

INCENTIVE PROGRAM AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies and repeals provisions related to tax credits.

Highlighted Provisions:

This bill:

- ▶ creates a tax credit certificate process for the well recompletion or workover severance tax credit;
- ▶ creates a tax credit certificate process for the severance tax credit for natural gas that is converted to hydrogen fuel for use in zero emission motor vehicles;
- ▶ creates a tax credit certificate process for the research activities corporate and individual income tax credits;
- ▶ creates a tax credit certificate process for the qualifying solar project individual income tax credit;
- ▶ codifies the contents of a tax credit certification and requires the Governor's Office of Economic Development to report certain information from a tax credit certification that the Governor's Office of Economic Development issues for a taxpayer to claim the recycling market development zone tax credit;
- ▶ requires the Office of Energy Development to report to the State Tax Commission certain information from a tax credit certification that the Office of Energy Development issues for a taxpayer to claim the renewable energy systems tax credit;
- ▶ codifies the targeted business income tax credit in the corporate and individual tax



28 codes;

29 ▶ repeals the expired income tax credits for the purchase or lease of an energy
30 efficient vehicle; and

31 ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill has retrospective operation.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **40-6-16**, as last amended by Laws of Utah 2016, Chapter 317

39 **59-5-102**, as last amended by Laws of Utah 2017, Chapter 262

40 **59-7-159**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

41 **59-7-610**, as last amended by Laws of Utah 2015, Chapter 283

42 **59-7-612**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

43 **59-7-614**, as last amended by Laws of Utah 2018, Chapters 426 and 436

44 **59-7-614.10**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

45 **59-10-137**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

46 **59-10-210**, as last amended by Laws of Utah 2015, Chapter 283

47 **59-10-1007**, as last amended by Laws of Utah 2015, Chapter 283

48 **59-10-1012**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

49 **59-10-1014**, as last amended by Laws of Utah 2018, Chapters 426 and 436

50 **59-10-1024**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

51 **59-10-1037**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

52 **63N-2-213**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

53 **63N-2-304**, as last amended by Laws of Utah 2017, Chapter 352

54 ENACTS:

55 **59-7-624**, Utah Code Annotated 1953

56 **59-10-1112**, Utah Code Annotated 1953

57 **63N-2-901**, Utah Code Annotated 1953

58 **63N-2-902**, Utah Code Annotated 1953

59 [63N-2-903](#), Utah Code Annotated 1953

60 REPEALS:

61 [59-7-605](#), as last amended by Laws of Utah 2016, Chapters 369 and 375

62 [59-10-1009](#), as last amended by Laws of Utah 2016, Chapters 369 and 375

63 [63N-2-305](#), as last amended by Laws of Utah 2017, Chapter 352

64

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

66 Section 1. Section [40-6-16](#) is amended to read:

67 **40-6-16. Duties of division.**

68 [(†)] In addition to the duties assigned by the board, the division shall:

69 [(a)] (1) develop and implement an inspection program that will include but not be
70 limited to production data, pre-drilling checks, and site security reviews;

71 [(b)] (2) publish a monthly production report;

72 [(c)] (3) publish a monthly gas processing plant report;

73 [(d)] (4) review and evaluate, prior to a hearing, evidence submitted with the petition to
74 be presented to the board;

75 [(e)] (5) require adequate assurance of approved water rights in accordance with rules
76 and orders enacted under Section [40-6-5](#); [and]

77 [(f)] (6) notify the county executive of the county in which the drilling will take place
78 in writing of the issuance of a drilling permit[-]; and

79 ~~[(2) The director shall, by October 30, 2016, report to the Commission for the~~
80 ~~Stewardship of Public Lands regarding the division's recommendations for how the state shall~~
81 ~~deal with oil, gas, and mining issues in the Utah Public Land Management Act.]~~

82 (7) issue tax credit certificates in accordance with Section [59-5-102](#).

83 Section 2. Section [59-5-102](#) is amended to read:

84 **59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual**
85 **exemption -- Tax credit -- Tax rate reduction.**

86 (1) As used in this section:

87 (a) "Division" means the Division of Oil, Gas, and Mining, created in Section [40-6-15](#).

88 [(a)] (b) "Royalty rate" means the percentage of the interests described in Subsection

89 (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian

90 tribe and the oil or gas producer.

91 ~~[(b)]~~ (c) "Taxable value" means the total value of the oil or gas minus:

92 (i) any royalties paid to, or the value of oil or gas taken in kind by, the interest holders
93 described in Subsection (2)(b)(i); and

94 (ii) the total value of oil or gas exempt from severance tax under Subsection (2)(b)(ii).

95 ~~[(c)]~~ (d) "Taxable volume" means:

96 (i) for oil, the total volume of barrels minus:

97 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and
98 the total volume of barrels; and

99 (B) the number of barrels that are exempt under Subsection (2)(b)(ii); and

100 (ii) for natural gas, the total volume of MCFs minus:

101 (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and
102 the total volume of MCFs; and

103 (B) the number of MCFs that are exempt under Subsection (2)(b)(ii).

104 ~~[(d)]~~ (e) "Total value" means the value, as determined by Section 59-5-103.1, of all oil
105 or gas that is:

106 (i) produced; and

107 (ii) (A) saved;

108 (B) sold; or

109 (C) transported from the field where the oil or gas was produced.

110 ~~[(e)]~~ (f) "Total volume" means:

111 (i) for oil, the number of barrels:

112 (A) produced; and

113 (B) (I) saved;

114 (II) sold; or

115 (III) transported from the field where the oil was produced; and

116 (ii) for natural gas, the number of MCFs:

117 (A) produced; and

118 (B) (I) saved;

119 (II) sold; or

120 (III) transported from the field where the natural gas was produced.

121 [(f)] (g) "Value of oil or gas taken in kind" means the volume of oil or gas taken in
122 kind multiplied by the market price for oil or gas at the location where the oil or gas was
123 produced on the date the oil or gas was taken in kind.

124 (2) (a) Except as provided in Subsection (2)(b), a person owning an interest in oil or
125 gas produced from a well in the state, including a working interest, royalty interest, payment
126 out of production, or any other interest, or in the proceeds of the production of oil or gas, shall
127 pay to the state a severance tax on the owner's interest in the taxable value of the oil or gas:

128 (i) produced; and

129 (ii) (A) saved;

130 (B) sold; or

131 (C) transported from the field where the substance was produced.

132 (b) The severance tax imposed by Subsection (2)(a) does not apply to:

133 (i) an interest of:

134 (A) the United States in oil or gas or in the proceeds of the production of oil or gas;

135 (B) the state or a political subdivision of the state in oil or gas or in the proceeds of the
136 production of oil or gas; and

137 (C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the
138 proceeds of the production of oil or gas produced from land under the jurisdiction of the United
139 States; and

140 (ii) the value of:

141 (A) oil or gas produced from stripper wells, unless the exemption prevents the
142 severance tax from being treated as a deduction for federal tax purposes;

143 (B) oil or gas produced in the first 12 months of production for wildcat wells started
144 after January 1, 1990; and

145 (C) oil or gas produced in the first six months of production for development wells
146 started after January 1, 1990.

