

**Representative Jeremy A. Peterson** proposes the following substitute bill:

**TAX CREDIT REVIEW AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jeremy A. Peterson**

Senate Sponsor: Curtis S. Bramble

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**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



- 26 [59-7-614.7](#), as enacted by Laws of Utah 2012, Chapter 410
- 27 [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-2-106](#), as last amended by Laws of Utah 2015, Chapter 344 and renumbered and
- 41 amended by Laws of Utah 2015, Chapter 283
- 42 [63N-2-213](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 43 [63N-2-305](#), as renumbered and amended by Laws of Utah 2015, Chapter 283

44 ENACTS:

- 45 [59-7-159](#), Utah Code Annotated 1953
- 46 [59-10-137](#), Utah Code Annotated 1953



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

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

50 **59-7-159. Review of credits allowed under this chapter.**

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

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55 credits should be continued, modified, or repealed.

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

- 57 (i) schedule time on at least one committee agenda to conduct the review;  
58 (ii) invite state agencies, individuals, and organizations concerned with the tax credit  
59 under review to provide testimony;  
60 (iii) (A) invite the Governor's Office of Economic Development to present a summary  
61 and analysis of the information for each tax credit regarding which the Governor's Office of  
62 Economic Development is required to make a report under this chapter; and  
63 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and  
64 analysis of the information for each tax credit regarding which the Office of the Legislative  
65 Fiscal Analyst is required to make a report under this chapter;  
66 (iv) ensure that the committee's recommendations under this section include an  
67 evaluation of:  
68 (A) the cost of the tax credit to the state;  
69 (B) the purpose and effectiveness of the tax credit; and  
70 (C) the extent to which the state benefits from the tax credit; and  
71 (v) undertake other review efforts as determined by the committee chairs or as  
72 otherwise required by law.  
73 (3) (a) On or before November 30, 2016, and every three years after November 30,  
74 2016, the committee shall conduct the review required under Subsection (2) of the tax credits  
75 allowed under the following sections:  
76 (i) Section [59-7-605](#);  
77 (ii) Section [59-7-610](#);  
78 (iii) Section [59-7-614](#);  
79 (iv) Section [59-7-614.7](#);  
80 (v) Section [59-7-614.8](#); and  
81 (vi) Section [59-7-618](#).  
82 (b) On or before November 30, 2017, and every three years after November 30, 2017,  
83 the committee shall conduct the review required under Subsection (2) of the tax credits allowed  
84 under the following sections:  
85 (i) Section [59-7-601](#);  
86 (ii) Section [59-7-607](#);  
87 (iii) Section [59-7-612](#);

88 (iv) Section 59-7-614.1;

89 (v) Section 59-7-614.5; and

90 (vi) Section 59-7-614.6.

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

92 the committee shall conduct the review required under Subsection (2) of the tax credits allowed  
93 under the following sections:

94 (i) Section 59-7-609;

95 (ii) Section 59-7-614.2;

96 (iii) Section 59-7-617;

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

98 (v) Section 59-7-620.

99 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
100 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
101 2016.

102 (ii) The committee shall complete a review described in this Subsection (3)(d) three  
103 years after the effective date of the tax credit and every three years after the initial review date.

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

105 **59-7-614.2. Refundable economic development tax credit.**

106 (1) As used in this section:

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

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

111 (c) "Local government entity" [~~is as~~] means the same as that term is defined in Section  
112 **63N-2-103**.

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

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

117 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
118 tax credit certificate that the office issues to the business entity, local government entity, or

119 community development and renewal agency for the taxable year.

120 (4) A community development and renewal agency may claim a tax credit under this  
121 section only if a local government entity assigns the tax credit to the community development  
122 and renewal agency in accordance with Section [63N-2-104](#).

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

126 (i) a local government entity;

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

128 (iii) a business entity if the amount of the tax credit exceeds the business entity's tax  
129 liability for a taxable year.

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

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

139 (b) For purposes of the study required by this Subsection (6), the office shall provide  
140 the following information [~~to the Revenue and Taxation Interim Committee~~]:

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

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

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

146 (B) for a local government entity, regardless of whether the local government entity  
147 assigns the tax credit in accordance with Section [63N-2-104](#), the new state revenues generated  
148 as a result of a new commercial project within the local government entity for each calendar  
149 year;

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

152 (v) any other information that the Revenue and Taxation Interim Committee requests.

153 (c) The Revenue and Taxation Interim Committee shall ensure that [its] the Revenue  
154 and Taxation Interim Committee's recommendations under Subsection (6)(a) include an  
155 evaluation of:

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

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

160 **59-7-614.5. Refundable motion picture tax credit.**

161 (1) As used in this section:

162 (a) "Motion picture company" means a taxpayer that meets the definition of a motion  
163 picture company under Section 63N-8-102.

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

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

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

169 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
170 tax credit certificate that the office issues to a motion picture company under Section  
171 63N-8-103 for the taxable year.

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

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

179 (5) (a) [~~On or before October 1, 2014, and every five years after October 1, 2014~~] In  
180 accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study

181 the tax credit allowed by this section and make recommendations [~~to the Legislative~~  
 182 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or  
 183 repealed.

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

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

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

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

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

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

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

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

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

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

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

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

207 **59-7-614.7. Nonrefundable alternative energy development tax credit.**

208 (1) As used in this section:

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

211 (b) "Alternative energy project" [~~is as~~] means the same as that term is defined in

212 Section [63M-4-502](#).

213 (c) "Office" [~~is as defined~~] means the Office of Energy Development created in Section  
214 [63M-4-401](#).

