

Representative Mike Winder proposes the following substitute bill:

ECONOMIC DEVELOPMENT MODIFICATIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to the Governor's Office of Economic Development.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions;
- ▶ modifies provisions related to tax credit incentives for economic development;
- ▶ modifies provisions related to the Utah Rural Jobs Act;
- ▶ repeals provisions related to the Alternative Energy Manufacturing Tax Credit Act;

and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-159, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1



- 26 **59-10-137**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1
- 27 **59-10-1025**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 28 **63N-1-102**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 29 **63N-2-103**, as last amended by Laws of Utah 2016, Chapter 350
- 30 **63N-2-202**, as last amended by Laws of Utah 2016, Chapter 11
- 31 **63N-4-302**, as enacted by Laws of Utah 2017, Chapter 274
- 32 **63N-4-309**, as enacted by Laws of Utah 2017, Chapter 274
- 33 **63N-4-402**, as enacted by Laws of Utah 2018, Chapter 340

34 REPEALS:

- 35 **59-7-614.8**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 36 **59-10-1030**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 37 **63N-2-701**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 38 **63N-2-702**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 39 **63N-2-703**, as last amended by Laws of Utah 2018, Chapter 149
- 40 **63N-2-704**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 41 **63N-2-705**, as renumbered and amended by Laws of Utah 2015, Chapter 283

42

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

44 Section 1. Section **59-7-159** is amended to read:

45 **59-7-159. Review of credits allowed under this chapter.**

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

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

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

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

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

55 (iii) (A) invite the Governor's Office of Economic Development to present a summary
56 and analysis of the information for each tax credit regarding which the Governor's Office of

57 Economic Development is required to make a report under this chapter; and

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

61 (iv) ensure that the committee's recommendations described in this section include an
62 evaluation of:

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

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

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

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

68 (3) (a) On or before November 30, 2017, and every three years after 2017, the
69 committee shall conduct the review required under Subsection (2) of the tax credits allowed
70 under the following sections:

71 (i) Section 59-7-601;

72 (ii) Section 59-7-607;

73 (iii) Section 59-7-612;

74 (iv) Section 59-7-614.1; and

75 (v) Section 59-7-614.5.

76 (b) On or before November 30, 2018, and every three years after 2018, the committee
77 shall conduct the review required under Subsection (2) of the tax credits allowed under the
78 following sections:

79 (i) Section 59-7-609;

80 (ii) Section 59-7-614.2;

81 (iii) Section 59-7-614.10;

82 (iv) Section 59-7-617;

83 (v) Section 59-7-619; and

84 (vi) Section 59-7-620.

85 (c) On or before November 30, 2019, and every three years after 2019, the committee
86 shall conduct the review required under Subsection (2) of the tax credits allowed under the
87 following sections:

- 88 (i) Section 59-7-605;
- 89 (ii) Section 59-7-610;
- 90 (iii) Section 59-7-614;
- 91 (iv) Section 59-7-614.7; and
- 92 [~~(v) Section 59-7-614.8; and~~]
- 93 [~~(vi)~~] (v) Section 59-7-618.

94 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
95 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
96 2017.

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

99 Section 2. Section 59-10-137 is amended to read:

100 **59-10-137. Review of credits allowed under this chapter.**

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

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

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

- 107 (i) schedule time on at least one committee agenda to conduct the review;
- 108 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
109 under review to provide testimony;

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

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

116 (iv) ensure that the committee's recommendations described in this section include an
117 evaluation of:

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

- 119 (B) the purpose and effectiveness of the tax credit; and
- 120 (C) the extent to which the state benefits from the tax credit; and
- 121 (v) undertake other review efforts as determined by the committee chairs or as
- 122 otherwise required by law.
- 123 (3) (a) On or before November 30, 2017, and every three years after 2017, the
- 124 committee shall conduct the review required under Subsection (2) of the tax credits allowed
- 125 under the following sections:
 - 126 (i) Section 59-10-1004;
 - 127 (ii) Section 59-10-1010;
 - 128 (iii) Section 59-10-1015;
 - 129 (iv) Section 59-10-1025;
 - 130 (v) Section 59-10-1027;
 - 131 (vi) Section 59-10-1031;
 - 132 (vii) Section 59-10-1032;
 - 133 (viii) Section 59-10-1035;
 - 134 (ix) Section 59-10-1104;
 - 135 (x) Section 59-10-1105; and
 - 136 (xi) Section 59-10-1108.
- 137 (b) On or before November 30, 2018, and every three years after 2018, the committee
- 138 shall conduct the review required under Subsection (2) of the tax credits allowed under the
- 139 following sections:
 - 140 (i) Section 59-10-1005;
 - 141 (ii) Section 59-10-1006;
 - 142 (iii) Section 59-10-1012;
 - 143 (iv) Section 59-10-1013;
 - 144 (v) Section 59-10-1022;
 - 145 (vi) Section 59-10-1023;
 - 146 (vii) Section 59-10-1028;
 - 147 (viii) Section 59-10-1034;
 - 148 (ix) Section 59-10-1037; and
 - 149 (x) Section 59-10-1107.

150 (c) On or before November 30, 2019, and every three years after 2019, the committee
151 shall conduct the review required under Subsection (2) of the tax credits allowed under the
152 following sections:

- 153 (i) Section 59-10-1007;
- 154 (ii) Section 59-10-1009;
- 155 (iii) Section 59-10-1014;
- 156 (iv) Section 59-10-1017;
- 157 (v) Section 59-10-1018;
- 158 (vi) Section 59-10-1019;
- 159 (vii) Section 59-10-1024;
- 160 (viii) Section 59-10-1029;
- 161 [~~(ix)~~ Section ~~59-10-1030~~];
- 162 [~~(x)~~ (ix) Section 59-10-1033;
- 163 [~~(xi)~~ (x) Section 59-10-1036;
- 164 [~~(xii)~~ (xi) Section 59-10-1106; and
- 165 [~~(xiii)~~ (xii) Section 59-10-1111.

166 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
167 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
168 2017.

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

171 Section 3. Section 59-10-1025 is amended to read:

172 **59-10-1025. Nonrefundable tax credit for investment in certain life science**
173 **establishments.**

174 (1) As used in this section:

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

177 (b) "Eligible claimant, estate, or trust" means the same as that term is defined in
178 Section 63N-2-802.

179 (c) "Life science establishment" means an establishment primarily engaged in the
180 development or manufacture of products in one or more of the following categories:

- 181 (i) biotechnologies;
- 182 (ii) medical devices;
- 183 (iii) medical diagnostics; and
- 184 (iv) pharmaceuticals.
- 185 (d) "Office" means the Governor's Office of Economic Development.
- 186 (e) "Pass-through entity" means the same as that term is defined in Section [59-10-1402](#).
- 187 (f) "Pass-through entity taxpayer" means the same as that term is defined in Section
- 188 [59-10-1402](#).
- 189 (g) "Qualifying ownership interest" means an ownership interest that is:
- 190 (i) (A) common stock;
- 191 (B) preferred stock; or
- 192 (C) an ownership interest in a pass-through entity;
- 193 (ii) originally issued to:
- 194 (A) an eligible claimant, estate, or trust; or
- 195 (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit
- 196 under this section was a pass-through entity taxpayer of the pass-through entity on the day on
- 197 which the qualifying ownership interest was issued and remains a pass-through entity taxpayer
- 198 of the pass-through entity until the last day of the taxable year for which the eligible claimant,
- 199 estate, or trust claims a tax credit under this section; and
- 200 (iii) issued:
- 201 (A) by a Utah small business corporation;
- 202 (B) on or after January 1, 2011; and
- 203 (C) for money or other property, except for stock or securities.
- 204 (h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation"
- 205 means the same as that term is defined in Section [59-10-1022](#).
- 206 (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal
- 207 Revenue Code, is considered to include a pass-through entity.
- 208 (2) Subject to the other provisions of this section, for a taxable year beginning on or
- 209 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate
- 210 issued to the eligible claimant, estate, or trust in accordance with Section [63N-2-808](#) for that
- 211 taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase

212 price of a qualifying ownership interest in a Utah small business corporation by the claimant,
213 estate, or trust if:

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

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

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

221 (d) on each day of the taxable year in which the purchase of the qualifying ownership
222 interest was made, the Utah small business corporation described in Subsection (2)(a) has at
223 least 50% of its employees in the state.

