

## HB0264S02 compared with HB0264S01

~~{deleted text}~~ shows text that was in HB0264S01 but was deleted in HB0264S02.

Inserted text shows text that was not in HB0264S01 but was inserted into HB0264S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Representative Mike Winder}~~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

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#### 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:

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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
- 63N-2-202, as last amended by Laws of Utah 2016, Chapter 11
- 63N-4-302, as enacted by Laws of Utah 2017, Chapter 274
- 63N-4-309, as enacted by Laws of Utah 2017, Chapter 274
- 63N-4-402, as enacted by Laws of Utah 2018, Chapter 340

#### REPEALS:

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

### Utah Code Sections Affected by Coordination Clause:

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

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

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

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

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

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in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

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

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

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

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

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

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

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

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

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

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

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

(i) Section 59-7-601;

(ii) Section 59-7-607;

(iii) Section 59-7-612;

(iv) Section 59-7-614.1; and

(v) Section 59-7-614.5.

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

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- (i) Section 59-7-609;
- (ii) Section 59-7-614.2;
- (iii) Section 59-7-614.10;
- (iv) Section 59-7-617;
- (v) Section 59-7-619; and
- (vi) Section 59-7-620.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

(iii) Section 59-10-1015;

(iv) Section 59-10-1025;

(v) Section 59-10-1027;

(vi) Section 59-10-1031;

(vii) Section 59-10-1032;

(viii) Section 59-10-1035;

(ix) Section 59-10-1104;

(x) Section 59-10-1105; and

(xi) Section 59-10-1108.

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

(i) Section 59-10-1005;

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- (ii) Section 59-10-1006;
- (iii) Section 59-10-1012;
- (iv) Section 59-10-1013;
- (v) Section 59-10-1022;
- (vi) Section 59-10-1023;
- (vii) Section 59-10-1028;
- (viii) Section 59-10-1034;
- (ix) Section 59-10-1037; and
- (x) Section 59-10-1107.

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

- (i) Section 59-10-1007;
- (ii) Section 59-10-1009;
- (iii) Section 59-10-1014;
- (iv) Section 59-10-1017;
- (v) Section 59-10-1018;
- (vi) Section 59-10-1019;
- (vii) Section 59-10-1024;
- (viii) Section 59-10-1029;
- ~~[(ix) Section 59-10-1030;]~~
- ~~[(x)]~~ (ix) Section 59-10-1033;
- ~~[(xi)]~~ (x) Section 59-10-1036;
- ~~[(xii)]~~ (xi) Section 59-10-1106; and
- ~~[(xiii)]~~ (xii) Section 59-10-1111.

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

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

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

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### 59-10-1025. Nonrefundable tax credit for investment in certain life science establishments.

(1) As used in this section:

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

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

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

(i) biotechnologies;

(ii) medical devices;

(iii) medical diagnostics; and

(iv) pharmaceuticals.

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

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

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

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

(i) (A) common stock;

(B) preferred stock; or

(C) an ownership interest in a pass-through entity;

(ii) originally issued to:

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

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

(iii) issued:

(A) by a Utah small business corporation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) the tax credit in the taxable year after the taxable year described in Subsection



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(3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and

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

(b) may not exceed the lesser of:

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

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

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

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

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

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

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

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

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

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

(i) the amount of tax credit that the office grants to each eligible business entity for

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each taxable year;

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

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

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

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

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

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

and]

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

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

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

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

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

(i) the cost of the tax credit under this section;

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

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

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

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

As used in this title:

(1) "Baseline jobs" means the number of full-time employee positions that existed

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within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the board.

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

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

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

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

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

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

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

(7) "High paying job" means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is at least ~~1~~:

~~(a) 110% of the average wage of the county in which the employment position exists for a county of the first or second class; or~~

~~(b) 100% of the average wage of the county in which the employment position exists for a county of the third, fourth, fifth, or sixth class.~~

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

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

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

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

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calculation.