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

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

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

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

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

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

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

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

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

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

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

241 (c) As part of the study required by this Subsection (5), the Office of the Legislative  
242 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and



243 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the  
 244 office under Subsection (5)(b).

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

- 248 (i) the cost of the tax credit to the state;
- 249 (ii) the purpose and effectiveness of the tax credit; and
- 250 (iii) the extent to which the state benefits from the tax credit.

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

252 **59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.**

253 (1) As used in this section:

254 (a) "Alternative energy entity" ~~[is as]~~ means the same as that term is defined in Section  
 255 63N-2-702.

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

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

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

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

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

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

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

271 (5) (a) ~~[On or before October 1, 2017, and every five years after October 1, 2017]~~ In  
 272 accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study  
 273 the tax credit allowed by this section and make recommendations ~~[to the Legislative~~

274 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or  
275 repealed.

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

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

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

282 (iii) the information contained in the office's latest report to the Legislature under  
283 Section ~~[63N-2-705]~~ 63N-1-301; and

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

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

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

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

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

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

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

297 **59-7-619. Nonrefundable high cost infrastructure development tax credit.**

298 (1) As used in this section:

299 (a) "High cost infrastructure project" means the same as that term is defined in Section  
300 63M-4-602.

301 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in  
302 Section 63M-4-602.

303 (c) "Infrastructure-related revenue" means the same as that term is defined in Section  
304 63M-4-602.

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

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

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

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

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

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

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

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

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

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

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

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

334 (c) As part of the study required by this Subsection (5), the Office of the Legislative  
335 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and

336 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the  
337 office under Subsection (5)(b).

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

- 341 (i) the cost of the tax credit to the state;
- 342 (ii) the purpose and effectiveness of the tax credit; and
- 343 (iii) the extent to which the state benefits from the tax credit.

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

345 **59-9-107. Nonrefundable small business jobs credit.**

346 (1) As used in this section:

347 (a) "Credit allowance date" ~~[is as]~~ means the same as that term is defined in Section  
348 [63N-2-602](#).

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

350 (c) "Tax credit certificate" ~~[is as]~~ means the same as that term is defined in Section  
351 [63N-2-602](#).

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

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

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

359 (a) the entity is allowed to claim a tax credit under this section for a calendar year; and

360 (b) the amount of the tax credit exceeds the entity's tax liability under this chapter for  
361 that calendar year.

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

365 (6) Notwithstanding the other provisions of this section, this section does not apply to  
366 an admitted insurer to the extent that the admitted insurer writes workers' compensation

367 insurance in this state and has premiums taxed under Subsection [59-9-101\(2\)](#).

368 (7) (a) On or before November 30, 2018, and every three years after November 30,  
369 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by  
370 this section and make recommendations concerning whether the tax credits should be  
371 continued, modified, or repealed.

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

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

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

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

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

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

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

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

384 Section 8. Section [59-10-137](#) is enacted to read:

385 **[59-10-137. Review of credits allowed under this chapter.](#)**

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

388 (2) (a) The committee shall review the tax credits described in this chapter as provided  
389 in Subsection (3) and make recommendations concerning whether the tax credits should be  
390 continued, modified, or repealed.

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

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

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

395 (iii) (A) invite the Governor's Office of Economic Development to present a summary  
396 and analysis of the information for each tax credit regarding which the Governor's Office of  
397 Economic Development is required to make a report under this chapter; and

398 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and  
399 analysis of the information for each tax credit regarding which the Office of the Legislative  
400 Fiscal Analyst is required to make a report under this chapter;

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

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

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

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

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

408 (3) (a) On or before November 30, 2016, and every three years after November 30,  
409 2016, the committee shall conduct the review required under Subsection (2) of the tax credits  
410 allowed under the following sections:

411 (i) Section 59-10-1007;

412 (ii) Section 59-10-1009;

413 (iii) Section 59-10-1014;

414 (iv) Section 59-10-1017;

415 (v) Section 59-10-1018;

416 (vi) Section 59-10-1019;

417 (vii) Section 59-10-1024;

418 (viii) Section 59-10-1029;

419 (ix) Section 59-10-1030;

420 (x) Section 59-10-1033; and

421 (xi) Section 59-10-1106.

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

425 (i) Section 59-10-1004;

426 (ii) Section 59-10-1010;

427 (iii) Section 59-10-1015;

428 (iv) Section 59-10-1025;

- 429 (v) Section 59-10-1027;
- 430 (vi) Section 59-10-1031;
- 431 (vii) Section 59-10-1032;
- 432 (viii) Section 59-10-1035;
- 433 (ix) Section 59-10-1104;
- 434 (x) Section 59-10-1105;
- 435 (xi) Section 59-10-1108; and
- 436 (xii) Section 59-10-1109.

437 (c) On or before November 30, 2018, and every three years after November 30, 2018,  
438 the committee shall conduct the review required under Subsection (2) of the tax credits allowed  
439 under the following sections:

- 440 (i) Section 59-10-1005;
- 441 (ii) Section 59-10-1006;
- 442 (iii) Section 59-10-1012;
- 443 (iv) Section 59-10-1013;
- 444 (v) Section 59-10-1021;
- 445 (vi) Section 59-10-1022;
- 446 (vii) Section 59-10-1023;
- 447 (viii) Section 59-10-1028;
- 448 (ix) Section 59-10-1034; and
- 449 (x) Section 59-10-1107.

450 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
451 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
452 2016.

453 (ii) The committee shall complete a review described in this Subsection (3)(d) three  
454 years after the effective date of the tax credit and every three years after the initial review date.

