

**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;
- ▶ 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.

This bill provides coordination clauses.

**Utah Code Sections Affected:**

AMENDS:

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

**59-10-137**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

**59-10-1025**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

**63N-1-102**, as renumbered and amended by Laws of Utah 2015, Chapter 283

**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-4-402, as enacted by Laws of Utah 2018, Chapter 340

33 REPEALS:

34 59-7-614.8, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

35 59-10-1030, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

36 63N-2-701, as renumbered and amended by Laws of Utah 2015, Chapter 283

37 63N-2-702, as renumbered and amended by Laws of Utah 2015, Chapter 283

38 63N-2-703, as last amended by Laws of Utah 2018, Chapter 149

39 63N-2-704, as renumbered and amended by Laws of Utah 2015, Chapter 283

40 63N-2-705, as renumbered and amended by Laws of Utah 2015, Chapter 283

41 **Utah Code Sections Affected by Coordination Clause:**

42 63N-2-103, as last amended by Laws of Utah 2016, Chapter 350



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

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

46 **59-7-159. Review of credits allowed under this chapter.**

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

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51 continued, modified, or repealed.

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

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

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

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

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

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

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

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

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

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

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

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

72 (i) Section 59-7-601;

73 (ii) Section 59-7-607;

74 (iii) Section 59-7-612;

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

76 (v) Section 59-7-614.5.

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

80 (i) Section 59-7-609;

81 (ii) Section 59-7-614.2;

82 (iii) Section 59-7-614.10;

83 (iv) Section 59-7-617;

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

85 (vi) Section 59-7-620.

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

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

95 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
96 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
97 2017.

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

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

101 **59-10-137. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

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

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

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

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

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

127 (i) Section 59-10-1004;

128 (ii) Section 59-10-1010;

129 (iii) Section 59-10-1015;

130 (iv) Section 59-10-1025;

131 (v) Section 59-10-1027;

132 (vi) Section 59-10-1031;

133 (vii) Section 59-10-1032;

134 (viii) Section 59-10-1035;

135 (ix) Section 59-10-1104;

136 (x) Section 59-10-1105; and

137 (xi) Section 59-10-1108.

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

141 (i) Section 59-10-1005;

- 142 (ii) Section 59-10-1006;
- 143 (iii) Section 59-10-1012;
- 144 (iv) Section 59-10-1013;
- 145 (v) Section 59-10-1022;
- 146 (vi) Section 59-10-1023;
- 147 (vii) Section 59-10-1028;
- 148 (viii) Section 59-10-1034;
- 149 (ix) Section 59-10-1037; and
- 150 (x) Section 59-10-1107.

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

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

167 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
168 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
169 2017.

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

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

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

175 (1) As used in this section:

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

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

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

- 182 (i) biotechnologies;
- 183 (ii) medical devices;
- 184 (iii) medical diagnostics; and
- 185 (iv) pharmaceuticals.

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

187 (e) "Pass-through entity" means the same as that term is defined in Section [59-10-1402](#).

188 (f) "Pass-through entity taxpayer" means the same as that term is defined in Section  
189 [59-10-1402](#).

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

- 191 (i) (A) common stock;
- 192 (B) preferred stock; or
- 193 (C) an ownership interest in a pass-through entity;
- 194 (ii) originally issued to:
  - 195 (A) an eligible claimant, estate, or trust; or
  - 196 (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit  
197 under this section was a pass-through entity taxpayer of the pass-through entity on the day on

198 which the qualifying ownership interest was issued and remains a pass-through entity taxpayer  
199 of the pass-through entity until the last day of the taxable year for which the eligible claimant,  
200 estate, or trust claims a tax credit under this section; and

201 (iii) issued:

202 (A) by a Utah small business corporation;

203 (B) on or after January 1, 2011; and

204 (C) for money or other property, except for stock or securities.

205 (h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation"  
206 means the same as that term is defined in Section [59-10-1022](#).