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

225 (a) may only be claimed by an eligible claimant, estate, or trust:

226 (i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit
227 certificate issued in accordance with Section 63N-2-808; and

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

230 (A) the tax credit in the taxable year in which the purchase of the qualifying ownership
231 interest was made may not exceed 10% of the purchase price of the qualifying ownership
232 interest;

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

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

239 (b) may not exceed the lesser of:

240 (i) the amount listed on the tax credit certificate issued in accordance with Section
241 63N-2-808; or

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

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

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

246 (b) does not hold a tax credit certificate for that taxable year that is issued to the
247 eligible claimant, estate, or trust by the office in accordance with Section 63N-2-808.

248 (5) If a Utah small business corporation in which an eligible claimant, estate, or trust
249 purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the
250 eligible claimant, estate, or trust may not claim both the tax credit provided in this section and
251 a capital loss on the qualifying ownership interest.

252 (6) If an eligible claimant is a pass-through entity taxpayer that files a return under
253 Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax
254 credit under this section on the return filed under Chapter 7, Corporate Franchise and Income
255 Taxes.

256 (7) A claimant, estate, or trust may not carry forward or carry back a tax credit under
257 this section.

258 (8) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim
259 Committee shall study the tax credit allowed by this section and make recommendations
260 concerning whether the tax credit should be continued, modified, or repealed.

261 (b) Except as provided in Subsection (8)(c), for purposes of the study required by this
262 Subsection (8), the office shall provide the following information, if available to the office, to
263 the Office of the Legislative Fiscal Analyst by electronic means:

264 (i) the amount of tax credit that the office grants to each eligible business entity for
265 each taxable year;

266 (ii) the amount of eligible new state tax revenues generated by each eligible product or
267 project;

268 (iii) estimates for each of the next three calendar years of the following:

269 (A) the amount of tax credit that the office will grant;

270 (B) the amount of eligible new state tax revenues that will be generated; and

271 (C) the number of new incremental jobs within the state that will be generated; and

272 [~~(iv) the information contained in the office's latest report under Section 63N-2-705;~~

273 and]

274 [~~(v)~~] (iv) any other information that the Office of the Legislative Fiscal Analyst
275 requests.

276 (c) (i) In providing the information described in Subsection (8)(b), the office shall
277 redact information that identifies a recipient of a tax credit under this section.

278 (ii) If, notwithstanding the redactions made under Subsection (8)(c)(i), reporting the
279 information described in Subsection (8)(b) might disclose the identity of a recipient of a tax
280 credit, the office may file a request with the Revenue and Taxation Interim Committee to
281 provide the information described in Subsection (8)(b) in the aggregate for all entities that
282 receive the tax credit under this section.

283 (d) As part of the study required by this Subsection (8), the Office of the Legislative
284 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
285 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
286 office under Subsection (8)(b).

287 (e) The Revenue and Taxation Interim Committee shall ensure that the
288 recommendations described in Subsection (8)(a) include an evaluation of:

- 289 (i) the cost of the tax credit under this section;
290 (ii) the purpose and effectiveness of the tax credit; and
291 (iii) the extent to which the state benefits from the tax credit.

292 Section 4. Section **63N-1-102** is amended to read:

293 **63N-1-102. Definitions.**

294 As used in this title:

295 (1) "Baseline jobs" means the number of full-time employee positions that existed
296 within a business entity in the state before the date on which a project related to the business
297 entity is approved by the office or by the board.

298 (2) "Baseline state revenue" means the amount of state tax revenue collected from a
299 business entity or the employees of a business entity during the year before the date on which a
300 project related to the business entity is approved by the office or by the board.