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

456 **59-10-1013. Tax credits for machinery, equipment, or both primarily used for**  
457 **conducting qualified research or basic research -- Carry forward -- Commission to report**  
458 **modification or repeal of certain federal provisions -- Revenue and Taxation Interim**  
459 **Committee study.**

460 (1) As used in this section:

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

464 (b) "Equipment" includes:

465 (i) a computer;

466 (ii) computer equipment; and

467 (iii) computer software.

468 (c) "Purchase price":

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

470 (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an  
471 item of machinery or equipment.

472 (d) "Qualified organization" [~~is as~~] means the same as that term is defined in Section  
473 41(e)(6), Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

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

490 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under



491 this section for the taxable year for which the claimant, estate, or trust purchases the machinery,  
492 equipment, or both.

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

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

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

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

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

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

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

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

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

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

522           ~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall address in a review under  
523 this section the:

- 524           (i) cost of the tax credits provided for in this section;  
525           (ii) purpose and effectiveness of the tax credits provided for in this section;  
526           (iii) whether the tax credits provided for in this section benefit the state; and  
527           (iv) whether the tax credits provided for in this section should be:  
528           (A) continued;  
529           (B) modified; or  
530           (C) repealed.

531           ~~[(d)]~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits  
532 provided for in this section, the committee shall issue a report [its] of the committee's findings  
533 ~~[to the Legislative Management Committee on or before the November interim meeting of the~~  
534 ~~year in which the Revenue and Taxation Interim Committee reviews the tax credits].~~

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

536           **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**  
537 **Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

538           (1) As used in this section:

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

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

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

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

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

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

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

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

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

- 553 (i) contained in heat that continuously flows outward from the earth; and
- 554 (ii) used as a sole source of energy to produce electricity.
- 555 (e) "Geothermal energy" means energy generated by heat that is contained in the earth.
- 556 (f) "Geothermal heat pump system" means a system of apparatus and equipment that:
- 557 (i) enables the use of thermal properties contained in the earth at temperatures well
- 558 below 100 degrees Fahrenheit; and
- 559 (ii) helps meet heating and cooling needs of a structure.
- 560 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable
- 561 of:
- 562 (i) intercepting and converting kinetic water energy into electrical or mechanical
- 563 energy; and
- 564 (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- 565 (h) "Office" means the Office of Energy Development created in Section [63M-4-401](#).
- 566 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
- 567 a building and its operable components to provide for collection, storage, and distribution of
- 568 heating or cooling during the appropriate times of the year by utilizing the climate resources
- 569 available at the site.
- 570 (ii) "Passive solar system" includes those portions and components of a building that
- 571 are expressly designed and required for the collection, storage, and distribution of solar energy.
- 572 (j) (i) "Principal recovery portion" means the portion of a lease payment that
- 573 constitutes the cost a person incurs in acquiring a residential energy system.
- 574 (ii) "Principal recovery portion" does not include:
- 575 (A) an interest charge; or
- 576 (B) a maintenance expense.
- 577 (k) "Residential energy system" means the following used to supply energy to or for a
- 578 residential unit:
- 579 (i) an active solar system;
- 580 (ii) a biomass system;
- 581 (iii) a direct use geothermal system;
- 582 (iv) a geothermal heat pump system;
- 583 (v) a hydroenergy system;

584 (vi) a passive solar system; or

585 (vii) a wind system.

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

588 (A) is located in the state; and

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

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

591 (A) Section 59-2-404;

592 (B) Section 59-2-405;

593 (C) Section 59-2-405.1;

594 (D) Section 59-2-405.2; or

595 (E) Section 59-2-405.3.

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

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

598 (ii) transferring these forms of energy by a separate apparatus to the point of use or  
599 storage.

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

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

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

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

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

610 (ii) the residential energy system is completed and placed in service on or after January  
611 1, 2007; and

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

614 (b) (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit is equal to 25% of

615 the reasonable costs of each residential energy system installed with respect to each residential  
616 unit the claimant, estate, or trust owns or uses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

657 (A) has been completely installed;

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

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

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

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

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

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

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

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

675 (7) A purchaser of one or more solar units that claims a tax credit under Section  
676 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this

677 section for that purchase.

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

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

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

686 **59-10-1024. Nonrefundable tax credit for qualifying solar projects.**

687 (1) As used in this section:

688 (a) "Active solar system" ~~[is as]~~ means the same as that term is defined in Section  
689 **59-10-1014**.

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

692 (c) "Qualifying political subdivision" means:

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

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

695 or

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

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

699 (i) that a qualifying political subdivision:

700 (A) constructs;

701 (B) controls; or

702 (C) owns;

703 (ii) with respect to which the qualifying political subdivision described in Subsection  
704 (1)(c)(i) sells one or more solar units; and

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

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

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

708 (e) "Residential unit" [~~is as~~] means the same as that term is defined in Section  
709 59-10-1014.

710 (f) "Solar unit" means a portion of the electrical output:  
711 (i) of a qualifying solar project;  
712 (ii) that a qualifying political subdivision sells to a purchaser; and  
713 (iii) the purchase of which requires that the purchaser agree to bear a proportionate  
714 share of the expense of the qualifying solar project:  
715 (A) in accordance with a written agreement between the purchaser and the qualifying  
716 political subdivision;  
717 (B) in exchange for a credit on the purchaser's electrical bill; and  
718 (C) as determined by a formula established by the qualifying political subdivision.

719 (2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009, a  
720 purchaser may claim a nonrefundable tax credit equal to the product of:  
721 (a) the amount the purchaser pays to purchase one or more solar units during the  
722 taxable year; and  
723 (b) 25%.