147 (3) (a) The severance tax on oil shall be calculated as follows:

148 (i) dividing the taxable value by the taxable volume;

149 (ii) (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the
150 figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection
151 (4)(a)(i); and

152 (B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure
153 calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);

154 (iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and

155 (iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.

156 (b) The severance tax on natural gas shall be calculated as follows:

157 (i) dividing the taxable value by the taxable volume;

158 (ii) (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the
159 figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection

160 (4)(b)(i); and

161 (B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure
162 calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);

163 (iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and

164 (iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.

165 (c) The severance tax on natural gas liquids shall be calculated by multiplying the
166 taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).

167 (4) Subject to Subsection (9):

168 (a) the severance tax rate for oil is as follows:

169 (i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil;

170 and

171 (ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;

172 (b) the severance tax rate for natural gas is as follows:

173 (i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per
174 MCF for gas; and

175 (ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas;

176 and

177 (c) the severance tax rate for natural gas liquids is 4% of the taxable value of the
178 natural gas liquids.

179 (5) If oil or gas is shipped outside the state:

180 (a) the shipment constitutes a sale; and

181 (b) the oil or gas is subject to the tax imposed by this section.

182 (6) (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is

183 not imposed until the oil or gas is:

184 (i) sold;

185 (ii) transported; or

186 (iii) delivered.

187 (b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax
188 imposed by this section.

189 (7) (a) Subject to ~~[Subsections (7)(b) and (c)]~~ other provisions of this Subsection (7), a
190 taxpayer ~~[who]~~ that pays for all or part of the expenses of a recompletion or workover may
191 claim a nonrefundable tax credit equal to ~~[20% of the amount paid]~~ the amount stated on a tax
192 credit certificate that the division issues to the taxpayer.

193 ~~[(b) The tax credit under Subsection (7)(a) for each recompletion or workover may not~~
194 ~~exceed \$30,000 per well during each calendar year.]~~

195 (b) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:

196 (i) 20% of the taxpayer's payment of expenses of a well recompletion or workover
197 during the calendar year; and

198 (ii) \$30,000.

199 (c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the
200 next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for
201 the calendar year in which the taxpayer claims the tax credit.

202 (d) (i) To claim a tax credit under this Subsection (7), a taxpayer shall receive a tax
203 credit certificate from the division.

204 (ii) The taxpayer shall submit with the taxpayer's application for a tax credit certificate
205 proof of the taxpayer's payment of expenses for each well recompletion or workover during the
206 calendar year.

207 (e) If the division determines that the taxpayer made payment of expenses for a
208 recompletion or workover during the calendar year, the division shall, for each recompletion or
209 workover:

210 (i) determine the amount of the taxpayer's tax credit; and

211 (ii) issue, on a form provided by the commission, a tax credit certificate to the taxpayer
212 that states the amount of the taxpayer's tax credit.

213 (f) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate

214 for the same time period that a person is required to keep books and records under Section
215 59-1-1406.

216 (g) The division shall submit to the commission an electronic list that includes:

217 (i) the name and identifying information of each taxpayer to which the division issues a
218 certificate; and

219 (ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.

220 (8) (a) [A] Subject to the other provisions of this Subsection (8), a taxpayer may claim
221 a tax credit against a severance tax owing on natural gas under this section if:

222 (i) the taxpayer is required to pay a severance tax on natural gas under this section;

223 (ii) the taxpayer owns or operates a plant in the state that converts natural gas to
224 hydrogen fuel; and

225 (iii) all of the natural gas for which the taxpayer owes a severance tax under this
226 section is used for the production in the state of hydrogen fuel for use in zero emission motor
227 vehicles.

228 (b) The [tax credit a] taxpayer may claim [under Subsection (8)(a) is] a tax credit equal
229 to the [amount of tax that the taxpayer owes under this section, subject to a maximum of
230 \$5,000,000 per year.] lesser of:

231 (i) the amount of tax that the taxpayer owes under this section; and

232 (ii) \$5,000,000.

233 (c) (i) To claim a tax credit under this Subsection (8), a taxpayer shall receive a tax
234 credit certificate from the division.

235 (ii) The taxpayer shall submit with the taxpayer's application for a tax credit certificate:

236 (A) proof that the taxpayer owns or operates a plant in this state that converts natural
237 gas to hydrogen fuel; and

238 (B) proof that all of the natural gas on which the taxpayer owes a severance tax under
239 this section is used for production of hydrogen fuel for use in zero emission motor vehicles.

240 (d) If the division determines that a taxpayer is eligible for a tax credit under this
241 Subsection (8), the division shall issue, on a form provided by the commission, a tax credit
242 certificate to the taxpayer that states the taxpayer qualifies for the tax credit.

243 (e) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate
244 for the same time period that a person is required to keep books and records under Section

245 [59-1-1406.](#)

246 (f) The division shall submit to the commission an electronic list that includes:

247 (i) the name and identifying information of each taxpayer to which the division issues a
248 certificate; and

249 (ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.

250 (9) A 50% reduction in the tax rate is imposed upon the incremental production
251 achieved from an enhanced recovery project.

252 (10) The taxes imposed by this section are:

253 (a) in addition to all other taxes provided by law; and

254 (b) delinquent, unless otherwise deferred, on June 1 following the calendar year when
255 the oil or gas is:

256 (i) produced; and

257 (ii) (A) saved;

258 (B) sold; or

259 (C) transported from the field.

260 (11) With respect to the tax imposed by this section on each owner of an interest in the
261 production of oil or gas or in the proceeds of the production of oil or gas in the state, each
262 owner is liable for the tax in proportion to the owner's interest in the production or in the
263 proceeds of the production.

264 (12) The tax imposed by this section shall be reported and paid by each producer that
265 takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of
266 each owner entitled to participate in the oil or gas sold by the producer or transported by the
267 producer from the field where the oil or gas is produced.

268 (13) Each producer shall deduct the tax imposed by this section from the amounts due
269 to other owners for the production or the proceeds of the production.

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

271 **59-7-159. Review of credits allowed under this chapter.**

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

274 (2) (a) The committee shall review the tax credits described in this chapter as provided
275 in Subsection (3) and make recommendations concerning whether the tax credits should be

276 continued, modified, or repealed.

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

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

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

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

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

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

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

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

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

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

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

297 (i) Section 59-7-601;

298 (ii) Section 59-7-607;

299 (iii) Section 59-7-612;

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

301 (v) Section 59-7-614.5.

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

305 (i) Section 59-7-609;

306 (ii) Section 59-7-614.2;

307 (iii) Section [59-7-614.10](#);
 308 [~~(iv) Section [59-7-617](#);~~]
 309 [~~(v)~~] (iv) Section [59-7-619](#); [~~and~~]
 310 [~~(vi)~~] (v) Section [59-7-620](#)[~~;~~]; and
 311 (vi) Section [59-7-624](#).

