

Senator Daniel McCay 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.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:



- 26 [59-7-159](#), as enacted by Laws of Utah 2016, Third Special Session, Chapter 1
- 27 [59-10-137](#), as enacted by Laws of Utah 2016, Third Special Session, Chapter 1
- 28 [59-10-1025](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 29 [63N-1-102](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 30 [63N-2-103](#), as last amended by Laws of Utah 2016, Chapter 350
- 31 [63N-2-202](#), as last amended by Laws of Utah 2016, Chapter 11
- 32 [63N-4-302](#), as enacted by Laws of Utah 2017, Chapter 274
- 33 [63N-4-309](#), as enacted by Laws of Utah 2017, Chapter 274
- 34 [63N-4-402](#), as enacted by Laws of Utah 2018, Chapter 340

35 REPEALS:

- 36 [59-7-614.8](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 37 [59-10-1030](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 38 [63N-2-701](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 39 [63N-2-702](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 40 [63N-2-703](#), as last amended by Laws of Utah 2018, Chapter 149
- 41 [63N-2-704](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 42 [63N-2-705](#), as renumbered and amended by Laws of Utah 2015, Chapter 283

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

- 44 [63N-2-103](#), as last amended by Laws of Utah 2016, Chapter 350



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

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

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

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

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53 continued, modified, or repealed.

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

- 55 (i) schedule time on at least one committee agenda to conduct the review;
- 56 (ii) invite state agencies, individuals, and organizations concerned with the tax credit

57 under review to provide testimony;

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

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

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

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

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

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

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

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

74 (i) Section 59-7-601;

75 (ii) Section 59-7-607;

76 (iii) Section 59-7-612;

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

78 (v) Section 59-7-614.5.

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

82 (i) Section 59-7-609;

83 (ii) Section 59-7-614.2;

84 (iii) Section 59-7-614.10;

85 (iv) Section 59-7-617;

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

87 (vi) Section 59-7-620.

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

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

97 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
98 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
99 2017.

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

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

103 **59-10-137. Review of credits allowed under this chapter.**

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

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

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

- 110 (i) schedule time on at least one committee agenda to conduct the review;
- 111 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
112 under review to provide testimony;
- 113 (iii) (A) invite the Governor's Office of Economic Development to present a summary
114 and analysis of the information for each tax credit regarding which the Governor's Office of
115 Economic Development is required to make a report under this chapter; and

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

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

- 121 (A) the cost of the tax credit to the state;
- 122 (B) the purpose and effectiveness of the tax credit; and
- 123 (C) the extent to which the state benefits from the tax credit; and
- 124 (v) undertake other review efforts as determined by the committee chairs or as
125 otherwise required by law.

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

- 129 (i) Section 59-10-1004;
- 130 (ii) Section 59-10-1010;
- 131 (iii) Section 59-10-1015;
- 132 (iv) Section 59-10-1025;
- 133 (v) Section 59-10-1027;
- 134 (vi) Section 59-10-1031;
- 135 (vii) Section 59-10-1032;
- 136 (viii) Section 59-10-1035;
- 137 (ix) Section 59-10-1104;
- 138 (x) Section 59-10-1105; and
- 139 (xi) Section 59-10-1108.

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

- 143 (i) Section 59-10-1005;
- 144 (ii) Section 59-10-1006;
- 145 (iii) Section 59-10-1012;
- 146 (iv) Section 59-10-1013;
- 147 (v) Section 59-10-1022;
- 148 (vi) Section 59-10-1023;
- 149 (vii) Section 59-10-1028;

- 150 (viii) Section 59-10-1034;
- 151 (ix) Section 59-10-1037; and
- 152 (x) Section 59-10-1107.

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

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

169 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
 170 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
 171 2017.

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

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

175 **59-10-1025. Nonrefundable tax credit for investment in certain life science**
 176 **establishments.**

177 (1) As used in this section:

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

180 (b) "Eligible claimant, estate, or trust" means the same as that term is defined in

181 Section [63N-2-802](#).

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

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

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

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

190 (f) "Pass-through entity taxpayer" means the same as that term is defined in Section
191 [59-10-1402](#).