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

726 (4) A purchaser may carry forward a tax credit under this section for a period that does  
727 not exceed the next four taxable years if:  
728 (a) the purchaser is allowed to claim a tax credit under this section for a taxable year;  
729 and  
730 (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter  
731 for that taxable year.

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

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

738 [~~(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a)~~



739 ~~shall include information concerning the cost of the tax credit, the purpose and effectiveness of~~  
740 ~~the tax credit, and the state's benefit from the tax credit.]~~

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

742 **59-10-1029. Nonrefundable alternative energy development tax credit.**

743 (1) As used in this section:

744 (a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section  
745 63M-4-502.

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

748 (c) "Office" [~~is as defined~~] means the Office of Energy Development created in Section  
749 63M-4-401.

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

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

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

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

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

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

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

769 (i) the amount of tax credit that the office grants to each alternative energy entity for

770 each taxable year;

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

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

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

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

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

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

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

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

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

787 **59-10-1030. Nonrefundable alternative energy manufacturing tax credit.**

788 (1) As used in this section:

789 (a) "Alternative energy entity" ~~[is as]~~ means the same as that term is defined in Section  
790 [63N-2-702](#).

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

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

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

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

800 (4) An alternative energy entity may carry forward a tax credit under this section for a

801 period that does not exceed the next seven taxable years if:

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

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

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

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

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

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

817 (iii) the information contained in the office's latest report to the Legislature under  
818 Section 63N-2-705; and

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

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

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

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

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

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

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

831 **59-10-1034. Nonrefundable high cost infrastructure development tax credit.**

832 (1) As used in this section:

833 (a) "High cost infrastructure project" means the same as that term is defined in Section  
834 [63M-4-602](#).

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

837 (c) "Infrastructure-related revenue" means the same as that term is defined in Section  
838 [63M-4-602](#).

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

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

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

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

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

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

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

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

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

863 (ii) the infrastructure-related revenue generated by each high cost infrastructure project;  
 864 (iii) the information contained in the office's latest report [~~to the Legislature~~] under  
 865 Section [63M-4-505](#); and

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

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

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

- 875 (i) the cost of the tax credit to the state;
- 876 (ii) the purpose and effectiveness of the tax credit; and
- 877 (iii) the extent to which the state benefits from the tax credit.

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

879 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**

880 **Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.**

881 (1) As used in this section:

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

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

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

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

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

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

893 (A) with respect to an active solar system used for agricultural water pumping or a

894 wind system, each individual energy generating device is considered to be a commercial unit;  
895 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

924 (ii) the claimant, estate, or trust purchases or participates in the financing of the

925 commercial energy system;

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

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

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

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

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

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

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

939 (iv) A tax credit under this Subsection (3) may not be carried forward or carried back.

940 (v) The total amount of tax credit a claimant, estate, or trust may claim under this  
941 Subsection (3) may not exceed \$50,000 per commercial unit.

942 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a  
943 lessee of a commercial energy system installed on a commercial unit may claim a tax credit  
944 under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably  
945 elects not to claim the tax credit.

946 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax  
947 credit under this Subsection (3) only the principal recovery portion of the lease payments.

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

951 (4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust  
952 may claim a refundable tax credit under this Subsection (4) with respect to a commercial  
953 energy system if:

954 (i) the commercial energy system uses wind, geothermal electricity, or biomass  
955 equipment capable of producing a total of 660 or more kilowatts of electricity;

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

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

960 (iii) the commercial energy system is completed and placed in service on or after  
961 January 1, 2007; and

962 (iv) the claimant, estate, or trust obtains a written certification from the office in  
963 accordance with Subsection (6).

964 (b) (i) Subject to Subsections (4)(b)(ii) and (iii), a tax credit under this Subsection (4)  
965 is equal to the product of:

966 (A) 0.35 cents; and

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

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

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

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

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

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

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

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

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

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

986 (v) the claimant, estate, or trust obtains a written certification from the office in



987 accordance with Subsection (6).

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

990 (A) 0.35 cents; and

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

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

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

996 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed  
997 on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or  
998 trust confirms that the lessor irrevocably elects not to claim the tax credit.

999 (6) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the  
1000 claimant, estate, or trust shall obtain a written certification from the office.

1001 (b) The office shall issue a claimant, estate, or trust a written certification if the office  
1002 determines that:

1003 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax  
1004 credit; and

1005 (ii) the office determines that the commercial energy system with respect to which the  
1006 claimant, estate, or trust seeks to claim a tax credit:

1007 (A) has been completely installed;

1008 (B) is a viable system for saving or producing energy from renewable resources; and

1009 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial  
1010 energy system uses the state's renewable and nonrenewable resources in an appropriate and  
1011 economic manner.

1012 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1013 office may make rules:

1014 (i) for determining whether a commercial energy system meets the requirements of  
1015 Subsection (6)(b)(ii); and

1016 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs  
1017 of a commercial energy system, as an amount per unit of energy production.

1018 (d) A claimant, estate, or trust that obtains a written certification from the office shall  
1019 retain the certification for the same time period a person is required to keep books and records  
1020 under Section 59-1-1406.

1021 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1022 commission may make rules to address the certification of a tax credit under this section.

1023 (8) A tax credit under this section is in addition to any tax credits provided under the  
1024 laws or rules and regulations of the United States.

1025 (9) A purchaser of one or more solar units that claims a tax credit under Section  
1026 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this  
1027 section for that purchase.