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

315 [~~(i) Section [59-7-605](#);~~]
 316 [~~(ii)~~] (i) Section [59-7-610](#);
 317 [~~(iii)~~] (ii) Section [59-7-614](#);
 318 [~~(iv)~~] (iii) Section [59-7-614.7](#);
 319 [~~(v)~~] (iv) Section [59-7-614.8](#); and
 320 [~~(vi)~~] (v) Section [59-7-618](#).

321 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
 322 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
 323 2017.

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

326 Section 4. Section [59-7-610](#) is amended to read:

327 **[59-7-610. Recycling market development zones tax credit.](#)**

328 (1) [~~For taxable years beginning on or after January 1, 1996, a~~] Subject to other
 329 provisions of this section, a taxpayer that is a business operating in a recycling market
 330 development zone as defined in Section [63N-2-402](#) may claim [a tax credit as provided in this
 331 section.] the following nonrefundable tax credits:

332 (a) [~~(i) There shall be allowed a nonrefundable~~] a tax credit of 5% of the purchase price
 333 paid for machinery and equipment used directly in:

334 [~~(A)~~] (i) commercial composting; or

335 [~~(B)~~] (ii) manufacturing facilities or plant units that:

336 [~~(1)~~] (A) manufacture, process, compound, or produce recycled items of tangible

337 personal property for sale; or

338 ~~[(H)]~~ (B) reduce or reuse postconsumer waste material[-]; and
339 (b) a tax credit equal to the lesser of:
340 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
341 inventory, and utilities made by the taxpayer for establishing and operating recycling or
342 composting technology in Utah; and
343 (ii) \$2,000.
344 ~~[(ii) The Governor's Office of Economic Development shall certify that the machinery~~
345 ~~and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling~~
346 ~~process:]~~
347 ~~[(A) on a form provided by the commission; and]~~
348 ~~[(B) before a taxpayer is allowed a tax credit under this section.]~~
349 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive
350 from the Governor's Office of Economic Development a written certification, on a form
351 provided by the commission, that includes:
352 (i) a statement that the taxpayer is operating a business within the boundaries of a
353 recycling market development zone;
354 (ii) for claims of the tax credit described in Subsection (1)(a):
355 (A) the type of the machinery and equipment that the taxpayer purchased;
356 (B) the date that the taxpayer purchased the machinery and equipment;
357 (C) the purchase price for the machinery and equipment;
358 (D) the total purchase price for all machinery and equipment for which the taxpayer is
359 claiming a tax credit;
360 (E) a statement that the machinery and equipment are integral to the composting or
361 recycling process; and
362 (F) the amount of the taxpayer's tax credit; and
363 (iii) for claims of the tax credit described in Subsection (1)(b):
364 (A) the type of net expenditure that the taxpayer made to a third party;
365 (B) the date that the taxpayer made the payment to a third party;
366 (C) the amount that the taxpayer paid to each third party;
367 (D) the total amount that the taxpayer paid to all third parties;
368 (E) a statement that the net expenditures support the establishment and operation of

369 recycling or composting technology in Utah; and

370 (F) the amount of the taxpayer's tax credit.

371 ~~[(iii)]~~ (b) (i) The Governor's Office of Economic Development shall provide a taxpayer
372 seeking to claim a tax credit under [this section] Subsection (1) with a copy of the [form
373 described in Subsection (1)(a)(ii)] written certification.

374 ~~[(iv)]~~ (ii) The taxpayer [described in Subsection (1)(a)(iii)] shall retain a copy of the
375 [form received under Subsection (1)(a)(iii)] written certification for the same period of time
376 that a person is required to keep books and records under Section [59-1-1406](#).

377 ~~[(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures~~
378 ~~up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made~~
379 ~~by the taxpayer for establishing and operating recycling or composting technology in Utah,~~
380 ~~with an annual maximum tax credit of \$2,000.]~~

381 ~~[(2) The total nonrefundable tax credit allowed under this section may not exceed 40%~~
382 ~~of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of~~
383 ~~purchase prior to claiming the tax credit authorized by this section.]~~

384 ~~[(3) (a) Any tax credit not used for the taxable year in which the purchase price on~~
385 ~~composting or recycling machinery and equipment was paid may be carried over for credit~~
386 ~~against the business' income taxes in the three succeeding taxable years until the total tax credit~~
387 ~~amount is used.]~~

388 ~~[(b) Tax credits not claimed by a business on the business' state income tax return~~
389 ~~within three years are forfeited.]~~

390 (c) The Governor's Office of Economic Development shall submit to the commission
391 an electronic list that includes:

392 (i) the name and identifying information of each taxpayer to which the office issues a
393 written a certification; and

394 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.

395 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
396 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
397 calculated:

398 (a) for the taxable year in which the taxpayer made the purchases or payments;

399 (b) before any other tax credits the taxpayer may claim for the taxable year; and

400 (c) before the taxpayer claiming a tax credit authorized by this section.

401 (4) The commission shall make rules governing what information [~~shall be filed~~] a
402 taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

403 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to
404 the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax
405 liability for the taxable year.

406 [~~(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after~~
407 ~~January 1, 2001, a]~~

408 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
409 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
410 Section [63N-2-213](#).

411 [~~(b) For a taxable year other than a taxable year during which the taxpayer may not~~
412 ~~claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim~~
413 ~~or carry forward a tax credit described in Subsection (1)(a):]~~

414 [~~(i) if the taxpayer may claim or carry forward the tax credit in accordance with~~
415 ~~Subsections (1) and (2); and]~~

416 [~~(ii) subject to Subsections (3) and (4):]~~

417 [~~(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January~~
418 ~~1, 2001, a]~~

419 (7) A taxpayer may not claim or carry forward a tax credit described in Subsection
420 (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under
421 Section [63N-2-213](#).

422 [~~(7)] (8) A~~ taxpayer may not claim or carry forward a tax credit [~~available~~] under this
423 section for a taxable year during which the taxpayer [~~has claimed~~] claims the targeted business
424 income tax credit [~~available~~] under Section [~~63N-2-305~~] [59-7-624](#).

425 Section 5. Section **59-7-612** is amended to read:

426 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
427 **forward -- Commission to report modification or repeal of certain federal provisions --**
428 **Revenue and Taxation Interim Committee study.**

429 (1) As used in this section:

430 (a) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal

431 Revenue Code, except that the term includes only basic research conducted in this state.

432 (b) "Qualified research" means the same as that term is defined in Section 41(d),

433 Internal Revenue Code, except that the term includes only qualified research conducted in this
434 state.

435 (c) "Qualified research expenses" means the same as that term is defined in Section
436 41(b), Internal Revenue Code, except that the term includes only:

437 (i) in-house research expenses incurred in this state; and

438 (ii) contract research expenses incurred in this state.