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

209 (2) Subject to the other provisions of this section, for a taxable year beginning on or  
210 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate  
211 issued to the eligible claimant, estate, or trust in accordance with Section [63N-2-808](#) for that  
212 taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase  
213 price of a qualifying ownership interest in a Utah small business corporation by the claimant,  
214 estate, or trust if:

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

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

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

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

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



- 226 (a) may only be claimed by an eligible claimant, estate, or trust:
- 227 (i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit
- 228 certificate issued in accordance with Section 63N-2-808; and
- 229 (ii) subject to obtaining a tax credit certificate for each taxable year as required by
- 230 Subsection (3)(a)(i), for a period of three taxable years as follows:
- 231 (A) the tax credit in the taxable year in which the purchase of the qualifying ownership
- 232 interest was made may not exceed 10% of the purchase price of the qualifying ownership
- 233 interest;
- 234 (B) the tax credit in the taxable year after the taxable year described in Subsection
- 235 (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest;
- 236 and
- 237 (C) the tax credit in the taxable year two years after the taxable year described in
- 238 Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership
- 239 interest; and
- 240 (b) may not exceed the lesser of:
- 241 (i) the amount listed on the tax credit certificate issued in accordance with Section
- 242 63N-2-808; or
- 243 (ii) \$350,000 in a taxable year.
- 244 (4) An eligible claimant, estate, or trust may not claim a tax credit under this section
- 245 for a taxable year if the eligible claimant, estate, or trust:
- 246 (a) has sold any of the qualifying ownership interest during the taxable year; or
- 247 (b) does not hold a tax credit certificate for that taxable year that is issued to the
- 248 eligible claimant, estate, or trust by the office in accordance with Section 63N-2-808.
- 249 (5) If a Utah small business corporation in which an eligible claimant, estate, or trust
- 250 purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the
- 251 eligible claimant, estate, or trust may not claim both the tax credit provided in this section and
- 252 a capital loss on the qualifying ownership interest.
- 253 (6) If an eligible claimant is a pass-through entity taxpayer that files a return under

254 Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax  
255 credit under this section on the return filed under Chapter 7, Corporate Franchise and Income  
256 Taxes.

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

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

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

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

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

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

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

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

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

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

274 ~~and]~~

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

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

279 (ii) If, notwithstanding the redactions made under Subsection (8)(c)(i), reporting the  
280 information described in Subsection (8)(b) might disclose the identity of a recipient of a tax  
281 credit, the office may file a request with the Revenue and Taxation Interim Committee to

282 provide the information described in Subsection (8)(b) in the aggregate for all entities that  
283 receive the tax credit under this section.

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

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

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

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

294 **63N-1-102. Definitions.**

295 As used in this title:

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

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

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

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

306 [~~3~~] (5) "Executive director" means the executive director of the office.

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

309 (a) may include an employment position filled by more than one employee, if each

310 employee who works less than 30 hours per week is provided benefits comparable to a  
311 full-time employee; and

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

314 (7) "High paying job" means a newly created full-time employee position where the  
315 aggregate average annual gross wage of the employment position, not including health care or  
316 other paid or unpaid benefits, is at least 110% of the average wage of the county in which the  
317 employment position exists.

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

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

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

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

325 ~~[(4)]~~ (10) "Office" or "GOED" means the Governor's Office of Economic  
326 Development.

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

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

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

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

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

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

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

336 **63N-2-103. Definitions.**

337 As used in this part:

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

341 (2) "Community reinvestment agency" has the same meaning as that term is defined in  
342 Section 17C-1-102.

343 (3) "Development zone" means an economic development zone created under Section  
344 63N-2-104.