1028 ~~[(10) (a) On or before October 1, 2017, and every five years after 2017, the Revenue  
1029 and Taxation Interim Committee shall review each tax credit provided by this section and  
1030 report its recommendations to the Legislative Management Committee concerning whether the  
1031 credit should be continued, modified, or repealed.]~~

1032 ~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (10)(a)  
1033 shall include information concerning the cost of the credit, the purpose and effectiveness of the  
1034 credit, and the state's benefit from the credit.]~~

1035 Section 16. Section 59-10-1107 is amended to read:

1036 **59-10-1107. Refundable economic development tax credit.**

1037 (1) As used in this section:

1038 (a) "Business entity" means a claimant, estate, or trust that meets the definition of  
1039 <sup>[#]</sup>business entity<sup>[#]</sup> as defined in Section 63N-2-103.

1040 (b) "Office" means the Governor's Office of Economic Development.

1041 (2) Subject to the other provisions of this section, a business entity may claim a  
1042 refundable tax credit for economic development.

1043 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
1044 tax credit certificate that the office issues to the business entity for the taxable year.

1045 (4) (a) In accordance with any rules prescribed by the commission under Subsection  
1046 (4)(b), the commission shall make a refund to a business entity that claims a tax credit under  
1047 this section if the amount of the tax credit exceeds the business entity's tax liability for a  
1048 taxable year.

1049 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 1050 commission may make rules providing procedures for making a refund to a business entity as  
 1051 required by Subsection (4)(a).

1052 (5) (a) [~~On or before October 1, 2013, and every five years after October 1, 2013~~] In  
 1053 accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study  
 1054 the tax credit allowed by this section and make recommendations [~~to the Legislative~~  
 1055 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or  
 1056 repealed.

1057 (b) For purposes of the study required by this Subsection (5), the office shall provide  
 1058 the following information [~~to the Revenue and Taxation Interim Committee~~]:

1059 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;  
 1060 (ii) the criteria the office uses in granting a tax credit;  
 1061 (iii) the new state revenues generated by each taxpayer for each calendar year;  
 1062 (iv) the information contained in the office's latest report to the Legislature under  
 1063 Section 63N-2-106; and

1064 (v) any other information that the Revenue and Taxation Interim Committee requests.

1065 (c) The Revenue and Taxation Interim Committee shall ensure that [~~its~~] the Revenue  
 1066 and Taxation Interim Committee's recommendations under Subsection (5)(a) include an  
 1067 evaluation of:

1068 (i) the cost of the tax credit to the state;  
 1069 (ii) the purpose and effectiveness of the tax credit; and  
 1070 (iii) the extent to which the state benefits from the tax credit.

1071 Section 17. Section **59-10-1108** is amended to read:

1072 **59-10-1108. Refundable motion picture tax credit.**

1073 (1) As used in this section:

1074 (a) "Motion picture company" means a claimant, estate, or trust that meets the  
 1075 definition of a motion picture company under Section 63N-8-102.

1076 (b) "Office" means the Governor's Office of Economic Development.

1077 (c) "State-approved production" [~~has the same meaning as~~] means the same as that  
 1078 term is defined in Section 63N-8-102.

1079 (2) For a taxable [~~years~~] year beginning on or after January 1, 2009, a motion picture

1080 company may claim a refundable tax credit for a state-approved production.

1081 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
1082 tax credit certificate that the office issues to a motion picture company under Section  
1083 [63N-8-103](#) for the taxable year.

1084 (4) (a) In accordance with any rules prescribed by the commission under Subsection  
1085 (4)(b), the commission shall make a refund to a motion picture company that claims a tax  
1086 credit under this section if the amount of the tax credit exceeds the motion picture company's  
1087 tax liability for the taxable year.

1088 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1089 commission may make rules providing procedures for making a refund to a motion picture  
1090 company as required by Subsection (4)(a).

1091 (5) (a) [~~On or before October 1, 2014, and every five years after October 1, 2014,~~] In  
1092 accordance with Section [59-10-137](#), the Revenue and Taxation Interim Committee shall study  
1093 the tax credit allowed by this section and make recommendations [~~to the Legislative~~  
1094 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or  
1095 repealed.

1096 (b) For purposes of the study required by this Subsection (5), the office shall provide  
1097 the following information to the [~~Revenue and Taxation Interim Committee~~] Office of the  
1098 Legislative Fiscal Analyst:

1099 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

1100 (ii) the criteria the office uses in granting a tax credit;

1101 (iii) the dollars left in the state, as defined in Section [63N-8-102](#), by each motion  
1102 picture company for each calendar year;

1103 (iv) the information contained in the office's latest report to the Legislature under  
1104 Section [63N-8-105](#); and

1105 (v) any other information requested by the [~~Revenue and Taxation Interim Committee~~]  
1106 Office of the Legislative Fiscal Analyst.

1107 (c) As part of the study required by this Subsection (5), the Office of the Legislative  
1108 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and  
1109 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the  
1110 office under Subsection (5)(b).

1111           ~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the  
1112 Revenue and Taxation Interim Committee's recommendations under Subsection (5)(a) include  
1113 an evaluation of:

- 1114           (i) the cost of the tax credit to the state;
- 1115           (ii) the effectiveness of the tax credit; and
- 1116           (iii) the extent to which the state benefits from the tax credit.

1117           Section 18. Section **59-13-202** is amended to read:

1118           **59-13-202. Refund of tax for agricultural uses on individual income and**  
1119 **corporate franchise and income tax returns -- Application for permit for refund --**  
1120 **Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties.**

1121           (1) As used in this section:

1122           (a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or  
1123 nonresident person.

1124           (ii) "Claimant" does not include an estate or trust.

1125           (b) "Estate" means a nonresident estate or a resident estate.