439 ~~[(1)]~~ (2) (a) A taxpayer [meeting the requirements of this section] that receives a tax
440 credit certificate in accordance with Section 63N-2-902 may claim one or more of the
441 following nonrefundable tax credits:

442 (i) a research tax credit [of 5% of] calculated in accordance with Section 63N-2-903 for
443 the taxpayer's qualified research expenses [for the current taxable year that exceed the base
444 amount provided for under Subsection (4)] during the taxable year;

445 (ii) a tax credit calculated in accordance with Section 63N-2-903 for a payment to a
446 qualified organization for basic research [as provided in Section 41(e), Internal Revenue Code,
447 of 5% for the current taxable year that exceed the base amount provided for under Subsection
448 (4)] during the taxable year; and

449 (iii) [a] an additional tax credit [equal to 7.5% of] calculated in accordance with
450 Section 63N-2-903 for the taxpayer's qualified research expenses [for the current] during the
451 taxable year.

452 ~~[(b) Subject to Subsection (5), a taxpayer may claim a tax credit under:]~~

453 ~~[(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs~~
454 ~~the qualified research expenses; or]~~

455 ~~[(ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the~~
456 ~~payment to the qualified organization.]~~

457 (b) A taxpayer may claim a tax credit in an amount equal to the amount stated on the
458 tax credit certificate for each tax credit.

459 (c) The tax credits provided for in this section do not include the alternative
460 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

461 (d) The tax credits provided for in this section do not terminate if a credit terminates

462 under Section 41, Internal Revenue Code.

463 ~~[(2)]~~ (3) For purposes of claiming a tax credit under this section, a unitary group as
464 defined in Section 59-7-101 is considered to be one taxpayer.

465 ~~[(3) Except as specifically provided for in this section:]~~

466 ~~[(a) the tax credits authorized under Subsection (1) shall be calculated as provided in~~
467 ~~Section 41, Internal Revenue Code; and]~~

468 ~~[(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating~~
469 ~~the tax credits authorized under Subsection (1).]~~

470 ~~[(4) For purposes of this section:]~~

471 ~~[(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),~~
472 ~~Internal Revenue Code, except that:]~~

473 ~~[(i) the base amount does not include the calculation of the alternative incremental~~
474 ~~credit provided for in Section 41(c)(4), Internal Revenue Code;]~~

475 ~~[(ii) a taxpayer's gross receipts include only those gross receipts attributable to sources~~
476 ~~within this state as provided in Part 3, Allocation and Apportionment of Income - Utah~~
477 ~~UDITPA Provisions; and]~~

478 ~~[(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating~~
479 ~~the base amount, a taxpayer:]~~

480 ~~[(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)~~
481 ~~regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);~~
482 ~~and]~~

483 ~~[(B) may not revoke an election to be treated as a start-up company under Subsection~~
484 ~~(4)(a)(iii)(A);]~~

485 ~~[(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except~~
486 ~~that the term includes only basic research conducted in this state;]~~

487 ~~[(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except~~
488 ~~that the term includes only qualified research conducted in this state;]~~

489 ~~[(d) "qualified research expenses" is as defined and calculated in Section 41(b),~~
490 ~~Internal Revenue Code, except that the term includes only:]~~

491 ~~[(i) in-house research expenses incurred in this state; and]~~

492 ~~[(ii) contract research expenses incurred in this state; and]~~

493 ~~[(e) a tax credit provided for in this section is not terminated if a credit terminates~~
494 ~~under Section 41, Internal Revenue Code.]~~

495 ~~[(5)] (4) (a) If the amount of a tax credit [claimed by a taxpayer] that a taxpayer claims~~
496 ~~under Subsection [(1)] (2)(a)(i) or (ii) exceeds the taxpayer's tax liability under this chapter for~~
497 ~~a taxable year, the [amount of the tax credit exceeding the tax liability] taxpayer:~~

498 (i) may ~~[be carried forward]~~ carry forward the amount of the tax credit that exceeds the
499 taxpayer's tax liability for a period that does not exceed the next 14 taxable years; and

500 (ii) may not ~~[be carried back]~~ carry back the amount of the tax credit that exceeds the
501 taxpayer's liability to a taxable year preceding the current taxable year.

502 (b) A taxpayer may not carry forward the tax credit allowed by Subsection [(1)]
503 (2)(a)(iii).

504 ~~[(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
505 ~~the commission may make rules for purposes of this section prescribing a certification process~~
506 ~~for qualified organizations to ensure that amounts paid to the qualified organizations are for~~
507 ~~basic research conducted in this state.]~~

508 ~~[(7)] (5) If a provision of Section 41, Internal Revenue Code, is modified or repealed,~~
509 ~~the commission shall provide an electronic report of the modification or repeal to the Revenue~~
510 ~~and Taxation Interim Committee within 60 days after the day on which the modification or~~
511 ~~repeal becomes effective.~~

512 ~~[(8)] (6) (a) The Revenue and Taxation Interim Committee shall review the tax credits~~
513 ~~provided for in this section on or before October 1 of the year after the year in which the~~
514 ~~commission reports under Subsection [(7)] (5) a modification or repeal of a provision of~~
515 ~~Section 41, Internal Revenue Code.~~

516 (b) The review described in Subsection [(8)] (6)(a) is in addition to the review required
517 by Section 59-7-159.

518 ~~[(c) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee~~
519 ~~is not required to review the tax credits provided for in this section if the only modification to a~~
520 ~~provision of Section 41, Internal Revenue Code, is the extension of the termination date~~
521 ~~provided for in Section 41(h), Internal Revenue Code.]~~

522 ~~[(d)] (c) The Revenue and Taxation Interim Committee shall address in a review under~~
523 ~~this [section] Subsection (6):~~

- 524 (i) the cost of the tax credits provided for in this section;
- 525 (ii) the purpose and effectiveness of the tax credits provided for in this section;
- 526 (iii) whether the tax credits provided for in this section benefit the state; and
- 527 (iv) whether the tax credits provided for in this section should be~~[-:]~~ continued,

528 modified, or repealed.

529 [~~(A) continued;~~]

530 [~~(B) modified; or~~]

531 [~~(C) repealed.~~]

532 [~~(e)~~] (d) If the Revenue and Taxation Interim Committee [~~reviews the tax credits~~
 533 ~~provided for in this section, the committee~~] conducts a review under this Subsection (6), the
 534 Revenue and Taxation Interim Committee shall issue a report of the Revenue and Taxation
 535 Interim Committee's findings.