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

- 193 (i) (A) common stock;
- 194 (B) preferred stock; or
- 195 (C) an ownership interest in a pass-through entity;

196 (ii) originally issued to:

197 (A) an eligible claimant, estate, or trust; or

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

203 (iii) issued:

204 (A) by a Utah small business corporation;

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

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

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

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

211 (2) Subject to the other provisions of this section, for a taxable year beginning on or

212 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate
213 issued to the eligible claimant, estate, or trust in accordance with Section 63N-2-808 for that
214 taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase
215 price of a qualifying ownership interest in a Utah small business corporation by the claimant,
216 estate, or trust if:

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

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

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

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

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

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

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

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

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

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

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

242 (b) may not exceed the lesser of:

243 (i) the amount listed on the tax credit certificate issued in accordance with Section
244 [63N-2-808](#); or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

274 (C) the number of new incremental jobs within the state that will be generated; and
275 [~~iv~~] the information contained in the office's latest report under Section ~~63N-2-705~~;
276 and]

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

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

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

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

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

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

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

296 **63N-1-102. Definitions.**

297 As used in this title:

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

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

304 [~~+~~] (3) "Board" means the Board of Business and Economic Development created in

305 Section 63N-1-401.

306 ~~[(2)]~~ (4) "Council" means the Governor's Economic Development Coordinating
307 Council created in Section 63N-1-501.

308 ~~[(3)]~~ (5) "Executive director" means the executive director of the office.

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

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

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

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

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 revenue collected from a business entity or a
326 business entity's employees during a calendar year minus the baseline state revenue calculation.

327 ~~[(4)]~~ (10) "Office" or "GOED" means the Governor's Office of Economic
328 Development.

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

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

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

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

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

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

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

338 **63N-2-103. Definitions.**

339 As used in this part:

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

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

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

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

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

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

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

360 [~~(5)~~] (4) "Local government entity" means a county, city, or town that enters into an
361 agreement with the office to have a new commercial project that:

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

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

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

367 (b) "New commercial project" does not include retail business.
368 [~~(7) (a) "New incremental jobs" means full-time employment positions that are filled~~
369 ~~by employees who work at least 30 hours per week and that are:]~~
370 [~~(i) with respect to a business entity, created in addition to the baseline count of~~
371 ~~employment positions that existed within the business entity before the new commercial~~
372 ~~project;]~~
373 [~~(ii) with respect to a county, created as a result of a new commercial project with~~
374 ~~respect to which the county or a community development and renewal agency seeks to claim a~~
375 ~~tax credit under Section 59-7-614.2; or]~~
376 [~~(iii) with respect to a city or town, created as a result of a new commercial project~~
377 ~~with respect to which the city, town, or a community development and renewal agency seeks to~~
378 ~~claim a tax credit under Section 59-7-614.2.]~~
379 [(b) "New incremental jobs" may include full-time equivalent positions that are filled
380 by more than one employee, if each employee who works less than 30 hours per week is
381 provided benefits comparable to a full-time employee.]
382 [(c) "New incremental jobs" does not include jobs that are shifted from one jurisdiction
383 in the state to another jurisdiction in the state.]
384 [(8) "New state revenues" means:]
385 [(a) with respect to a business entity:]
386 [(i) incremental new state sales and use tax revenues that a business entity pays under
387 Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a
388 development zone;]
389 [(ii) incremental new state tax revenues that a business entity pays as a result of a new
390 commercial project in a development zone under:]
391 [(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]
392 [(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
393 Information;]
394 [(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]
395 [(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]
396 [(E) a combination of Subsections (8)(a)(ii)(A) through (D);]
397 [(iii) incremental new state tax revenues paid as individual income taxes under Title

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

404 ~~[(iv) a combination of Subsections (8)(a)(i) through (iii); or]~~
405 ~~[(b) with respect to a local government entity:]~~

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

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

411 ~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~
412 ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~
413 ~~Information;]~~

414 ~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~
415 ~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~
416 ~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);]~~

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

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

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

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

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

430 ~~[(10)]~~ (7) "Tax credit" means an economic development tax credit created by Section
431 59-7-614.2 or 59-10-1107.

432 ~~[(11)]~~ (8) "Tax credit amount" means the amount the office lists as a tax credit on a tax
433 credit certificate for a taxable year.

