion picture tax credit.**

1070 (1) As used in this section:

1071 (a) "Motion picture company" means a claimant, estate, or trust that meets the

1072 definition of a motion picture company under Section [63N-8-102](#).

1073 (b) "Office" means the Governor's Office of Economic Development.

1074 (c) "State-approved production" ~~[has the same meaning as]~~ means the same as that

1075 term is defined in Section [63N-8-102](#).

1076 (2) For a taxable ~~[years]~~ year beginning on or after January 1, 2009, a motion picture

1077 company may claim a refundable tax credit for a state-approved production.

1078 (3) The tax credit under this section is the amount listed as the tax credit amount on the

1079 tax credit certificate that the office issues to a motion picture company under Section

1080 [63N-8-103](#) for the taxable year.

1081 (4) (a) In accordance with any rules prescribed by the commission under Subsection

1082 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1083 credit under this section if the amount of the tax credit exceeds the motion picture company's
1084 tax liability for the taxable year.

1085 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1086 commission may make rules providing procedures for making a refund to a motion picture
1087 company as required by Subsection (4)(a).

1088 (5) (a) [~~On or before October 1, 2014, and every five years after October 1, 2014,~~] In
1089 accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study
1090 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
1091 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
1092 repealed.

1093 (b) For purposes of the study required by this Subsection (5), the office shall provide
1094 the following information to the [~~Revenue and Taxation Interim Committee~~] Office of
1095 Legislative Fiscal Analyst:

1096 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

1097 (ii) the criteria the office uses in granting a tax credit;

1098 (iii) the dollars left in the state, as defined in Section 63N-8-102, by each motion
1099 picture company for each calendar year;

1100 (iv) the information contained in the office's latest report to the Legislature under
1101 Section 63N-8-105; and

1102 (v) any other information requested by the [~~Revenue and Taxation Interim Committee~~]
1103 Office of Legislative Fiscal Analyst.

1104 (c) As part of the study required by this Subsection (5), the Office of Legislative Fiscal
1105 Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis
1106 of the information provided to the Office of Legislative Fiscal Analyst by the office under
1107 Subsection (5)(b).

1108 [~~(c)~~] (d) The Revenue and Taxation Interim Committee shall ensure that [~~its~~] the
1109 Revenue and Taxation Interim Committee's recommendations under Subsection (5)(a) include
1110 an evaluation of:

1111 (i) the cost of the tax credit to the state;

1112 (ii) the effectiveness of the tax credit; and

1113 (iii) the extent to which the state benefits from the tax credit.

1114 Section 18. Section **59-13-202** is amended to read:

1115 **59-13-202. Refund of tax for agricultural uses on individual income and**
1116 **corporate franchise and income tax returns -- Application for permit for refund --**
1117 **Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties.**

1118 (1) As used in this section:

1119 (a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or
1120 nonresident person.

1121 (ii) "Claimant" does not include an estate or trust.

1122 (b) "Estate" means a nonresident estate or a resident estate.

1123 (c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
1124 trust may claim:

1125 (i) as provided by statute; and

1126 (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust
1127 claims the tax credit, the claimant, estate, or trust has a tax liability under:

1128 (A) Chapter 7, Corporate Franchise and Income Taxes; or

1129 (B) Chapter 10, Individual Income Tax Act.

1130 (d) "Trust" means a nonresident trust or a resident trust.

1131 (2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state
1132 for the purpose of operating or propelling stationary farm engines and self-propelled farm
1133 machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as
1134 provided by this part, is entitled to a refund of the tax subject to the conditions and limitations
1135 provided under this part.

1136 (3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under
1137 this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate,
1138 or trust files under:

1139 (i) Chapter 7, Corporate Franchise and Income Taxes; or

1140 (ii) Chapter 10, Individual Income Tax Act.

1141 (b) A claimant, estate, or trust not subject to filing a tax return described in Subsection
1142 (3)(a) shall obtain a permit and file claims on a calendar year basis.

1143 (c) Any claimant, estate, or trust claiming a refundable tax credit under this section is

1144 required to furnish any or all of the information outlined in this section upon request of the
1145 commission.

1146 (d) A refundable tax credit under this section is allowed only on purchases on which
1147 tax is paid during the taxable year covered by the tax return.