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

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

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

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

358 [~~(5)~~] (4) "Local government entity" means a county, city, or town that enters into an  
359 agreement with the office to have a new commercial project that:

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

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

362 [~~(6)~~] (5) (a) "New commercial project" means an economic development opportunity  
363 that involves new or expanded industrial, manufacturing, distribution, or business services in  
364 Utah.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

394           ~~[(E) a combination of Subsections (8)(a)(ii)(A) through (D);]~~  
395           ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~  
396 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~  
397 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~  
398 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~  
399 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~  
400 ~~expanded industrial, manufacturing, distribution, or business service within the new~~  
401 ~~commercial project; or]~~  
402           ~~[(iv) a combination of Subsections (8)(a)(i) through (iii); or]~~  
403           ~~[(b) with respect to a local government entity:]~~  
404           ~~[(i) incremental new state sales and use tax revenues that are collected under Title 59,~~  
405 ~~Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development~~  
406 ~~zone;]~~  
407           ~~[(ii) incremental new state tax revenues that are collected as a result of a new~~  
408 ~~commercial project in a development zone under:]~~  
409           ~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~  
410           ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~  
411 ~~Information;]~~  
412           ~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~  
413           ~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~  
414           ~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);]~~  
415           ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~  
416 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~  
417 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~  
418 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~  
419 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~  
420 ~~expanded industrial, manufacturing, distribution, or business service within the new~~  
421 ~~commercial project; or]~~

422 [~~(iv)~~ a combination of Subsections ~~(8)(b)(i)~~ through ~~(iii)~~:]

423 [~~(9)~~ (6) "Significant capital investment" means an amount of at least \$10,000,000 to  
424 purchase capital or fixed assets, which may include real property, personal property, and other  
425 fixtures related to a new commercial project:

426 (a) that represents an expansion of existing operations in the state; or

427 (b) that maintains or increases the business entity's existing work force in the state.

428 [~~(10)~~ (7) "Tax credit" means an economic development tax credit created by Section  
429 [59-7-614.2](#) or [59-10-1107](#).

430 [~~(11)~~ (8) "Tax credit amount" means the amount the office lists as a tax credit on a tax  
431 credit certificate for a taxable year.

432 [~~(12)~~ (9) "Tax credit certificate" means a certificate issued by the office that:

433 (a) lists the name of the business entity, local government entity, or community  
434 development and renewal agency to which the office authorizes a tax credit;

435 (b) lists the business entity's, local government entity's, or community development and  
436 renewal agency's taxpayer identification number;

437 (c) lists the amount of tax credit that the office authorizes the business entity, local  
438 government entity, or community development and renewal agency for the taxable year; and

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

440 Section 6. Section **63N-2-202** is amended to read:

441 **63N-2-202. Definitions.**

442 As used in this part:

443 (1) "Business entity" means an entity, sole proprietorship, or individual:

444 (a) including a claimant, estate, or trust; and

445 (b) under which or by whom business is conducted or transacted.

446 (2) "Claimant" means a resident or nonresident person that has:

447 (a) Utah taxable income as defined in Section [59-7-101](#); or

448 (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and  
449 Reporting of Tax Liability and Information.



450 (3) "County applicant" means the governing authority of a county that meets the  
451 requirements for designation as an enterprise zone under Section 63N-2-204.

452 (4) "Estate" means a nonresident estate or a resident estate that has state taxable  
453 income under Title 59, Chapter 10, Part 2, Trusts and Estates.

454 (5) "Municipal applicant" means the governing authority of a city or town that meets  
455 the requirements for designation as an enterprise zone under Section 63N-2-204.

456 ~~[(6) "New full-time employee position" means a position that has been newly created  
457 in addition to the highest baseline count of employment positions that existed within the  
458 business entity during the previous three taxable years and is filled by an employee working at  
459 least 30 hours per week:]~~

460 ~~[(a) for a period of at least six consecutive months, and]~~

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

462 ~~[(7)]~~ (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business  
463 entity may:

464 (a) claim:

465 (i) as provided by statute; and

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

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

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

470 (b) carry forward or carry back:

471 (i) if allowed by statute; and

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

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

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

476 ~~[(8)]~~ (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits  
477 described in Section 63N-2-213.

478            [~~(9)~~] (8) "Trust" means a nonresident trust or a resident trust that has state taxable  
479 income under Title 59, Chapter 10, Part 2, Trusts and Estates.