301 [(+)] (3) "Board" means the Board of Business and Economic Development created in
302 Section **63N-1-401**.

303 [(2)] (4) "Council" means the Governor's Economic Development Coordinating
304 Council created in Section **63N-1-501**.

305 ~~[(3)]~~ (5) "Executive director" means the executive director of the office.

306 (6) "Full-time employee" means an employment position that is filled by an employee
307 who works at least 30 hours per week and:

308 (a) may include an employment position filled by more than one employee, if each
309 employee who works less than 30 hours per week is provided benefits comparable to a
310 full-time employee; and

311 (b) may not include an employment position that is shifted from one jurisdiction in the
312 state to another jurisdiction in the state.

313 (7) "High paying job" means a newly created full-time employee position where the
314 aggregate average annual gross wage of the employment position, not including health care or
315 other paid or unpaid benefits, is at least ~~110%~~ $\hat{H} \rightarrow$ $[\hat{c}]$

316 ~~——(a) $\leftarrow \hat{H}$ 110% of the average wage of the county in which the employment position exists~~

317 ~~$\hat{H} \rightarrow$ [for a county of the first or second class; or~~

318 ~~——(b) 100% of the average wage of the county in which the employment position exists~~

319 ~~for a county of the third, fourth, fifth, or sixth class] $\leftarrow \hat{H}$.~~

320 (8) "Incremental job" means a full-time employment position in the state that:

321 (a) did not exist within a business entity in the state before the beginning of a project
322 related to the business entity; and

323 (b) is created in addition to the number of baseline jobs that existed within a business
324 entity.

325 (9) "New state revenue" means the state tax revenue collected from a business entity or
326 a business entity's employees during a calendar year minus the baseline state revenue
327 calculation.

328 ~~[(4)]~~ (10) "Office" or "GOED" means the Governor's Office of Economic
329 Development.

330 (11) "State revenue" means state tax revenue paid by a business entity or a business
331 entity's employees under any combination of the following provisions:

332 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

333 (b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
334 Information;

335 (c) Title 59, Chapter 10, Part 2, Trusts and Estates;

336 (d) Title 59, Chapter 10, Part 4, Withholding of Tax; and

337 (e) Title 59, Chapter 12, Sales and Use Tax Act.

338 Section 5. Section **63N-2-103** is amended to read:

339 **63N-2-103. Definitions.**

340 As used in this part:

341 (1) "Business entity" means a person that enters into an agreement with the office to
342 initiate a new commercial project in Utah that will qualify the person to receive a tax credit
343 under Section [59-7-614.2](#) or [59-10-1107](#).

344 (2) "Community reinvestment agency" has the same meaning as that term is defined in
345 Section [17C-1-102](#).

346 (3) "Development zone" means an economic development zone created under Section
347 [63N-2-104](#).

348 [~~(4) "High paying jobs" means:~~]

349 [~~(a) with respect to a business entity, the aggregate average annual gross wages, not
350 including healthcare or other paid or unpaid benefits, of newly created full-time employment
351 positions in a business entity that are at least 110% of the average wage of a community in
352 which the employment positions will exist;~~]

353 [~~(b) with respect to a county, the aggregate average annual gross wages, not including
354 healthcare or other paid or unpaid benefits, of newly created full-time employment positions in
355 a new commercial project within the county that are at least 110% of the average wage of the
356 county in which the employment positions will exist; or]~~]

357 [~~(c) with respect to a city or town, the aggregate average annual gross wages, not
358 including healthcare or other paid or unpaid benefits of newly created full-time employment
359 positions in a new commercial project within the city or town that are at least 110% of the
360 average wages of the city or town in which the employment positions will exist.]~~]

361 [~~(5)~~] (4) "Local government entity" means a county, city, or town that enters into an
362 agreement with the office to have a new commercial project that:

363 (a) is initiated within the county's, city's, or town's boundaries; and

364 (b) qualifies the county, city, or town to receive a tax credit under Section [59-7-614.2](#).