1126           (c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or  
1127 trust may claim:

1128           (i) as provided by statute; and

1129           (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust  
1130 claims the tax credit, the claimant, estate, or trust has a tax liability under:

1131           (A) Chapter 7, Corporate Franchise and Income Taxes; or

1132           (B) Chapter 10, Individual Income Tax Act.

1133           (d) "Trust" means a nonresident trust or a resident trust.

1134           (2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state  
1135 for the purpose of operating or propelling stationary farm engines and self-propelled farm  
1136 machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as  
1137 provided by this part, is entitled to a refund of the tax subject to the conditions and limitations  
1138 provided under this part.

1139           (3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under  
1140 this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate,  
1141 or trust files under:

- 1142 (i) Chapter 7, Corporate Franchise and Income Taxes; or  
1143 (ii) Chapter 10, Individual Income Tax Act.
- 1144 (b) A claimant, estate, or trust not subject to filing a tax return described in Subsection  
1145 (3)(a) shall obtain a permit and file claims on a calendar year basis.
- 1146 (c) Any claimant, estate, or trust claiming a refundable tax credit under this section is  
1147 required to furnish any or all of the information outlined in this section upon request of the  
1148 commission.
- 1149 (d) A refundable tax credit under this section is allowed only on purchases on which  
1150 tax is paid during the taxable year covered by the tax return.
- 1151 (4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall  
1152 be filed containing:
- 1153 (a) the name of the claimant, estate, or trust;  
1154 (b) the claimant's, estate's, or trust's address;  
1155 (c) location and number of acres owned and operated, location and number of acres  
1156 rented and operated, the latter of which shall be verified by a signed statement from the legal  
1157 owner;
- 1158 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and  
1159 (e) make, size, type of fuel used, and power rating of each piece of equipment using  
1160 fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm  
1161 machinery with which the claimant, estate, or trust works for hire doing custom jobs for other  
1162 farmers, the application shall include information the commission requires and shall all be  
1163 contained in, and be considered part of, the original application. The claimant, estate, or trust  
1164 shall also file with the application a certificate from the county assessor showing each piece of  
1165 equipment using fuel. This original application and all information contained in it constitutes a  
1166 permanent file with the commission in the name of the claimant, estate, or trust.
- 1167 (5) Any claimant, estate, or trust claiming the right to a refund of motor fuel tax paid  
1168 shall file a claim with the commission by April 15 of each year for the refund for the previous  
1169 calendar year. The claim shall state the name and address of the claimant, estate, or trust, the  
1170 number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount  
1171 paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support  
1172 the claim. No more than one claim for a tax refund may be filed annually by each user of

1173 motor fuel purchased for nonhighway agricultural uses.

1174 (6) Upon commission approval of the claim for a refund, the Division of Finance shall  
1175 pay the amount found due to the claimant, estate, or trust. The total amount of claims for  
1176 refunds shall be paid from motor fuel taxes.

1177 (7) The commission may [~~promulgate~~] make rules to enforce this part[;] and may  
1178 refuse to accept as evidence of purchase or payment any instruments [~~which~~] that show  
1179 alteration or [~~which~~] that fail to indicate the quantity of the purchase, the price of the motor  
1180 fuel, a statement that it is purchased for purposes other than transportation, and the date of  
1181 purchase and delivery. If the commission is not satisfied with the evidence submitted in  
1182 connection with the claim, it may reject the claim or require additional evidence.

1183 (8) Any claimant, estate, or trust aggrieved by the decision of the commission with  
1184 respect to a refundable tax credit or refund may file a request for agency action, requesting a  
1185 hearing before the commission.

1186 (9) Any claimant, estate, or trust that makes any false claim, report, or statement, as  
1187 claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the  
1188 claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under  
1189 Section [59-1-401](#), and the commission shall initiate the filing of a complaint for alleged  
1190 violations of this part. In addition to these penalties, the claimant, estate, or trust may not  
1191 receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for  
1192 refund for a period of five years.

1193 (10) Refunds to which a claimant, estate, or trust is entitled under this part shall be paid  
1194 from the Transportation Fund.

1195 (11) (a) On or before November 30, 2017, and every three years after November 30,  
1196 2017, the Revenue and Taxation Interim Committee shall review the tax credits provided by  
1197 this section and make recommendations concerning whether the tax credits should be  
1198 continued, modified, or repealed.

1199 (b) In conducting the review required under Subsection (11)(a), the Revenue and  
1200 Taxation Interim Committee shall:

1201 (i) schedule time on at least one committee agenda to conduct the review;

1202 (ii) invite state agencies, individuals, and organizations concerned with the credit under  
1203 review to provide testimony;

1204 (iii) ensure that the Revenue and Taxation Interim Committee's recommendations  
1205 under this section include an evaluation of:  
1206 (A) the cost of the tax credit to the state;  
1207 (B) the purpose and effectiveness of the tax credit; and  
1208 (C) the extent to which the state benefits from the tax credit; and  
1209 (iv) undertake other review efforts as determined by the chairs of the Revenue and  
1210 Taxation Interim Committee.

1211 Section 19. Section **63N-2-106** is amended to read:

1212 **63N-2-106. Reports -- Posting monthly and annual reports -- Audit and study of**  
1213 **tax credits.**

1214 (1) The office shall include the following information in the annual written report  
1215 described in Section **63N-1-301**:

1216 (a) the office's success in attracting new commercial projects to development zones  
1217 under this part and the corresponding increase in new incremental jobs;

1218 (b) how many new incremental jobs and high paying jobs are employees of a company  
1219 that received tax credits under this part, including the number of employees who work for a  
1220 third-party rather than directly for a company, receiving the tax credits under this part;

1221 (c) the estimated amount of tax credit commitments made by the office and the period  
1222 of time over which tax credits will be paid;

1223 (d) the economic impact on the state from new state revenues and the provision of tax  
1224 credits under this part;

1225 (e) the estimated costs and economic benefits of the tax credit commitments made by  
1226 the office;

1227 (f) the actual costs and economic benefits of the tax credit commitments made by the  
1228 office; and

1229 (g) tax credit commitments made by the office, with the associated calculation.