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

481            **63N-4-302. Definitions.**

482            As used in this part:

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

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

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

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

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

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

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

499            (a) has fewer than 150 employees;

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

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

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

503            (i) aerospace;

504            (ii) defense;

505            (iii) energy and natural resources;

506 (iv) financial services;

507 (v) life sciences;

508 (vi) outdoor products;

509 (vii) software development;

510 (viii) information technology;

511 (ix) manufacturing; or

512 (x) agribusiness.

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

514 (i) the present value of all growth investments made by a rural investment company on  
515 the day the rural investment company applies to exit the program under Section [63N-4-309](#),

516 including the present value of all distributions and gains from the growth investments; and

517 (ii) the sum of the amount of the original growth investment and an amount equal to  
518 any projected increase in the equity holder's federal or state tax liability, including penalties and  
519 interest, related to the equity holder's ownership, management, or operation of the rural  
520 investment company.

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

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

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

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

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

532 (10) "Growth investment" means any capital or equity investment in an eligible small  
533 business or any loan made from the investment authority to an eligible small business with a

534 stated maturity at least one year after the date of issuance.

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

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

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

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

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

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

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

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

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

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

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

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

566 (17) "Rural investment company" means a person approved by the office under Section  
567 [63N-4-303](#).

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

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

570 (ii) the product of:

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

573 (B) \$20,000.

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

576 (19) "Tax credit" means a rural job creation tax credit created by Section [59-7-621](#) or  
577 [59-10-1038](#).

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

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

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

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

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

584 Section 8. Section [63N-4-402](#) is amended to read:

585 **[63N-4-402](#). Definitions.**

586 As used in this part:

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

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

591 (i) construction;

592 (ii) staffing;

593 (iii) retail trade; or

594 (iv) public utility activities.

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

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

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

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

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

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

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

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

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

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

612 [~~(4)~~] (2) (a) "Owner or officer" means an individual who owns an ownership interest in  
613 an entity or holds a position where the person has authority to manage, direct, control, or make  
614 decisions for:

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

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

617 (b) "Owner or officer" includes:

- 618 (i) a member of a board of directors or other governing body of an entity; or
- 619 (ii) a partner in any type of partnership.
- 620 ~~[(5)]~~ (3) "Rural employment expansion grant" means a grant available under this part.

621 Section 9. **Repealer.**

622 This bill repeals:

623 Section **59-7-614.8, Nonrefundable alternative energy manufacturing tax credit.**

624 Section **59-10-1030, Nonrefundable alternative energy manufacturing tax credit.**

625 Section **63N-2-701, Title.**

626 Section **63N-2-702, Definitions.**

627 Section **63N-2-703, Tax credits.**

628 Section **63N-2-704, Qualifications for tax credit -- Procedure.**

629 Section **63N-2-705, Reporting.**

630 Section 10. **Retrospective operation.**

631 This bill has retrospective operation for a taxable year beginning on or after January 1,  
632 2019.

633 Section 11. **Coordinating H.B. 264 with H.B. 433 -- Substantive and technical**  
634 **amendments.**

635 If this H.B. 264 and H.B. 433, Inland Port Amendments, both pass and become law, it  
636 is the intent of the Legislature that the Office of Legislative Research and General Counsel  
637 shall prepare the Utah Code database for publication by amending Section 63N-2-103 to read:

638 **63N-2-103. Definitions.**

639 As used in this part:

640 (1) "Authority project area" means a project area of the inland port authority.

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

644 [(2)] (3) "Community reinvestment agency" ~~[has the same meaning]~~ means the same as  
645 that term is defined in Section 17C-1-102.

646           ~~[(3)]~~ (4) "Development zone" means an economic development zone created under  
647 Section [63N-2-104](#).

648           (5) "Inland port authority" means the Utah Inland Port Authority, created in Section  
649 [11-58-201](#).