365 [~~(6)~~] (5) (a) "New commercial project" means an economic development opportunity
366 that involves new or expanded industrial, manufacturing, distribution, or business services in

367 Utah.

368 (b) "New commercial project" does not include retail business.

369 ~~[(7) (a) "New incremental jobs" means full-time employment positions that are filled~~
370 ~~by employees who work at least 30 hours per week and that are:]~~

371 ~~[(i) with respect to a business entity, created in addition to the baseline count of~~
372 ~~employment positions that existed within the business entity before the new commercial~~
373 ~~project;]~~

374 ~~[(ii) with respect to a county, created as a result of a new commercial project with~~
375 ~~respect to which the county or a community development and renewal agency seeks to claim a~~
376 ~~tax credit under Section 59-7-614.2; or]~~

377 ~~[(iii) with respect to a city or town, created as a result of a new commercial project~~
378 ~~with respect to which the city, town, or a community development and renewal agency seeks to~~
379 ~~claim a tax credit under Section 59-7-614.2.]~~

380 ~~[(b) "New incremental jobs" may include full-time equivalent positions that are filled~~
381 ~~by more than one employee, if each employee who works less than 30 hours per week is~~
382 ~~provided benefits comparable to a full-time employee.]~~

383 ~~[(c) "New incremental jobs" does not include jobs that are shifted from one jurisdiction~~
384 ~~in the state to another jurisdiction in the state.]~~

385 ~~[(8) "New state revenues" means:]~~

386 ~~[(a) with respect to a business entity:]~~

387 ~~[(i) incremental new state sales and use tax revenues that a business entity pays under~~
388 ~~Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a~~
389 ~~development zone;]~~

390 ~~[(ii) incremental new state tax revenues that a business entity pays as a result of a new~~
391 ~~commercial project in a development zone under:]~~

392 ~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~

393 ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~
394 ~~Information;]~~

395 ~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~

396 ~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~

397 ~~[(E) a combination of Subsections (8)(a)(ii)(A) through (D);]~~

398 ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~
399 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~
400 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~
401 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~
402 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~
403 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
404 ~~commercial project; or]~~

405 ~~[(iv) a combination of Subsections (8)(a)(i) through (iii); or]~~

406 ~~[(b) with respect to a local government entity:]~~

407 ~~[(i) incremental new state sales and use tax revenues that are collected under Title 59,~~
408 ~~Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development~~
409 ~~zone;]~~

410 ~~[(ii) incremental new state tax revenues that are collected as a result of a new~~
411 ~~commercial project in a development zone under:]~~

412 ~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~

413 ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~
414 ~~Information;]~~

415 ~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~

416 ~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~

417 ~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);]~~

418 ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~
419 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~
420 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~
421 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~
422 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~
423 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
424 ~~commercial project; or]~~

425 ~~[(iv) a combination of Subsections (8)(b)(i) through (iii).]~~

426 ~~[(9)]~~ (6) "Significant capital investment" means an amount of at least \$10,000,000 to
427 purchase capital or fixed assets, which may include real property, personal property, and other
428 fixtures related to a new commercial project:

- 429 (a) that represents an expansion of existing operations in the state; or
- 430 (b) that maintains or increases the business entity's existing work force in the state.
- 431 ~~[(10)]~~ (7) "Tax credit" means an economic development tax credit created by Section
- 432 [59-7-614.2](#) or [59-10-1107](#).
- 433 ~~[(11)]~~ (8) "Tax credit amount" means the amount the office lists as a tax credit on a tax
- 434 credit certificate for a taxable year.
- 435 ~~[(12)]~~ (9) "Tax credit certificate" means a certificate issued by the office that:
- 436 (a) lists the name of the business entity, local government entity, or community
- 437 development and renewal agency to which the office authorizes a tax credit;
- 438 (b) lists the business entity's, local government entity's, or community development and
- 439 renewal agency's taxpayer identification number;
- 440 (c) lists the amount of tax credit that the office authorizes the business entity, local
- 441 government entity, or community development and renewal agency for the taxable year; and
- 442 (d) may include other information as determined by the office.
- 443 Section 6. Section **63N-2-202** is amended to read:
- 444 **63N-2-202. Definitions.**
- 445 As used in this part:
- 446 (1) "Business entity" means an entity, sole proprietorship, or individual:
- 447 (a) including a claimant, estate, or trust; and
- 448 (b) under which or by whom business is conducted or transacted.
- 449 (2) "Claimant" means a resident or nonresident person that has:
- 450 (a) Utah taxable income as defined in Section [59-7-101](#); or
- 451 (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and
- 452 Reporting of Tax Liability and Information.
- 453 (3) "County applicant" means the governing authority of a county that meets the
- 454 requirements for designation as an enterprise zone under Section [63N-2-204](#).
- 455 (4) "Estate" means a nonresident estate or a resident estate that has state taxable
- 456 income under Title 59, Chapter 10, Part 2, Trusts and Estates.
- 457 (5) "Municipal applicant" means the governing authority of a city or town that meets
- 458 the requirements for designation as an enterprise zone under Section [63N-2-204](#).
- 459 ~~[(6)]~~ "New full-time employee position" means a position that has been newly created

460 in addition to the highest baseline count of employment positions that existed within the
461 business entity during the previous three taxable years and is filled by an employee working at
462 least 30 hours per week:]

463 [~~(a)~~ for a period of at least six consecutive months; and]

464 [~~(b)~~ where the period ends in the tax year for which the credit is claimed.]

465 [~~(7)~~ (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business
466 entity may:

467 (a) claim:

468 (i) as provided by statute; and

469 (ii) in an amount that does not exceed the business entity's tax liability for a taxable
470 year under:

471 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

472 (B) Title 59, Chapter 10, Individual Income Tax Act; and

473 (b) carry forward or carry back:

474 (i) if allowed by statute; and

475 (ii) to the extent that the amount of the tax credit exceeds the business entity's tax
476 liability for a taxable year under:

477 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

478 (B) Title 59, Chapter 10, Individual Income Tax Act.

479 [~~(8)~~ (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits
480 described in Section [63N-2-213](#).

481 [~~(9)~~ (8) "Trust" means a nonresident trust or a resident trust that has state taxable
482 income under Title 59, Chapter 10, Part 2, Trusts and Estates.

483 Section 7. Section **63N-4-302** is amended to read:

484 **63N-4-302. Definitions.**

485 As used in this part:

486 (1) (a) "Affiliate" means a person that directly, or indirectly through one or more
487 intermediaries, controls, is controlled by, or is under common control with another person.

488 (b) For the purposes of this part, a person controls another person if the person holds,
489 directly or indirectly, the majority voting or ownership interest in the controlled person or has
490 control over the day-to-day operations of the controlled person by contract or by law.

491 (2) "Claimant" means a resident or nonresident person that has state taxable income.

492 (3) "Closing date" means the date on which a rural investment company has collected
493 all of the investments described in Subsection 63N-4-303(7).

494 (4) (a) "Credit-eligible contribution" means an investment of cash by a claimant in a
495 rural investment company that is or will be eligible for a tax credit as evidenced by notification
496 issued by the office under Subsection 63N-4-303(5)(c).

497 (b) The investment shall purchase an equity interest in the rural investment company or
498 purchase, at par value or premium, a debt instrument issued by the rural investment company
499 that has a maturity date at least five years after the closing date.

500 (5) "Eligible small business" means a business that at the time of an initial growth
501 investment in the business by a rural investment company:

502 (a) has fewer than 150 employees;

503 (b) has less than \$10,000,000 in net income for the preceding taxable year;

504 (c) maintains the business's principal business operations in the state; and

505 (d) is engaged in an industry related to:

506 (i) aerospace;

507 (ii) defense;

508 (iii) energy and natural resources;

509 (iv) financial services;

510 (v) life sciences;

511 (vi) outdoor products;

512 (vii) software development;

513 (viii) information technology;

514 (ix) manufacturing; or

515 (x) agribusiness.