1230 (2) Each month, the office shall post on its website and on a state website:

1231 (a) the new tax credit commitments made by the office during the previous month; and

1232 (b) the estimated costs and economic benefits of those tax credit commitments.

1233 (3) (a) On or before November 1, 2014, and every three years after November 1, 2014,  
1234 the office shall:



- 1235 (i) conduct an audit of the tax credits allowed under Section [63N-2-105](#);
- 1236 (ii) study the tax credits allowed under Section [63N-2-105](#); and
- 1237 (iii) make recommendations concerning whether the tax credits should be continued,
- 1238 modified, or repealed.

- 1239 (b) The audit shall include an evaluation of:
  - 1240 (i) the cost of the tax credits;
  - 1241 (ii) the purposes and effectiveness of the tax credits;
  - 1242 (iii) the extent to which the state benefits from the tax credits; and
  - 1243 (iv) the state's return on investment under this part measured by new state revenues,
  - 1244 compared with the costs of tax credits provided and GOED's expenses in administering this
  - 1245 part.

- 1246 (c) The office shall provide the results of the audit described in this Subsection (3):
  - 1247 (i) in the written annual report described in Subsection (1); and
  - 1248 (ii) as part of the review described in Sections [59-7-159](#) and [59-10-137](#).

1249 Section 20. Section **63N-2-213** is amended to read:

1250 **63N-2-213. State tax credits.**

- 1251 (1) Subject to the limitations of Subsections (2) through (4), the following
- 1252 nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and
- 1253 Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an
- 1254 enterprise zone:

- 1255 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
- 1256 employee position created within the enterprise zone;

- 1257 (b) an additional \$500 tax credit may be claimed if the new full-time employee position
- 1258 created within the enterprise zone pays at least 125% of:

- 1259 (i) the county average monthly nonagricultural payroll wage for the respective industry
- 1260 as determined by the Department of Workforce Services; or

- 1261 (ii) if the county average monthly nonagricultural payroll wage is not available for the
- 1262 respective industry, the total average monthly nonagricultural payroll wage in the respective
- 1263 county where the enterprise zone is located;

- 1264 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
- 1265 position created within the enterprise zone is in a business entity that adds value to agricultural

1266 commodities through manufacturing or processing;

1267 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each  
1268 new full-time employee position created within the enterprise zone that is filled by an  
1269 employee who is insured under an employer-sponsored health insurance program if the  
1270 employer pays at least 50% of the premium cost for the year for which the credit is claimed;

1271 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit  
1272 corporation, except that the credit claimed may not exceed \$100,000:

1273 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal  
1274 Revenue Code;

1275 (ii) whose primary purpose is community and economic development; and

1276 (iii) that has been accredited by the Governor's Rural Partnership Board;

1277 (f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the  
1278 enterprise zone that has been vacant for two years or more; and

1279 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%  
1280 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable  
1281 property.

1282 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming tax  
1283 credits under Subsections (1)(a) through (d) may claim the tax credits for up to 30 full-time  
1284 employee positions per taxable year.

1285 (b) A business entity that received a tax credit for one or more new full-time employee  
1286 positions under Subsections (1)(a) through (d) in a prior taxable year may claim a tax credit for  
1287 a new full-time employee position in a subsequent taxable year under Subsections (1)(a)  
1288 through (d) if:

1289 (i) the business entity has created a new full-time position within the enterprise zone;  
1290 and

1291 (ii) the total number of full-time employee positions at the business entity at any point  
1292 during the tax year for which the tax credit is being claimed is greater than the number of  
1293 full-time employee positions that existed at the business entity at any point during the taxable  
1294 year immediately preceding the taxable year for which the credit is being claimed.

1295 (c) Construction jobs are not eligible for the tax credits under Subsections (1)(a)  
1296 through (d).

1297 (3) If the amount of a tax credit under this section exceeds a business entity's tax  
1298 liability under this chapter for a taxable year, the business entity may carry forward the amount  
1299 of the tax credit exceeding the liability for a period that does not exceed the next three taxable  
1300 years.

1301 (4) Tax credits under Subsections (1)(a) through (g) may not be claimed by a business  
1302 entity primarily engaged in retail trade or by a public utilities business.

1303 (5) A business entity that has no employees:

1304 (a) may not claim tax credits under Subsections (1)(a) through (d); and

1305 (b) may claim tax credits under Subsections (1)(e) through (g).

1306 (6) A business entity may not claim or carry forward a tax credit available under this  
1307 part for a taxable year during which the business entity has claimed the targeted business  
1308 income tax credit available under Section [63N-2-305](#).

1309 (7) (a) On or before November 30, 2018, and every three years after November 30,  
1310 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by  
1311 this section and make recommendations concerning whether the tax credits should be  
1312 continued, modified, or repealed.

1313 (b) In conducting the review required under this Subsection (7), the Revenue and  
1314 Taxation Interim Committee shall:

1315 (i) schedule time on at least one committee agenda to conduct the review;

1316 (ii) invite state agencies, individuals, and organizations concerned with the credit under  
1317 review to provide testimony;

1318 (iii) ensure that the Revenue and Taxation Interim Committee's recommendations  
1319 under this section include an evaluation of:

1320 (A) the cost of the tax credit to the state;

1321 (B) the purpose and effectiveness of the tax credit; and

1322 (C) the extent to which the state benefits from the tax credit; and

1323 (iv) undertake other review efforts as determined by the chairs of the Revenue and  
1324 Taxation Interim Committee.