536 Section 6. Section **59-7-614** is amended to read:

537 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**
 538 **Rulemaking authority.**

539 (1) As used in this section:

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

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

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

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

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

548 (i) converting material into biomass energy, as defined in Section **59-12-102**; and

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

550 (c) "Commercial energy system" means a system that is:

551 (i) (A) an active solar system;

552 (B) a biomass system;

553 (C) a direct use geothermal system;

554 (D) a geothermal electricity system;

- 555 (E) a geothermal heat pump system;
- 556 (F) a hydroenergy system;
- 557 (G) a passive solar system; or
- 558 (H) a wind system;
- 559 (ii) located in the state; and
- 560 (iii) used:
- 561 (A) to supply energy to a commercial unit; or
- 562 (B) as a commercial enterprise.
- 563 (d) "Commercial enterprise" means an entity, the purpose of which is to produce
- 564 electrical, mechanical, or thermal energy for sale from a commercial energy system.
- 565 (e) (i) "Commercial unit" means a building or structure that an entity uses to transact
- 566 business.
- 567 (ii) Notwithstanding Subsection (1)(e)(i):
- 568 (A) with respect to an active solar system used for agricultural water pumping or a
- 569 wind system, each individual energy generating device is considered to be a commercial unit;
- 570 or
- 571 (B) if an energy system is the building or structure that an entity uses to transact
- 572 business, a commercial unit is the complete energy system itself.
- 573 (f) "Direct use geothermal system" means a system of apparatus and equipment that
- 574 enables the direct use of geothermal energy to meet energy needs, including heating a building,
- 575 an industrial process, and aquaculture.
- 576 (g) "Geothermal electricity" means energy that is:
- 577 (i) contained in heat that continuously flows outward from the earth; and
- 578 (ii) used as a sole source of energy to produce electricity.
- 579 (h) "Geothermal energy" means energy generated by heat that is contained in the earth.
- 580 (i) "Geothermal heat pump system" means a system of apparatus and equipment that:
- 581 (i) enables the use of thermal properties contained in the earth at temperatures well
- 582 below 100 degrees Fahrenheit; and
- 583 (ii) helps meet heating and cooling needs of a structure.
- 584 (j) "Hydroenergy system" means a system of apparatus and equipment that is capable
- 585 of:

- 586 (i) intercepting and converting kinetic water energy into electrical or mechanical
- 587 energy; and
- 588 (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- 589 (k) "Office" means the Office of Energy Development created in Section [63M-4-401](#).
- 590 (l) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
- 591 a building and its operable components to provide for collection, storage, and distribution of
- 592 heating or cooling during the appropriate times of the year by utilizing the climate resources
- 593 available at the site.
- 594 (ii) "Passive solar system" includes those portions and components of a building that
- 595 are expressly designed and required for the collection, storage, and distribution of solar energy.
- 596 (m) "Photovoltaic system" means an active solar system that generates electricity from
- 597 sunlight.
- 598 (n) (i) "Principal recovery portion" means the portion of a lease payment that
- 599 constitutes the cost a person incurs in acquiring a commercial energy system.
- 600 (ii) "Principal recovery portion" does not include:
- 601 (A) an interest charge; or
- 602 (B) a maintenance expense.
- 603 (o) "Residential energy system" means the following used to supply energy to or for a
- 604 residential unit:
- 605 (i) an active solar system;
- 606 (ii) a biomass system;
- 607 (iii) a direct use geothermal system;
- 608 (iv) a geothermal heat pump system;
- 609 (v) a hydroenergy system;
- 610 (vi) a passive solar system; or
- 611 (vii) a wind system.
- 612 (p) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
- 613 unit that:
- 614 (A) is located in the state; and
- 615 (B) serves as a dwelling for a person, group of persons, or a family.
- 616 (ii) "Residential unit" does not include property subject to a fee under:

617 (A) Section 59-2-405;

618 (B) Section 59-2-405.1;

619 (C) Section 59-2-405.2;

620 (D) Section 59-2-405.3; or

621 (E) Section 72-10-110.5.

622 (q) "Wind system" means a system of apparatus and equipment that is capable of:

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

624 (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,

625 or storage.

626 (2) A taxpayer may claim an energy system tax credit as provided in this section

627 against a tax due under this chapter for a taxable year.

628 (3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a
629 nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer
630 owns or uses if:

631 (i) the taxpayer:

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

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

636 (ii) the residential energy system is completed and placed in service on or after January
637 1, 2007; and

638 (iii) the taxpayer obtains a written certification from the office in accordance with
639 Subsection (7).

640 (b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection
641 (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy
642 system installed with respect to each residential unit the taxpayer owns or uses.

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

644 (iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in
645 which the residential energy system is completed and placed in service.

646 (iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax
647 liability under this chapter for a taxable year, the amount of the tax credit exceeding the

648 liability may be carried forward for a period that does not exceed the next four taxable years.

649 (c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a
650 residential energy system, other than a photovoltaic system, may not exceed \$2,000 per
651 residential unit.

652 (d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a
653 photovoltaic system may not exceed:

654 (i) for a system installed on or after January 1, 2018₂ but on or before December 31,
655 2020, \$1,600;

656 (ii) for a system installed on or after January 1, 2021₂ but on or before December 31,
657 2021, \$1,200;

658 (iii) for a system installed on or after January 1, 2022₂ but on or before December 31,
659 2022, \$800;

660 (iv) for a system installed on or after January 1, 2023₂ but on or before December 31,
661 2023, \$400; and

662 (v) for a system installed on or after January 1, 2024, \$0.

663 (e) If a taxpayer sells a residential unit to another person before the taxpayer claims the
664 tax credit under this Subsection (3):

665 (i) the taxpayer may assign the tax credit to the other person; and

666 (ii) (A) if the other person files a return under this chapter, the other person may claim
667 the tax credit under this section as if the other person had met the requirements of this section
668 to claim the tax credit; or

669 (B) if the other person files a return under Chapter 10, Individual Income Tax Act, the
670 other person may claim the tax credit under Section 59-10-1014 as if the other person had met
671 the requirements of Section 59-10-1014 to claim the tax credit.

672 (4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a
673 refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

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

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

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

678 (ii) the taxpayer purchases or participates in the financing of the commercial energy

679 system;

680 (iii) (A) the commercial energy system supplies all or part of the energy required by
681 commercial units owned or used by the taxpayer; or

682 (B) the taxpayer sells all or part of the energy produced by the commercial energy
683 system as a commercial enterprise;

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

686 (v) the taxpayer obtains a written certification from the office in accordance with
687 Subsection (7).

688 (b) (i) Subject to Subsections (4)(b)(ii) through (v), the tax credit is equal to 10% of the
689 reasonable costs of the commercial energy system.

690 (ii) A tax credit under this Subsection (4) may include installation costs.

691 (iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in
692 which the commercial energy system is completed and placed in service.

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

694 (v) The total amount of tax credit a taxpayer may claim under this Subsection (4) may
695 not exceed \$50,000 per commercial unit.

696 (c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a
697 commercial energy system installed on a commercial unit may claim a tax credit under this
698 Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax
699 credit.

700 (ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this
701 Subsection (4) only the principal recovery portion of the lease payments.

702 (iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this
703 Subsection (4) for a period that does not exceed seven taxable years after the date the lease
704 begins, as stated in the lease agreement.