434 ~~[(12)]~~ (9) "Tax credit certificate" means a certificate issued by the office that:

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

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

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

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

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

443 **63N-2-202. Definitions.**

444 As used in this part:

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

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

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

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

449 (a) Utah taxable income as defined in Section 59-7-101; or

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

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

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

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

458 ~~[(6)]~~ "New full-time employee position" means a position that has been newly created
459 in addition to the highest baseline count of employment positions that existed within the

460 ~~business entity during the previous three taxable years and is filled by an employee working at~~
461 ~~least 30 hours per week:]~~

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

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

464 ~~[(7)]~~ (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business
465 entity may:

466 (a) claim:

467 (i) as provided by statute; and

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

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

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

472 (b) carry forward or carry back:

473 (i) if allowed by statute; and

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

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

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

478 ~~[(8)]~~ (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits
479 described in Section [63N-2-213](#).

480 ~~[(9)]~~ (8) "Trust" means a nonresident trust or a resident trust that has state taxable
481 income under Title 59, Chapter 10, Part 2, Trusts and Estates.

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

483 **63N-4-302. Definitions.**

484 As used in this part:

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

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

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

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

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

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

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

501 (a) has fewer than 150 employees;

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

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

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

505 (i) aerospace;

506 (ii) defense;

507 (iii) energy and natural resources;

508 (iv) financial services;

509 (v) life sciences;

510 (vi) outdoor products;

511 (vii) software development;

512 (viii) information technology;

513 (ix) manufacturing; or

514 (x) agribusiness.

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

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

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

522 investment company.

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

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

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

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

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

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

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

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

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

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

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

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

552 (ii) the number of full-time employees that are paid a high wage at the eligible small

553 business on the date of the initial growth investment.

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

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

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

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

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

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

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

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

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

575 (B) \$20,000.

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

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

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

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

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

583 (c) lists the amount of tax credit that the office authorizes the person to claim for the

584 taxable year; and

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

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

587 **63N-4-309. Exit.**

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

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

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

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

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

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

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

606 (a) the state reimbursement amount; and

607 (b) the excess return.

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

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

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

612 **63N-4-402. Definitions.**

613 As used in this part:

614 (1) (a) "Business entity" means a sole proprietorship, partnership, association, joint

615 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on
616 a business.

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

618 (i) construction;

619 (ii) staffing;

620 (iii) retail trade; or

621 (iv) public utility activities.

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

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

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

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

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

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

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

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

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

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

639 [~~(4)~~] (2) (a) "Owner or officer" means an individual who owns an ownership interest in
640 an entity or holds a position where the person has authority to manage, direct, control, or make
641 decisions for:

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

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

644 (b) "Owner or officer" includes:

645 (i) a member of a board of directors or other governing body of an entity; or

646 (ii) a partner in any type of partnership.
647 [~~(5)~~] (3) "Rural employment expansion grant" means a grant available under this part.

648 Section 10. **Repealer.**

649 This bill repeals:

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

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

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

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

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

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

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

657 Section 11. **Retrospective operation.**

658 This bill has retrospective operation for a taxable year beginning on or after January 1,
659 2019.

660 Section 12. **Coordinating H.B. 264 with H.B. 433 -- Substantive and technical**
661 **amendments.**

662 If this H.B. 264 and H.B. 433, Inland Port Amendments, both pass and become law, it
663 is the intent of the Legislature that the Office of Legislative Research and General Counsel
664 shall prepare the Utah Code database for publication by amending Section [63N-2-103](#) to read:
665 **"63N-2-103. Definitions.**

666 As used in this part:

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

668 [~~(1)~~] (2) "Business entity" means a person that enters into an agreement with the office
669 to initiate a new commercial project in Utah that will qualify the person to receive a tax credit
670 under Section [59-7-614.2](#) or [59-10-1107](#).

671 [~~(2)~~] (3) "Community reinvestment agency" [~~has the same meaning~~] means the same as
672 that term is defined in Section [17C-1-102](#).

673 [~~(3)~~] (4) "Development zone" means an economic development zone created under
674 Section [63N-2-104](#).

675 (5) "Inland port authority" means the Utah Inland Port Authority, created in Section
676 [11-58-201](#).