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

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

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

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

Information;

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

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

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

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

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

As used in this part:

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

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

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

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

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

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

~~[(c) with respect to a city or town, the aggregate average annual gross wages, not~~

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~~including healthcare or other paid or unpaid benefits of newly created full-time employment positions in a new commercial project within the city or town that are at least 110% of the average wages of the city or town in which the employment positions will exist.]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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development zone;]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~

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~~employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or]~~

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

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

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

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

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

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

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

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

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

As used in this part:

- (1) "Business entity" means an entity, sole proprietorship, or individual:
  - (a) including a claimant, estate, or trust; and
  - (b) under which or by whom business is conducted or transacted.
- (2) "Claimant" means a resident or nonresident person that has:
  - (a) Utah taxable income as defined in Section 59-7-101; or

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

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

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

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

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

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

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

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

(a) claim:

(i) as provided by statute; and

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

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

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

(b) carry forward or carry back:

(i) if allowed by statute; and

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

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

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

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

~~[(9)]~~ (8) "Trust" means a nonresident trust or a resident trust that has state taxable



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income under Title 59, Chapter 10, Part 2, Trusts and Estates.

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

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

As used in this part:

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

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

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

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

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

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

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

- (a) has fewer than 150 employees;
- (b) has less than \$10,000,000 in net income for the preceding taxable year;
- (c) maintains the business's principal business operations in the state; and
- (d) is engaged in an industry related to:
  - (i) aerospace;
  - (ii) defense;
  - (iii) energy and natural resources;
  - (iv) financial services;
  - (v) life sciences;
  - (vi) outdoor products;
  - (vii) software development;

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(viii) information technology;

(ix) manufacturing; or

(x) agribusiness.

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

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

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

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

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

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

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

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

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

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

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

(12) "Investment authority" means the minimum amount of investment a rural investment company must make in eligible small businesses in order for credit-eligible

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contributions to the rural investment company to qualify for a rural job creation tax credit under Section 59-7-621 or 59-10-1038.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the product of:

(A) the total sum of new annual jobs reported to the state in the rural investment

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company's exit report described in Section 63N-4-309; and

(B) \$20,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Within 60 days after the day on which the confirmation of the state reimbursement amount is received by the rural investment company, the rural investment company shall make

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a cash distribution to the state in an amount equal to the lesser of:

- (a) the state reimbursement amount; and
- (b) the excess return.

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

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

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

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

As used in this part:

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

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

- (i) construction;
- (ii) staffing;
- (iii) retail trade; or
- (iv) public utility activities.

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

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

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

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

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

~~[(i) construction;]~~

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

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

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

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~~exists, and]~~

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

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

- (i) the entity or a portion of the entity; or
  - (ii) an employee, agent, or independent contractor of the entity.
- (b) "Owner or officer" includes:
- (i) a member of a board of directors or other governing body of an entity; or
  - (ii) a partner in any type of partnership.

~~[(5)]~~ (3) "Rural employment expansion grant" means a grant available under this part.

### Section 10. **Repealer.**

This bill repeals:

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

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

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

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

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

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

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

### Section 11. **Retrospective operation.**

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

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

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

As used in this part:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(6)]~~ (7) (a) "New commercial project" means an economic development opportunity

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that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(9)] (8) "Significant capital investment" means an amount of at least \$10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other~~

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fixtures related to a new commercial project:

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

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

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

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

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

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

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

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

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

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

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

"63N-2-103. Definitions.

As used in this part:

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

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

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

~~[(3)]~~ (4) "Development zone" means an economic development zone created under

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### Section 63N-2-104.

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

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

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

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

(5) "Local government entity" means:

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

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

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

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

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

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

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

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

[(ii) with respect to a county, created as a result of a new commercial project with

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respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(E) a combination of Subsections (8)(b)(i)(A) through (D):]~~

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

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

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

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

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

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

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

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

~~(a) lists the name of the business entity, local government entity, or community~~

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development and renewal agency to which the office authorizes a tax credit;

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

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

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

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

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

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

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

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

As used in this part:

(1) "Authority" means:

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

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

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

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

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

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

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

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

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

[~~(a)~~] with respect to a business entity, the aggregate average annual gross wages, not

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including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a business entity that are at least 110% of the average wage of a community in which the employment positions will exist;]

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

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

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

(a) is initiated within:

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

or

(ii) an authority project area; and

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

Section 59-7-614.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) lists the business entity's, local government entity's, or community development and

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renewal agency's taxpayer identification number;

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

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