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

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

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

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

663           ~~[(5)]~~ (6) "Local government entity" means a county, city, ~~[or] town,~~ or inland port  
664 authority that enters into an agreement with the office to have a new commercial project that:

665           (a) is initiated within ~~[the county's, city's, or town's boundaries; and];~~

666           (i) the boundary of the county, city, or town; or

667           (ii) the project area of the inland port authority; and

668           (b) qualifies the county, city, ~~[or] town,~~ or inland port authority to receive a tax credit  
669 under Section [59-7-614.2](#).

670           ~~[(6)]~~ (7) (a) "New commercial project" means an economic development opportunity  
671 that involves new or expanded industrial, manufacturing, distribution, or business services in  
672 Utah.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

702           ~~[(E) a combination of Subsections (8)(a)(ii)(A) through (D);]~~  
703           ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~  
704 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~  
705 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~  
706 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~  
707 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~  
708 ~~expanded industrial, manufacturing, distribution, or business service within the new~~  
709 ~~commercial project; or]~~  
710           ~~[(iv) a combination of Subsections (8)(a)(i) through (iii); or]~~  
711           ~~[(b) with respect to a local government entity:]~~  
712           ~~[(i) incremental new state sales and use tax revenues that are collected under Title 59,~~  
713 ~~Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development~~  
714 ~~zone;]~~  
715           ~~[(ii) incremental new state tax revenues that are collected as a result of a new~~  
716 ~~commercial project in a development zone under:]~~  
717           ~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~  
718           ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~  
719 ~~Information;]~~  
720           ~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~  
721           ~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~  
722           ~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);]~~  
723           ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~  
724 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~  
725 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~  
726 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~  
727 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~  
728 ~~expanded industrial, manufacturing, distribution, or business service within the new~~  
729 ~~commercial project; or]~~

730 [~~(iv)~~] a combination of Subsections ~~(8)(b)(i) through (iii)~~;

731 [~~(9)~~] (8) "Significant capital investment" means an amount of at least \$10,000,000 to  
732 purchase capital or fixed assets, which may include real property, personal property, and other  
733 fixtures related to a new commercial project:

734 (a) that represents an expansion of existing operations in the state; or

735 (b) that maintains or increases the business entity's existing work force in the state.

736 [~~(10)~~] (9) "Tax credit" means an economic development tax credit created by Section  
737 [59-7-614.2](#) or [59-10-1107](#).

738 [~~(11)~~] (10) "Tax credit amount" means the amount the office lists as a tax credit on a  
739 tax credit certificate for a taxable year.

740 [~~(12)~~] (11) "Tax credit certificate" means a certificate issued by the office that:

741 (a) lists the name of the business entity, local government entity, or community  
742 development and renewal agency to which the office authorizes a tax credit;

743 (b) lists the business entity's, local government entity's, or community development and  
744 renewal agency's taxpayer identification number;

745 (c) lists the amount of tax credit that the office authorizes the business entity, local  
746 government entity, or community development and renewal agency for the taxable year; and

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

748 Section 12. **Coordinating H.B. 264 with S.B. 269 -- Substantive and technical**  
749 **amendments.**

750 If this H.B. 264 and S.B. 269, Military Development Authority, both pass and become  
751 law, it is the intent of the Legislature that the Office of Legislative Research and General  
752 Counsel shall prepare the Utah Code database for publication by amending Section [63N-2-103](#)  
753 to read:

754 **63N-2-103. Definitions.**

755 As used in this part:

756 (1) "Authority project area" means a project of the Military Installation Development  
757 Authority, created in Section [63H-1-201](#).

758           ~~[(1)]~~ (2) "Business entity" means a person that enters into an agreement with the office  
759 to initiate a new commercial project in Utah that will qualify the person to receive a tax credit  
760 under Section [59-7-614.2](#) or [59-10-1107](#).

761           ~~[(2)]~~ (3) "Community reinvestment agency" ~~[has the same meaning]~~ means the same as  
762 that term is defined in Section [17C-1-102](#).

763           ~~[(3)]~~ (4) "Development zone" means an economic development zone created under  
764 Section [63N-2-104](#).