1325 Section 21. Section [63N-2-305](#) is amended to read:

1326 **[63N-2-305. Targeted business income tax credit structure -- Duties of the local](#)**  
1327 **[zone administrator -- Duties of the State Tax Commission.](#)**

1328 (1) A business applicant that is certified under Subsection 63N-2-304(3) and issued a  
1329 targeted business tax credit eligibility form by the office under Subsection (8) may claim a  
1330 refundable tax credit:

1331 (a) against the business applicant's tax liability under:

1332 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

1333 (ii) Title 59, Chapter 10, Individual Income Tax Act; and

1334 (b) subject to requirements and limitations provided by this part.

1335 (2) The total amount of the targeted business income tax credits allowed under this part  
1336 for all business applicants may not exceed \$300,000 in any fiscal year.

1337 (3) (a) A targeted business income tax credit allowed under this part for each  
1338 community investment project provided by a business applicant may not:

1339 (i) be claimed by a business applicant for more than seven consecutive taxable years  
1340 from the date the business applicant first qualifies for a targeted business income tax credit on  
1341 the basis of a community investment project;

1342 (ii) be carried forward or carried back;

1343 (iii) exceed \$100,000 in total amount for the community investment project period  
1344 during which the business applicant is eligible to claim a targeted business income tax credit;

1345 or

1346 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser  
1347 of:

1348 (A) 50% of the maximum amount allowed by the local zone administrator; or

1349 (B) the allocated cap amount determined by the office under Subsection 63N-2-304(5).

1350 (b) A business applicant may apply to the local zone administrator to claim a targeted  
1351 business income tax credit allowed under this part for each community investment project  
1352 provided by the business applicant as the basis for its eligibility for a targeted business income  
1353 tax credit.

1354 (4) Subject to other provisions of this section, the local zone administrator shall  
1355 establish for each business applicant that qualifies for a targeted business income tax credit:

1356 (a) criteria for maintaining eligibility for the targeted business income tax credit that  
1357 are reasonably related to the community investment project that is the basis for the business  
1358 applicant's targeted business income tax credit;

- 1359 (b) the maximum amount of the targeted business income tax credit the business  
1360 applicant is allowed for the community investment project period;
- 1361 (c) the time period over which the total amount of the targeted business income tax  
1362 credit may be claimed;
- 1363 (d) the maximum amount of the targeted business income tax credit that the business  
1364 applicant will be allowed to claim each year; and
- 1365 (e) requirements for a business applicant to report to the local zone administrator  
1366 specifying:
- 1367 (i) the frequency of the business applicant's reports to the local zone administrator,  
1368 which shall be made at least quarterly; and
- 1369 (ii) the information needed by the local zone administrator to monitor the business  
1370 applicant's compliance with this Subsection (4) or Section 63N-2-304 that shall be included in  
1371 the report.
- 1372 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted  
1373 business income tax credit under this part shall report to the local zone administrator.
- 1374 (6) The amount of a targeted business income tax credit that a business applicant is  
1375 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office  
1376 or the local zone administrator determines that the business applicant has failed to comply with  
1377 a requirement of Subsection (3) or Section 63N-2-304.
- 1378 (7) The office or local zone administrator may audit a business applicant to ensure:
- 1379 (a) eligibility for a targeted business income tax credit; or
- 1380 (b) compliance with Subsection (3) or Section 63N-2-304.
- 1381 (8) The office shall issue a targeted business income tax credit eligibility form in a  
1382 form jointly developed by the State Tax Commission and the office no later than 30 days after  
1383 the last day of the business applicant's taxable year showing:
- 1384 (a) the maximum amount of the targeted business income tax credit that the business  
1385 applicant is eligible for that taxable year;
- 1386 (b) any reductions in the maximum amount of the targeted business income tax credit  
1387 because of failure to comply with a requirement of Subsection (3) or Section 63N-2-304;
- 1388 (c) the allocated cap amount that the business applicant may claim for that taxable  
1389 year; and

1390 (d) the actual amount of the targeted business income tax credit that the business  
1391 applicant may claim for that taxable year.

1392 (9) (a) A business applicant shall retain the targeted business income tax credit  
1393 eligibility form provided by the office under this Subsection (9).

1394 (b) The State Tax Commission may audit a business applicant to ensure:

1395 (i) eligibility for a targeted business income tax credit; or

1396 (ii) compliance with Subsection (3) or Section [63N-2-304](#).

1397 (10) (a) On or before November 30, 2018, and every three years after November 30,  
1398 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by  
1399 this section and make recommendations concerning whether the tax credits should be  
1400 continued, modified, or repealed.

1401 (b) In conducting the review required under this Subsection (10), the Revenue and  
1402 Taxation Interim Committee shall:

1403 (i) schedule time on at least one committee agenda to conduct the review;

1404 (ii) invite state agencies, individuals, and organizations concerned with the credit under  
1405 review to provide testimony;

1406 (iii) ensure that the Revenue and Taxation Interim Committee's recommendations  
1407 under this section include an evaluation of:

1408 (A) the cost of the tax credit to the state;

1409 (B) the purpose and effectiveness of the tax credit; and

1410 (C) the extent to which the state benefits from the tax credit; and

1411 (iv) undertake other review efforts as determined by the chairs of the Revenue and  
1412 Taxation Interim Committee.