705 (5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a
706 refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

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

709 (ii) (A) the commercial energy system supplies all or part of the energy required by

710 commercial units owned or used by the taxpayer; or
711 (B) the taxpayer sells all or part of the energy produced by the commercial energy
712 system as a commercial enterprise;
713 (iii) the commercial energy system is completed and placed in service on or after
714 January 1, 2007; and
715 (iv) the taxpayer obtains a written certification from the office in accordance with
716 Subsection (7).
717 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)
718 is equal to the product of:
719 (A) 0.35 cents; and
720 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.
721 (ii) A tax credit under this Subsection (5) may be claimed for production occurring
722 during a period of 48 months beginning with the month in which the commercial energy
723 system is placed in commercial service.
724 (iii) A tax credit under this Subsection (5) may not be carried forward or carried back.
725 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial
726 unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor
727 irrevocably elects not to claim the tax credit.
728 (6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a
729 refundable tax credit as provided in this Subsection (6) if:
730 (i) the taxpayer owns a commercial energy system that uses solar equipment capable of
731 producing a total of 660 or more kilowatts of electricity;
732 (ii) (A) the commercial energy system supplies all or part of the energy required by
733 commercial units owned or used by the taxpayer; or
734 (B) the taxpayer sells all or part of the energy produced by the commercial energy
735 system as a commercial enterprise;
736 (iii) the taxpayer does not claim a tax credit under Subsection (4);
737 (iv) the commercial energy system is completed and placed in service on or after
738 January 1, 2015; and
739 (v) the taxpayer obtains a written certification from the office in accordance with
740 Subsection (7).

741 (b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6)
742 is equal to the product of:

743 (A) 0.35 cents; and

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

745 (ii) A tax credit under this Subsection (6) may be claimed for production occurring
746 during a period of 48 months beginning with the month in which the commercial energy
747 system is placed in commercial service.

748 (iii) A tax credit under this Subsection (6) may not be carried forward or carried back.

749 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial
750 unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor
751 irrevocably elects not to claim the tax credit.

752 (7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall
753 obtain a written certification from the office.

754 (b) The office shall issue a taxpayer a written certification if the office determines that:

755 (i) the taxpayer meets the requirements of this section to receive a tax credit; and

756 (ii) the residential energy system or commercial energy system with respect to which
757 the taxpayer seeks to claim a tax credit:

758 (A) has been completely installed;

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

760 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
761 energy system or commercial energy system uses the state's renewable and nonrenewable
762 energy resources in an appropriate and economic manner.

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

765 (i) for determining whether a residential energy system or commercial energy system
766 meets the requirements of Subsection (7)(b)(ii); and

767 (ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable
768 costs of a residential energy system or a commercial energy system, as an amount per unit of
769 energy production.

770 (d) A taxpayer that obtains a written certification from the office shall retain the
771 certification for the same time period a person is required to keep books and records under

772 Section [59-1-1406](#).

773 (e) The office shall submit to the commission an electronic list that includes:

774 (i) the name and identifying information of each taxpayer to which the office issues a
775 written certification; and

776 (ii) for each taxpayer:

777 (A) the amount of the tax credit listed on the written certification; and

778 (B) the date the renewable energy system was installed.

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

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

783 Section 7. Section **59-7-614.10** is amended to read:

784 **59-7-614.10. Nonrefundable enterprise zone tax credit.**

785 (1) As used in this section:

786 (a) "Business entity" means a corporation that meets the definition of "business entity"
787 as that term is defined in Section [63N-2-202](#).

788 (b) "Office" means the Governor's Office of Economic Development created in Section
789 [63N-1-201](#).

790 (2) Subject to the provisions of this section, a business entity may claim a
791 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

792 (3) The enterprise zone tax credit under this section is the amount listed as the tax
793 credit amount on the tax credit certificate that the office issues to the business entity for the
794 taxable year.

795 (4) A business entity may carry forward a tax credit under this section for a period that
796 does not exceed the next three taxable years, if the amount of the tax credit exceeds the
797 business entity's tax liability under this chapter for that taxable year.

798 (5) A business entity may not claim or carry forward a tax credit available under this
799 part for a taxable year during which the business entity has claimed the targeted business
800 income tax credit available under Section [~~63N-2-305~~] [59-7-624](#).

801 (6) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim
802 Committee shall study the tax credit allowed by this section and make recommendations

803 concerning whether the tax credit should be continued, modified, or repealed.

804 (b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by
805 this Subsection (6), the office shall provide by electronic means the following information for
806 each calendar year to the Office of the Legislative Fiscal Analyst:

807 (A) the amount of tax credits provided in each development zone;

808 (B) the number of new full-time employee positions reported to obtain tax credits in
809 each development zone;

810 (C) the amount of tax credits awarded for rehabilitating a building in each development
811 zone;

812 (D) the amount of tax credits awarded for investing in a plant, equipment, or other
813 depreciable property in each development zone;

814 (E) the information related to the tax credit contained in the office's latest report under
815 Section 63N-1-301; and

816 (F) any other information that the Office of the Legislative Fiscal Analyst requests.

817 (ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall
818 redact information that identifies a recipient of a tax credit under this section.

819 (B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting
820 the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a
821 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
822 provide the information described in Subsection (6)(b)(i) in the aggregate for all development
823 zones that receive the tax credit under this section.

824 (c) As part of the study required by this Subsection (6), the Office of the Legislative
825 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
826 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
827 office under Subsection (6)(b).

828 (d) The Revenue and Taxation Interim Committee shall ensure that the
829 recommendations described in Subsection (6)(a) include an evaluation of:

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

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

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

833 Section 8. Section 59-7-624 is enacted to read:

834 **59-7-624. Targeted business income tax credit.**

835 (1) As used in this section, "business applicant" means the same as that term is defined
836 in Section [63N-2-302](#).

837 (2) A business applicant that is certified and issued a targeted business income tax
838 eligibility certificate by the office under Section [63N-2-304](#) may claim a refundable tax credit
839 in the amount specified on the targeted business income tax eligibility certificate.

840 (3) For a taxable year for which a business applicant claims a targeted business income
841 tax credit available under this section, the business applicant may not claim or carry forward a
842 tax credit available under Section [59-7-610](#), Section [59-10-1007](#), or Title 63N, Chapter 2, Part
843 2, Enterprise Zone Act.

844 Section 9. Section **59-10-137** is amended to read:

845 **59-10-137. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

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

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

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

865 (C) the extent to which the state benefits from the tax credit; and
 866 (v) undertake other review efforts as determined by the committee chairs or as
 867 otherwise required by law.

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

- 871 (i) Section [59-10-1004](#);
- 872 (ii) Section [59-10-1010](#);
- 873 (iii) Section [59-10-1015](#);
- 874 (iv) Section [59-10-1025](#);
- 875 (v) Section [59-10-1027](#);
- 876 (vi) Section [59-10-1031](#);
- 877 (vii) Section [59-10-1032](#);
- 878 (viii) Section [59-10-1035](#);
- 879 (ix) Section [59-10-1104](#);
- 880 (x) Section [59-10-1105](#); and
- 881 (xi) Section [59-10-1108](#).