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

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

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

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

778           (5) "Local government entity" means:

779           (a) a county, city, or town that enters into an agreement with the office to have a new  
780 commercial project that:

781           ~~[(a)]~~ (i) is initiated within the county's, city's, or town's boundaries; and

782           ~~[(b)]~~ (ii) qualifies the county, city, or town to receive a tax credit under Section  
783 [59-7-614.2](#); or

784           (b) the Military Installation Development Authority, if the Military Installation  
785 Development Authority enters into an agreement described in Subsection (5)(a).

786 (6) (a) "New commercial project" means an economic development opportunity that  
787 involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

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

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

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

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

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

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

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

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

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

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

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

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

813 ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~

814 Information;]

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

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

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

818 [~~(iii) incremental new state tax revenues paid as individual income taxes under Title~~  
819 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~  
820 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~  
821 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~  
822 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~  
823 ~~expanded industrial, manufacturing, distribution, or business service within the new~~  
824 ~~commercial project; or]~~

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

826 [~~(b) with respect to a local government entity;~~]

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

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

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

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

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

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

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

838 [~~(iii) incremental new state tax revenues paid as individual income taxes under Title~~  
839 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~  
840 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~  
841 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~

842 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~  
 843 ~~expanded industrial, manufacturing, distribution, or business service within the new~~  
 844 ~~commercial project; or]~~

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

846 [(9)] (7) "Significant capital investment" means an amount of at least \$10,000,000 to  
 847 purchase capital or fixed assets, which may include real property, personal property, and other  
 848 fixtures related to a new commercial project:

- 849 (a) that represents an expansion of existing operations in the state; or
- 850 (b) that maintains or increases the business entity's existing work force in the state.

851 [(10)] (8) "Tax credit" means an economic development tax credit created by Section  
 852 59-7-614.2 or 59-10-1107.

853 [(11)] (9) "Tax credit amount" means the amount the office lists as a tax credit on a tax  
 854 credit certificate for a taxable year.

855 [(12)] (10) "Tax credit certificate" means a certificate issued by the office that:

- 856 (a) lists the name of the business entity, local government entity, or community  
 857 development and renewal agency to which the office authorizes a tax credit;
- 858 (b) lists the business entity's, local government entity's, or community development and  
 859 renewal agency's taxpayer identification number;
- 860 (c) lists the amount of tax credit that the office authorizes the business entity, local  
 861 government entity, or community development and renewal agency for the taxable year; and
- 862 (d) may include other information as determined by the office."

863 Section 13. **Coordinating H.B. 264, H.B. 433, and S.B. 269 -- Substantive and**  
 864 **technical amendments.**

865 If this H.B. 264, and H.B. 433, Inland Port Amendments, and S.B. 269, Military  
 866 Development Authority, all pass and become law, it is the intent of the Legislature that:

- 867 (1) this coordination clause supersedes the other coordination clauses in this H.B. 264  
 868 and the coordination clause in S.B. 269, Military Development Authority; and
- 869 (2) the Office of Legislative Research and General Counsel shall prepare the Utah

870 Code database for publication by amending Section 63N-2-103 to read:

871 "63N-2-103. Definitions.

872 As used in this part:

873 (1) "Authority" means:

874 (a) the Utah Inland Port Authority, created in Section 11-58-201; or

875 (b) the Military Installation Development Authority, created in Section 63H-1-201.

876 (2) "Authority project area" means a project area of:

877 (a) the Utah Inland Port Authority, created in Section 11-58-201; or

878 (b) the Military Installation Development Authority, created in Section 63H-1-201.

879 ~~[(1)]~~ (3) "Business entity" means a person that enters into an agreement with the office  
880 to initiate a new commercial project in Utah that will qualify the person to receive a tax credit  
881 under Section 59-7-614.2 or 59-10-1107.

882 ~~[(2)]~~ (4) "Community reinvestment agency" has the same meaning as that term is  
883 defined in Section 17C-1-102.