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

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

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

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

690 ~~[(5)]~~ (6) "Local government entity" means a county, city, ~~[or] town, or inland port~~
691 ~~authority~~ that enters into an agreement with the office to have a new commercial project that:

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

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

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

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

697 ~~[(6)]~~ (7) (a) "New commercial project" means an economic development opportunity
698 that involves new or expanded industrial, manufacturing, distribution, or business services in
699 Utah.

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

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

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

706 ~~[(ii) with respect to a county, created as a result of a new commercial project with~~
707 ~~respect to which the county or a community development and renewal agency seeks to claim a~~

708 tax credit under Section ~~59-7-614.2~~; or]

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

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

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

717 [(8) "New state revenues" means:]

718 [(a) with respect to a business entity:]

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

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

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

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

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

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

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

730 [(iii) incremental new state tax revenues paid as individual income taxes under Title
731 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
732 employees of a new or expanded industrial, manufacturing, distribution, or business service
733 within a new commercial project as evidenced by payroll records that indicate the amount of
734 employee income taxes withheld and transmitted to the State Tax Commission by the new or
735 expanded industrial, manufacturing, distribution, or business service within the new
736 commercial project; or]

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

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

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

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

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

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

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

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

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

750 ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~
 751 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~
 752 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~
 753 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~
 754 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~
 755 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
 756 ~~commercial project; or]~~

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

758 ~~[(9)] (8) "Significant capital investment" means an amount of at least \$10,000,000 to~~
 759 ~~purchase capital or fixed assets, which may include real property, personal property, and other~~
 760 ~~fixtures related to a new commercial project:~~

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

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

763 ~~[(10)] (9) "Tax credit" means an economic development tax credit created by Section~~
 764 ~~59-7-614.2 or 59-10-1107.~~

765 ~~[(11)] (10) "Tax credit amount" means the amount the office lists as a tax credit on a~~
 766 ~~tax credit certificate for a taxable year.~~

767 ~~[(12)] (11) "Tax credit certificate" means a certificate issued by the office that:~~

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

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

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

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

775 Section 13. **Coordinating H.B. 264 with S.B. 269 -- Substantive and technical**
776 **amendments.**

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

781 "63N-2-103. Definitions.

782 As used in this part:

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

785 [~~(1)~~] (2) "Business entity" means a person that enters into an agreement with the office
786 to initiate a new commercial project in Utah that will qualify the person to receive a tax credit
787 under Section [59-7-614.2](#) or [59-10-1107](#).

788 [~~(2)~~] (3) "Community reinvestment agency" [~~has the same meaning~~] means the same as
789 that term is defined in Section [17C-1-102](#).

790 [~~(3)~~] (4) "Development zone" means an economic development zone created under
791 Section [63N-2-104](#).

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

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

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

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

805 (5) "Local government entity" means:

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

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

809 ~~[(b)]~~ (ii) qualifies the county, city, or town to receive a tax credit under Section
810 [59-7-614.2](#); or

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

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

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

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

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

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

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

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

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

832 ~~[(8) "New state revenues" means:]~~
833 ~~[(a) with respect to a business entity:]~~
834 ~~[(i) incremental new state sales and use tax revenues that a business entity pays under~~
835 ~~Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a~~
836 ~~development zone;]~~
837 ~~[(ii) incremental new state tax revenues that a business entity pays as a result of a new~~
838 ~~commercial project in a development zone under:]~~
839 ~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~
840 ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~
841 ~~Information;]~~
842 ~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~
843 ~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~
844 ~~[(E) a combination of Subsections (8)(a)(ii)(A) through (D);]~~
845 ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~
846 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~
847 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~
848 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~
849 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~
850 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
851 ~~commercial project; or]~~
852 ~~[(iv) a combination of Subsections (8)(a)(i) through (iii); or]~~
853 ~~[(b) with respect to a local government entity:]~~
854 ~~[(i) incremental new state sales and use tax revenues that are collected under Title 59,~~
855 ~~Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development~~
856 ~~zone;]~~
857 ~~[(ii) incremental new state tax revenues that are collected as a result of a new~~
858 ~~commercial project in a development zone under:]~~
859 ~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~
860 ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~
861 ~~Information;]~~
862 ~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~