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

- 885 (i) Section [59-10-1005](#);
- 886 (ii) Section [59-10-1006](#);
- 887 (iii) Section [59-10-1012](#);
- 888 [~~(iv)~~ Section ~~[59-10-1013](#)~~];
- 889 [~~(v)~~] (iv) Section [59-10-1022](#);
- 890 [~~(vi)~~] (v) Section [59-10-1023](#);
- 891 [~~(vii)~~] (vi) Section [59-10-1028](#);
- 892 [~~(viii)~~] (vii) Section [59-10-1034](#);
- 893 [~~(ix)~~] (viii) Section [59-10-1037](#); [~~and~~]
- 894 [~~(x)~~] (ix) Section [59-10-1107](#)~~[-]~~; and
- 895 (x) Section [59-10-1112](#).

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

- 899 (i) Section 59-10-1007;
 900 [~~(ii)~~ Section 59-10-1009];
 901 [~~(iii)~~] (ii) Section 59-10-1014;
 902 [~~(iv)~~] (iii) Section 59-10-1017;
 903 [~~(v)~~] (iv) Section 59-10-1018;
 904 [~~(vi)~~] (v) Section 59-10-1019;
 905 [~~(vii)~~] (vi) Section 59-10-1024;
 906 [~~(viii)~~] (vii) Section 59-10-1029;
 907 [~~(ix)~~] (viii) Section 59-10-1030;
 908 [~~(x)~~] (ix) Section 59-10-1033;
 909 [~~(xi)~~] (x) Section 59-10-1036;
 910 [~~(xii)~~] (xi) Section 59-10-1106; and
 911 [~~(xiii)~~] (xii) Section 59-10-1111.

912 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
 913 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
 914 2017.

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

917 Section 10. Section 59-10-210 is amended to read:

918 **59-10-210. Fiduciary adjustments.**

919 (1) A share of the fiduciary adjustments described in Subsection (2) shall be added to
 920 or subtracted from unadjusted income:

921 (a) of:

922 (i) a resident or nonresident estate or trust; or

923 (ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and

924 (b) as provided in this section.

925 (2) For purposes of Subsection (1), the fiduciary adjustments are the following
 926 amounts:

- 927 (a) the additions to and subtractions from unadjusted income of a resident or
928 nonresident estate or trust required by Section 59-10-202; and
- 929 (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:
- 930 (i) Section 59-6-102;
- 931 (ii) Part 10, Nonrefundable Tax Credit Act;
- 932 (iii) Part 11, Refundable Tax Credit Act;
- 933 (iv) Section 59-13-202;
- 934 (v) Section 63N-2-213; or
- 935 (vi) Section [~~63N-2-305~~] 59-10-1112.
- 936 (3) (a) The respective shares of an estate or trust and its beneficiaries, including for the
937 purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be
938 allocated in proportion to their respective shares of federal distributable net income of the
939 estate or trust.
- 940 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net
941 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be
942 allocated in proportion to that beneficiary's share of the estate or trust income for the taxable
943 year that is, under state law or the governing instrument, required to be distributed currently
944 plus any other amounts of that income distributed in that taxable year.
- 945 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of
946 the fiduciary adjustments shall be allocated to the estate or trust.
- 947 (4) (a) The commission shall allow a fiduciary to use a method for determining the
948 allocation of the fiduciary adjustments described in Subsection (2) other than the method
949 described in Subsection (3) if using the method described in Subsection (3) results in an
950 inequity:
- 951 (i) in allocating the fiduciary adjustments described in Subsection (2); and
- 952 (ii) if the inequity is substantial:
- 953 (A) in amount; and
- 954 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
955 (2).
- 956 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
957 commission may make rules authorizing a fiduciary to use a method for determining the

958 allocation of the fiduciary adjustments described in Subsection (2) other than the method
 959 described in Subsection (3) if using the method described in Subsection (3) results in an
 960 inequity:

- 961 (i) in allocating the fiduciary adjustments described in Subsection (2); and
- 962 (ii) if the inequity is substantial:
 - 963 (A) in amount; and
 - 964 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
 - 965 (2).

966 Section 11. Section **59-10-1007** is amended to read:

967 **59-10-1007. Recycling market development zones tax credit.**

968 (1) ~~[For taxable years beginning on or after January 1, 1996, a]~~ Subject to other
 969 provisions of this section, a claimant, estate, or trust in a recycling market development zone as
 970 defined in Section 63N-2-402 may claim [a nonrefundable tax credit as provided in this
 971 section.] the following nonrefundable tax credits:

972 (a) ~~[(i) There shall be allowed]~~ a tax credit of 5% of the purchase price paid for
 973 machinery and equipment used directly in:

974 ~~[(A)]~~ (i) commercial composting; or

975 ~~[(B)]~~ (ii) manufacturing facilities or plant units that:

976 ~~[(F)]~~ (A) manufacture, process, compound, or produce recycled items of tangible
 977 personal property for sale; or

978 ~~[(H)]~~ (B) reduce or reuse postconsumer waste material[-]; and

979 (b) a tax credit equal to the lesser of:

980 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
 981 inventory, and utilities made by the claimant, estate, or trust for establishing and operating
 982 recycling or composting technology in Utah; and

983 (ii) \$2,000.

984 ~~[(ii) The Governor's Office of Economic Development shall certify that the machinery~~
 985 ~~and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling~~
 986 ~~process:]~~

987 ~~[(A) on a form provided by the commission; and]~~

988 ~~[(B) before a claimant, estate, or trust is allowed a tax credit under this section.]~~

989 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust
 990 shall receive from the Governor's Office of Economic Development a written certification, on a
 991 form provided by the commission, that includes:

992 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a
 993 recycling market development zone;

994 (ii) for claims of the tax credit described in Subsection (1)(a):

995 (A) the type of the machinery and equipment that the claimant, estate, or trust
 996 purchased;

997 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;

998 (C) the purchase price for the machinery and equipment;

999 (D) the total purchase price for all machinery and equipment for which the claimant,
 1000 estate, or trust is claiming a tax credit;

1001 (E) the amount of the claimant's, estate's, or trust's tax credit; and

1002 (F) a statement that the machinery and equipment are integral to the composting or
 1003 recycling process; and

1004 (iii) for claims of the tax credit described in Subsection (1)(b):

1005 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;

1006 (B) the date that the claimant, estate, or trust made the payment to a third party;

1007 (C) the amount that the claimant, estate, or trust paid to each third party;

1008 (D) the total amount that the claimant, estate, or trust paid to all third parties;

1009 (E) a statement that the net expenditures support the establishment and operation of
 1010 recycling or composting technology in Utah; and

1011 (F) the amount of the claimant's, estate's, or trust's tax credit.

1012 ~~[(iii)]~~ (b) (i) The Governor's Office of Economic Development shall provide a
 1013 claimant, estate, or trust seeking to claim a tax credit under [this section] Subsection (1) with a
 1014 copy of the [form described in Subsection (1)(a)(ii)] written certification.

1015 ~~[(iv)]~~ (ii) The claimant, estate, or trust [described in Subsection (1)(a)(iii)] shall retain
 1016 a copy of the [form received under Subsection (1)(a)(iii)] written certification for the same
 1017 period of time that a person is required to keep books and records under Section [59-1-1406](#).