884 ~~[(3)]~~ (5) "Development zone" means an economic development zone created under  
885 Section 63N-2-104.

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

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

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

895 ~~[(c) with respect to a city or town, the aggregate average annual gross wages, not~~  
896 ~~including healthcare or other paid or unpaid benefits of newly created full-time employment~~  
897 ~~positions in a new commercial project within the city or town that are at least 110% of the~~



898 ~~average wages of the city or town in which the employment positions will exist.]~~

899 ~~[(5)] (6)~~ "Local government entity" means a county, city, ~~[or] town, or authority~~ that  
900 enters into an agreement with the office to have a new commercial project that:

901 (a) is initiated within:

902 ~~(i) [the county's, city's, or town's boundaries]~~ the boundary of the county, city, or town;

903 or

904 (ii) an authority project area; and

905 (b) qualifies the county, city, ~~[or] town, or authority~~ to receive a tax credit under

906 Section 59-7-614.2.

907 ~~[(6)] (7)~~ (a) "New commercial project" means an economic development opportunity  
908 that involves new or expanded industrial, manufacturing, distribution, or business services in  
909 Utah.

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

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

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

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

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

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

925 ~~[(c) "New incremental jobs" does not include jobs that are shifted from one jurisdiction~~

926 in the state to another jurisdiction in the state.]

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

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

929       ~~[(i) incremental new state sales and use tax revenues that a business entity pays under~~

930 ~~Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a~~

931 ~~development zone;]~~

932       ~~[(ii) incremental new state tax revenues that a business entity pays as a result of a new~~

933 ~~commercial project in a development zone under:]~~

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

935       ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~

936 ~~Information;]~~

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

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

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

940       ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~

941 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~

942 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~

943 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~

944 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~

945 ~~expanded industrial, manufacturing, distribution, or business service within the new~~

946 ~~commercial project; or]~~

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

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

949       ~~[(i) incremental new state sales and use tax revenues that are collected under Title 59,~~

950 ~~Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development~~

951 ~~zone;]~~

952       ~~[(ii) incremental new state tax revenues that are collected as a result of a new~~

953 ~~commercial project in a development zone under:]~~

954            [~~(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;~~]  
955            [~~(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~  
956 ~~Information;~~]  
957            [~~(C) Title 59, Chapter 10, Part 2, Trusts and Estates;~~]  
958            [~~(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or~~]  
959            [~~(E) a combination of Subsections (8)(b)(ii)(A) through (D);~~]  
960            [~~(iii) incremental new state tax revenues paid as individual income taxes under Title~~  
961 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~  
962 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~  
963 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~  
964 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~  
965 ~~expanded industrial, manufacturing, distribution, or business service within the new~~  
966 ~~commercial project; or]~~  
967            [~~(iv) a combination of Subsections (8)(b)(i) through (iii):~~]  
968            [~~(9)~~ (8) "Significant capital investment" means an amount of at least \$10,000,000 to  
969 purchase capital or fixed assets, which may include real property, personal property, and other  
970 fixtures related to a new commercial project:  
971            (a) that represents an expansion of existing operations in the state; or  
972            (b) that maintains or increases the business entity's existing work force in the state.  
973            [~~(10)~~ (9) "Tax credit" means an economic development tax credit created by Section  
974 59-7-614.2 or 59-10-1107.  
975            [~~(11)~~ (10) "Tax credit amount" means the amount the office lists as a tax credit on a  
976 tax credit certificate for a taxable year.  
977            [~~(12)~~ (11) "Tax credit certificate" means a certificate issued by the office that:  
978            (a) lists the name of the business entity, local government entity, or community  
979 development and renewal agency to which the office authorizes a tax credit;  
980            (b) lists the business entity's, local government entity's, or community development and  
981 renewal agency's taxpayer identification number;

982           (c) lists the amount of tax credit that the office authorizes the business entity, local  
983 government entity, or community development and renewal agency for the taxable year; and  
984           (d) may include other information as determined by the office."