1148 (4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall
1149 be filed containing:

1150 (a) the name of the claimant, estate, or trust;

1151 (b) the claimant's, estate's, or trust's address;

1152 (c) location and number of acres owned and operated, location and number of acres
1153 rented and operated, the latter of which shall be verified by a signed statement from the legal
1154 owner;

1155 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

1156 (e) make, size, type of fuel used, and power rating of each piece of equipment using
1157 fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm
1158 machinery with which the claimant, estate, or trust works for hire doing custom jobs for other
1159 farmers, the application shall include information the commission requires and shall all be
1160 contained in, and be considered part of, the original application. The claimant, estate, or trust
1161 shall also file with the application a certificate from the county assessor showing each piece of
1162 equipment using fuel. This original application and all information contained in it constitutes a
1163 permanent file with the commission in the name of the claimant, estate, or trust.

1164 (5) Any claimant, estate, or trust claiming the right to a refund of motor fuel tax paid
1165 shall file a claim with the commission by April 15 of each year for the refund for the previous
1166 calendar year. The claim shall state the name and address of the claimant, estate, or trust, the
1167 number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount
1168 paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support
1169 the claim. No more than one claim for a tax refund may be filed annually by each user of
1170 motor fuel purchased for nonhighway agricultural uses.

1171 (6) Upon commission approval of the claim for a refund, the Division of Finance shall
1172 pay the amount found due to the claimant, estate, or trust. The total amount of claims for
1173 refunds shall be paid from motor fuel taxes.

1174 (7) The commission may [~~promulgate~~] make rules to enforce this part[;] and may

1175 refuse to accept as evidence of purchase or payment any instruments [~~which~~] that show
1176 alteration or [~~which~~] that fail to indicate the quantity of the purchase, the price of the motor
1177 fuel, a statement that it is purchased for purposes other than transportation, and the date of
1178 purchase and delivery. If the commission is not satisfied with the evidence submitted in
1179 connection with the claim, it may reject the claim or require additional evidence.

1180 (8) Any claimant, estate, or trust aggrieved by the decision of the commission with
1181 respect to a refundable tax credit or refund may file a request for agency action, requesting a
1182 hearing before the commission.

1183 (9) Any claimant, estate, or trust that makes any false claim, report, or statement, as
1184 claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the
1185 claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under
1186 Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged
1187 violations of this part. In addition to these penalties, the claimant, estate, or trust may not
1188 receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for
1189 refund for a period of five years.

1190 (10) Refunds to which a claimant, estate, or trust is entitled under this part shall be paid
1191 from the Transportation Fund.

1192 (11) (a) On or before November 30, 2017, and every three years after November 30,
1193 2017, the Revenue and Taxation Interim Committee shall review the tax credits provided by
1194 this section and make recommendations concerning whether the tax credits should be
1195 continued, modified, or repealed.

1196 (b) In conducting the review required under Subsection (11)(a), the Revenue and
1197 Taxation Interim Committee shall:

1198 (i) schedule time on at least one committee agenda to conduct the review;

1199 (ii) invite state agencies, individuals, and organizations concerned with the credit under
1200 review to provide testimony;

1201 (iii) ensure that the Revenue and Taxation Interim Committee's recommendations
1202 under this section include an evaluation of:

1203 (A) the cost of the tax credit to the state;

1204 (B) the purpose and effectiveness of the tax credit; and

1205 (C) the extent to which the state benefits from the tax credit; and

1206 (iv) undertake other review efforts as determined by the chairs of the Revenue and
1207 Taxation Interim Committee.

1208 Section 19. Section **63N-2-213** is amended to read:

1209 **63N-2-213. State tax credits.**

1210 (1) Subject to the limitations of Subsections (2) through (4), the following
1211 nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and
1212 Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an
1213 enterprise zone:

1214 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
1215 employee position created within the enterprise zone;

1216 (b) an additional \$500 tax credit may be claimed if the new full-time employee position
1217 created within the enterprise zone pays at least 125% of:

1218 (i) the county average monthly nonagricultural payroll wage for the respective industry
1219 as determined by the Department of Workforce Services; or

1220 (ii) if the county average monthly nonagricultural payroll wage is not available for the
1221 respective industry, the total average monthly nonagricultural payroll wage in the respective
1222 county where the enterprise zone is located;