516 (6) (a) "Excess return" means the difference between:

517 (i) the present value of all growth investments made by a rural investment company on
518 the day the rural investment company applies to exit the program under Section 63N-4-309,
519 including the present value of all distributions and gains from the growth investments; and

520 (ii) the sum of the amount of the original growth investment and an amount equal to
521 any projected increase in the equity holder's federal or state tax liability, including penalties and

522 interest, related to the equity holder's ownership, management, or operation of the rural
523 investment company.

524 (b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is
525 equal to zero.

526 (7) "Federally licensed rural business investment company" means a person licensed as
527 a rural business investment company under 7 U.S.C. Sec. 2009cc.

528 (8) "Federally licensed small business investment company" means a person licensed
529 as a small business investment company under 15 U.S.C. Sec. 681.

530 (9) (a) "Full-time employee" means an employee that throughout the year works at
531 least 30 hours per week or meets the customary practices accepted by that industry as full time.

532 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
533 office may make rules that establish additional hour or other criteria to determine what
534 constitutes a full-time employee.

535 (10) "Growth investment" means any capital or equity investment in an eligible small
536 business or any loan made from the investment authority to an eligible small business with a
537 stated maturity at least one year after the date of issuance.

538 (11) (a) "High wage" means a wage that is at least 100% of the county average wage.

539 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
540 office may make rules that establish additional criteria to determine what constitutes a high
541 wage.

542 (12) "Investment authority" means the minimum amount of investment a rural
543 investment company must make in eligible small businesses in order for credit-eligible
544 contributions to the rural investment company to qualify for a rural job creation tax credit
545 under Section [59-7-621](#) or [59-10-1038](#).

546 (13) (a) "New annual jobs" means the difference between:

547 (i) (A) the monthly average of full-time employees that are paid a high wage at an
548 eligible small business for the preceding calendar year; or

549 (B) if the preceding calendar year contains the initial growth investment, the monthly
550 average of full-time employees that are paid a high wage at an eligible small business for the
551 months including and after the initial growth investment and before the end of the preceding
552 calendar year; and

553 (ii) the number of full-time employees that are paid a high wage at the eligible small
554 business on the date of the initial growth investment.

555 (b) If the amount calculated in Subsection (2)(a) is less than zero, the new annual jobs
556 amount is equal to zero.

557 (14) (a) "Principal business operations" means the location where at least 60% of a
558 business's employees work or where employees that are paid at least 60% of a business's
559 payroll work.

560 (b) For the purposes of this part, an out-of-state business that agrees to relocate
561 employees to this state to establish the business's principal business operations in this state
562 using the proceeds of a growth investment is considered to have the business's principal
563 business operations in this state if the business satisfies the requirements of Subsection (14)(a)
564 within 180 days after receiving the growth investment, unless the office agrees to a later date.

565 (15) "Program" means the provisions of this part applicable to a rural investment
566 company.

567 (16) "Rural county" means any county in this state except Salt Lake, Utah, Davis,
568 Weber, Washington, Cache, Tooele, and Summit counties.

569 (17) "Rural investment company" means a person approved by the office under Section
570 [63N-4-303](#).

571 (18) (a) "State reimbursement amount" means the difference between:

572 (i) 50% of the rural investment company's credit-eligible capital contributions; and

573 (ii) the product of:

574 (A) the total sum of new annual jobs reported to the state in the rural investment
575 company's exit report described in Section [63N-4-309](#); and

576 (B) \$20,000.

577 (b) If the amount calculated in Subsection (18)(a) is less than zero, the state
578 reimbursement amount is equal to zero.

579 (19) "Tax credit" means a rural job creation tax credit created by Section [59-7-621](#) or
580 [59-10-1038](#).

581 (20) "Tax credit certificate" means a certificate issued by the office that:

582 (a) lists the name of the person to which the office authorizes a tax credit;

583 (b) lists the person's taxpayer identification number;

584 (c) lists the amount of tax credit that the office authorizes the person to claim for the
585 taxable year; and

586 (d) may include other information as determined by the office.