863 ~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~
 864 ~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);]~~
 865 ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~
 866 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~
 867 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~
 868 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~
 869 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~
 870 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
 871 ~~commercial project; or]~~

872 ~~[(iv) a combination of Subsections (8)(b)(i) through (iii).]~~
 873 ~~[(9)] (7) "Significant capital investment" means an amount of at least \$10,000,000 to~~
 874 ~~purchase capital or fixed assets, which may include real property, personal property, and other~~
 875 ~~fixtures related to a new commercial project:~~

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

878 ~~[(10)] (8) "Tax credit" means an economic development tax credit created by Section~~
 879 ~~59-7-614.2 or 59-10-1107.~~

880 ~~[(11)] (9) "Tax credit amount" means the amount the office lists as a tax credit on a tax~~
 881 ~~credit certificate for a taxable year.~~

882 ~~[(12)] (10) "Tax credit certificate" means a certificate issued by the office that:~~

- 883 (a) lists the name of the business entity, local government entity, or community
- 884 development and renewal agency to which the office authorizes a tax credit;
- 885 (b) lists the business entity's, local government entity's, or community development and
- 886 renewal agency's taxpayer identification number;
- 887 (c) lists the amount of tax credit that the office authorizes the business entity, local
- 888 government entity, or community development and renewal agency for the taxable year; and
- 889 (d) may include other information as determined by the office."

890 Section 14. **Coordinating H.B. 264, H.B. 433, and S.B. 269 -- Substantive and**
 891 **technical amendments.**

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

894 (1) this coordination clause supersedes the other coordination clauses in this H.B. 264
895 and the coordination clause in S.B. 269, Military Development Authority; and

896 (2) the Office of Legislative Research and General Counsel shall prepare the Utah
897 Code database for publication by amending Section 63N-2-103 to read:

898 **"63N-2-103. Definitions.**

899 As used in this part:

900 (1) "Authority" means:

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

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

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

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

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

906 ~~[(1)]~~ (3) "Business entity" means a person that enters into an agreement with the office
907 to initiate a new commercial project in Utah that will qualify the person to receive a tax credit
908 under Section 59-7-614.2 or 59-10-1107.

909 ~~[(2)]~~ (4) "Community reinvestment agency" has the same meaning as that term is
910 defined in Section 17C-1-102.

911 ~~[(3)]~~ (5) "Development zone" means an economic development zone created under
912 Section 63N-2-104.

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

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

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

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

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

926 ~~[(5)] (6) "Local government entity" means a county, city, [or] town, or authority that~~
 927 ~~enters into an agreement with the office to have a new commercial project that:~~

928 ~~(a) is initiated within:~~

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

930 ~~or~~

931 ~~(ii) an authority project area; and~~

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

933 ~~Section [59-7-614.2](#).~~

934 ~~[(6)] (7) (a) "New commercial project" means an economic development opportunity~~
 935 ~~that involves new or expanded industrial, manufacturing, distribution, or business services in~~
 936 ~~Utah.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

967 ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~
968 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~
969 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~
970 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~
971 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~
972 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
973 ~~commercial project; or]~~

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

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

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

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

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

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

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

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

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

987 ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~
988 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~
989 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~
990 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~
991 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~
992 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
993 ~~commercial project; or]~~

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

995 ~~[(9)]~~ (8) "Significant capital investment" means an amount of at least \$10,000,000 to
996 purchase capital or fixed assets, which may include real property, personal property, and other
997 fixtures related to a new commercial project:

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

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

1000 ~~[(10)]~~ (9) "Tax credit" means an economic development tax credit created by Section
1001 [59-7-614.2](#) or [59-10-1107](#).

1002 ~~[(11)]~~ (10) "Tax credit amount" means the amount the office lists as a tax credit on a
1003 tax credit certificate for a taxable year.

1004 ~~[(12)]~~ (11) "Tax credit certificate" means a certificate issued by the office that:

1005 (a) lists the name of the business entity, local government entity, or community
1006 development and renewal agency to which the office authorizes a tax credit;

1007 (b) lists the business entity's, local government entity's, or community development and
1008 renewal agency's taxpayer identification number;

1009 (c) lists the amount of tax credit that the office authorizes the business entity, local
1010 government entity, or community development and renewal agency for the taxable year; and

1011 (d) may include other information as determined by the office."