1223 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
1224 position created within the enterprise zone is in a business entity that adds value to agricultural
1225 commodities through manufacturing or processing;

1226 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
1227 new full-time employee position created within the enterprise zone that is filled by an
1228 employee who is insured under an employer-sponsored health insurance program if the
1229 employer pays at least 50% of the premium cost for the year for which the credit is claimed;

1230 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit
1231 corporation, except that the credit claimed may not exceed \$100,000:

1232 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal
1233 Revenue Code;

1234 (ii) whose primary purpose is community and economic development; and

1235 (iii) that has been accredited by the Governor's Rural Partnership Board;

1236 (f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the

1237 enterprise zone that has been vacant for two years or more; and

1238 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
1239 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
1240 property.

1241 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming tax
1242 credits under Subsections (1)(a) through (d) may claim the tax credits for up to 30 full-time
1243 employee positions per taxable year.

1244 (b) A business entity that received a tax credit for one or more new full-time employee
1245 positions under Subsections (1)(a) through (d) in a prior taxable year may claim a tax credit for
1246 a new full-time employee position in a subsequent taxable year under Subsections (1)(a)
1247 through (d) if:

1248 (i) the business entity has created a new full-time position within the enterprise zone;
1249 and

1250 (ii) the total number of full-time employee positions at the business entity at any point
1251 during the tax year for which the tax credit is being claimed is greater than the number of
1252 full-time employee positions that existed at the business entity at any point during the taxable
1253 year immediately preceding the taxable year for which the credit is being claimed.

1254 (c) Construction jobs are not eligible for the tax credits under Subsections (1)(a)
1255 through (d).

1256 (3) If the amount of a tax credit under this section exceeds a business entity's tax
1257 liability under this chapter for a taxable year, the business entity may carry forward the amount
1258 of the tax credit exceeding the liability for a period that does not exceed the next three taxable
1259 years.

1260 (4) Tax credits under Subsections (1)(a) through (g) may not be claimed by a business
1261 entity primarily engaged in retail trade or by a public utilities business.

1262 (5) A business entity that has no employees:

1263 (a) may not claim tax credits under Subsections (1)(a) through (d); and

1264 (b) may claim tax credits under Subsections (1)(e) through (g).

1265 (6) A business entity may not claim or carry forward a tax credit available under this
1266 part for a taxable year during which the business entity has claimed the targeted business
1267 income tax credit available under Section [63N-2-305](#).

1268 (7) (a) On or before November 30, 2018, and every three years after November 30,
1269 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by
1270 this section and make recommendations concerning whether the tax credits should be
1271 continued, modified, or repealed.

1272 (b) In conducting the review required under this Subsection (7), the Revenue and
1273 Taxation Interim Committee shall:

1274 (i) schedule time on at least one committee agenda to conduct the review;

1275 (ii) invite state agencies, individuals, and organizations concerned with the credit under
1276 review to provide testimony;

1277 (iii) ensure that the Revenue and Taxation Interim Committee's recommendations
1278 under this section include an evaluation of:

1279 (A) the cost of the tax credit to the state;

1280 (B) the purpose and effectiveness of the tax credit; and

1281 (C) the extent to which the state benefits from the tax credit; and

1282 (iv) undertake other review efforts as determined by the chairs of the Revenue and
1283 Taxation Interim Committee.

1284 Section 20. Section **63N-2-305** is amended to read:

1285 **63N-2-305. Targeted business income tax credit structure -- Duties of the local**
1286 **zone administrator -- Duties of the State Tax Commission.**

1287 (1) A business applicant that is certified under Subsection **63N-2-304**(3) and issued a
1288 targeted business tax credit eligibility form by the office under Subsection (8) may claim a
1289 refundable tax credit:

1290 (a) against the business applicant's tax liability under:

1291 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

1292 (ii) Title 59, Chapter 10, Individual Income Tax Act; and

1293 (b) subject to requirements and limitations provided by this part.

1294 (2) The total amount of the targeted business income tax credits allowed under this part
1295 for all business applicants may not exceed \$300,000 in any fiscal year.