587 Section 8. Section **63N-4-309** is amended to read:

588 **63N-4-309. Exit.**

589 (1) On or after the seventh anniversary of the closing date, and on or before the ninth
590 anniversary of the closing date, a rural investment company may apply to the office to exit the
591 program and no longer be subject to this part.

592 (2) An application submitted under Subsection (1) shall be in a form and in accordance
593 with procedures prescribed by the office and shall include a calculation of the state
594 reimbursement amount.

595 (3) In evaluating the exit application, if no tax credit certificates have been revoked and
596 the rural investment company has not received a notice of revocation that has remained
597 uncorrected under Subsection **63N-4-305(3)(b)**, the rural investment company is eligible for
598 exit.

599 (4) (a) The office shall respond to the application within 30 days of receipt and include
600 confirmation of the state reimbursement amount.

601 (b) The office shall not unreasonably deny an application submitted under this section.

602 (c) If the office denies the application, the office shall provide the reasons for the
603 determination to the rural investment company.

604 (5) Within 60 days after the day on which the confirmation of the state reimbursement
605 amount is received by the rural investment company, the rural investment company shall make
606 a cash distribution to the state in an amount equal to the lesser of:

607 (a) the state reimbursement amount; and

608 (b) the excess return.

609 (6) The office shall notify the rural investment company once payments equal to the
610 amount described in Subsection (4) have been received.

611 (7) Any amounts collected under this section shall be deposited into the General Fund.

612 Section 9. Section **63N-4-402** is amended to read:

613 **63N-4-402. Definitions.**

614 As used in this part:

615 (1) (a) "Business entity" means a sole proprietorship, partnership, association, joint
616 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on
617 a business.

618 (b) "Business entity" does not include a business primarily engaged in the following:

619 (i) construction;

620 (ii) staffing;

621 (iii) retail trade; or

622 (iv) public utility activities.

623 [~~(2) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or~~
624 ~~grandchild.]~~

625 [~~(3) "New full-time employee position" means a position that has been newly created~~
626 ~~in addition to the highest baseline count of employment positions that existed within a business~~
627 ~~entity during the previous taxable year and is filled by an employee working at least 30 hours~~
628 ~~per week:]~~

629 [~~(a) in a county of the fourth, fifth, or sixth class;]~~

630 [~~(b) for a period of at least 12 consecutive months;]~~

631 [~~(c) in a position that does not primarily involve:]~~

632 [~~(i) construction;]~~

633 [~~(ii) retail trade; or]~~

634 [~~(iii) public utility activities;]~~

635 [~~(d) where the annual gross wage of the position, not including healthcare or other paid~~
636 ~~or unpaid benefits, is at least 125% of the average wage of the county in which the position~~
637 ~~exists; and]~~

638 [~~(e) who is not an immediate family member of an owner or officer of the business~~
639 ~~entity.]~~

640 [~~(4)~~ (2) (a) "Owner or officer" means an individual who owns an ownership interest in
641 an entity or holds a position where the person has authority to manage, direct, control, or make
642 decisions for:

643 (i) the entity or a portion of the entity; or

644 (ii) an employee, agent, or independent contractor of the entity.

645 (b) "Owner or officer" includes:

646 (i) a member of a board of directors or other governing body of an entity; or
647 (ii) a partner in any type of partnership.
648 [~~5~~] (3) "Rural employment expansion grant" means a grant available under this part.
649 Section 10. **Repealer.**
650 This bill repeals:
651 Section **59-7-614.8, Nonrefundable alternative energy manufacturing tax credit.**
652 Section **59-10-1030, Nonrefundable alternative energy manufacturing tax credit.**
653 Section **63N-2-701, Title.**
654 Section **63N-2-702, Definitions.**
655 Section **63N-2-703, Tax credits.**
656 Section **63N-2-704, Qualifications for tax credit -- Procedure.**
657 Section **63N-2-705, Reporting.**
658 Section 11. **Retrospective operation.**
659 This bill has retrospective operation for a taxable year beginning on or after January 1,
660 2019.