1296 (3) (a) A targeted business income tax credit allowed under this part for each
1297 community investment project provided by a business applicant may not:

1298 (i) be claimed by a business applicant for more than seven consecutive taxable years

1299 from the date the business applicant first qualifies for a targeted business income tax credit on
1300 the basis of a community investment project;

1301 (ii) be carried forward or carried back;

1302 (iii) exceed \$100,000 in total amount for the community investment project period
1303 during which the business applicant is eligible to claim a targeted business income tax credit;

1304 or

1305 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser
1306 of:

1307 (A) 50% of the maximum amount allowed by the local zone administrator; or

1308 (B) the allocated cap amount determined by the office under Subsection 63N-2-304(5).

1309 (b) A business applicant may apply to the local zone administrator to claim a targeted
1310 business income tax credit allowed under this part for each community investment project
1311 provided by the business applicant as the basis for its eligibility for a targeted business income
1312 tax credit.

1313 (4) Subject to other provisions of this section, the local zone administrator shall
1314 establish for each business applicant that qualifies for a targeted business income tax credit:

1315 (a) criteria for maintaining eligibility for the targeted business income tax credit that
1316 are reasonably related to the community investment project that is the basis for the business
1317 applicant's targeted business income tax credit;

1318 (b) the maximum amount of the targeted business income tax credit the business
1319 applicant is allowed for the community investment project period;

1320 (c) the time period over which the total amount of the targeted business income tax
1321 credit may be claimed;

1322 (d) the maximum amount of the targeted business income tax credit that the business
1323 applicant will be allowed to claim each year; and

1324 (e) requirements for a business applicant to report to the local zone administrator
1325 specifying:

1326 (i) the frequency of the business applicant's reports to the local zone administrator,
1327 which shall be made at least quarterly; and

1328 (ii) the information needed by the local zone administrator to monitor the business
1329 applicant's compliance with this Subsection (4) or Section 63N-2-304 that shall be included in

1330 the report.

1331 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted
1332 business income tax credit under this part shall report to the local zone administrator.

1333 (6) The amount of a targeted business income tax credit that a business applicant is
1334 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office
1335 or the local zone administrator determines that the business applicant has failed to comply with
1336 a requirement of Subsection (3) or Section 63N-2-304.

1337 (7) The office or local zone administrator may audit a business applicant to ensure:

1338 (a) eligibility for a targeted business income tax credit; or

1339 (b) compliance with Subsection (3) or Section 63N-2-304.

1340 (8) The office shall issue a targeted business income tax credit eligibility form in a
1341 form jointly developed by the State Tax Commission and the office no later than 30 days after
1342 the last day of the business applicant's taxable year showing:

1343 (a) the maximum amount of the targeted business income tax credit that the business
1344 applicant is eligible for that taxable year;

1345 (b) any reductions in the maximum amount of the targeted business income tax credit
1346 because of failure to comply with a requirement of Subsection (3) or Section 63N-2-304;

1347 (c) the allocated cap amount that the business applicant may claim for that taxable
1348 year; and

1349 (d) the actual amount of the targeted business income tax credit that the business
1350 applicant may claim for that taxable year.

1351 (9) (a) A business applicant shall retain the targeted business income tax credit
1352 eligibility form provided by the office under this Subsection (9).

1353 (b) The State Tax Commission may audit a business applicant to ensure:

1354 (i) eligibility for a targeted business income tax credit; or

1355 (ii) compliance with Subsection (3) or Section 63N-2-304.

1356 (10) (a) On or before November 30, 2018, and every three years after November 30,
1357 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by
1358 this section and make recommendations concerning whether the tax credits should be
1359 continued, modified, or repealed.

1360 (b) In conducting the review required under this Subsection (10), the Revenue and

1361 Taxation Interim Committee shall:
1362 (i) schedule time on at least one committee agenda to conduct the review;
1363 (ii) invite state agencies, individuals, and organizations concerned with the credit under
1364 review to provide testimony;
1365 (iii) ensure that the Revenue and Taxation Interim Committee's recommendations
1366 under this section include an evaluation of:
1367 (A) the cost of the tax credit to the state;
1368 (B) the purpose and effectiveness of the tax credit; and
1369 (C) the extent to which the state benefits from the tax credit; and
1370 (iv) undertake other review efforts as determined by the chairs of the Revenue and
1371 Taxation Interim Committee.

Legislative Review Note
Office of Legislative Research and General Counsel