1018 ~~[(b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000~~
 1019 ~~to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the~~

1020 claimant, estate, or trust for establishing and operating recycling or composting technology in
1021 Utah, with an annual maximum tax credit of \$2,000.]

1022 ~~[(2) The total tax credit allowed under this section may not exceed 40% of the Utah~~
1023 ~~income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of~~
1024 ~~purchase prior to claiming the tax credit authorized by this section.]~~

1025 ~~[(3) (a) Any tax credit not used for the taxable year in which the purchase price on~~
1026 ~~composting or recycling machinery and equipment was paid may be carried forward against the~~
1027 ~~claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable~~
1028 ~~years until the total tax credit amount is used.]~~

1029 ~~[(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or~~
1030 ~~trust's tax return under this chapter within three years are forfeited.]~~

1031 (c) The Governor's Office of Economic Development shall submit to the commission
1032 an electronic list that includes:

1033 (i) the name and identifying information of each claimant, estate, or trust to which the
1034 office issues a written certification; and

1035 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
1036 certification.

1037 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
1038 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
1039 tax liability as the tax liability is calculated:

1040 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
1041 payments;

1042 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
1043 year; and

1044 (c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

1045 (4) The commission shall make rules governing what information [shall be filed] a
1046 claimant, estate, or trust shall file with the commission to verify the entitlement to and amount
1047 of a tax credit.

1048 (5) Except as provided in Subsections (6) and (8), a claimant, estate, or trust may carry
1049 forward, to the next three taxable years, the amount of the tax credit that exceeds the taxpayer's
1050 income tax liability for the taxable year.

1051 ~~[(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after~~
 1052 ~~January 1, 2001, a]~~

1053 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in
 1054 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries
 1055 forward a tax credit under Section [63N-2-213](#).

1056 ~~[(b) For a taxable year other than a taxable year during which the claimant, estate, or~~
 1057 ~~trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a~~
 1058 ~~claimant, estate, or trust may claim or carry forward a tax credit described in Subsection~~
 1059 ~~(1)(a):]~~

1060 ~~[(i) if the claimant, estate, or trust may claim or carry forward the tax credit in~~
 1061 ~~accordance with Subsections (1) and (2); and]~~

1062 ~~[(ii) subject to Subsections (3) and (4):]~~

1063 ~~[(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January~~
 1064 ~~1, 2001, a]~~

1065 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)
 1066 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax
 1067 credit under Section [63N-2-213](#).

1068 ~~[(7)]~~ (8) A claimant, estate, or trust may not claim or carry forward a tax credit
 1069 available under this section for a taxable year during which the claimant, estate, or trust [~~has~~
 1070 ~~claimed~~] claims the targeted business income tax credit [~~available~~] under Section [~~63N-2-305~~]
 1071 [59-10-1112](#).

1072 Section 12. Section **59-10-1012** is amended to read:

1073 **59-10-1012. Definitions -- Tax credits for research activities conducted in the**
 1074 **state -- Carry forward -- Commission to report modification or repeal of certain federal**
 1075 **provisions -- Revenue and Taxation Interim Committee study.**

1076 (1) As used in this section:

1077 (a) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal
 1078 Revenue Code, except that the term includes only basic research conducted in this state.

1079 (b) "Qualified research" means the same as that term is defined in Section 41(d),
 1080 Internal Revenue Code, except that the term includes only qualified research conducted in this
 1081 state.

1082 (c) "Qualified research expenses" means the same as that term is defined in Section
1083 41(b), Internal Revenue Code, except that the term includes only:

1084 (i) in-house research expenses incurred in this state; and

1085 (ii) contract research expenses incurred in this state.

1086 ~~[(H)]~~ (2) (a) A claimant, estate, or trust [meeting the requirements of this section] that
1087 receives a tax credit certificate in accordance with Section 63N-2-902 may claim one or more
1088 of the following nonrefundable tax credits:

1089 (i) a research tax credit [of 5% of] calculated in accordance with Section 63N-2-903 for
1090 the claimant's, estate's, or trust's qualified research expenses [for the current taxable year that
1091 exceed the base amount provided for under Subsection (3)] during the taxable year;

1092 (ii) a tax credit calculated in accordance with Section 63N-2-903 for a payment to a
1093 qualified organization for basic research [as provided in Section 41(e), Internal Revenue Code
1094 of 5% for the current taxable year that exceed the base amount provided for under Subsection
1095 (3)] during the taxable year; and

1096 (iii) [a] an additional research tax credit [equal to 7.5% of] calculated in accordance
1097 with Section 63N-2-903 for the claimant's, estate's, or trust's qualified research expenses [for
1098 the current] during the taxable year.

1099 ~~[(b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:]~~

1100 ~~[(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate,~~
1101 ~~or trust incurs the qualified research expenses; or]~~

1102 ~~[(ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust~~
1103 ~~makes the payment to the qualified organization.]~~

1104 (b) A claimant, estate, or trust may claim a tax credit in an amount equal to the amount
1105 stated on the tax credit certificate for each tax credit.

1106 (c) The tax credits provided for in this section do not include the alternative
1107 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

1108 (d) The tax credits provided for in this section do not terminate if a credit terminates
1109 under Section 41, Internal Revenue Code.

1110 ~~[(2) Except as specifically provided for in this section:]~~

1111 ~~[(a) the tax credits authorized under Subsection (1) shall be calculated as provided in~~
1112 ~~Section 41, Internal Revenue Code; and]~~

1113 ~~[(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating~~
1114 ~~the tax credits authorized under Subsection (1):]~~

1115 ~~[(3) For purposes of this section:]~~

1116 ~~[(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),~~
1117 ~~Internal Revenue Code, except that:]~~

1118 ~~[(i) the base amount does not include the calculation of the alternative incremental~~
1119 ~~credit provided for in Section 41(c)(4), Internal Revenue Code;]~~

1120 ~~[(ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts~~
1121 ~~attributable to sources within this state as provided in Section 59-10-118; and]~~

1122 ~~[(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating~~
1123 ~~the base amount, a claimant, estate, or trust:]~~

1124 ~~[(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B),~~
1125 ~~Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the~~
1126 ~~requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and]~~

1127 ~~[(B) may not revoke an election to be treated as a start-up company under Subsection~~
1128 ~~(3)(a)(iii)(A);]~~

1129 ~~[(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except~~
1130 ~~that the term includes only basic research conducted in this state;]~~

1131 ~~[(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except~~
1132 ~~that the term includes only qualified research conducted in this state;]~~

1133 ~~[(d) "qualified research expenses" is as defined and calculated in Section 41(b),~~
1134 ~~Internal Revenue Code, except that the term includes only:]~~

1135 ~~[(i) in-house research expenses incurred in this state; and]~~

1136 ~~[(ii) contract research expenses incurred in this state; and]~~

1137 ~~[(e) a tax credit provided for in this section is not terminated if a credit terminates~~
1138 ~~under Section 41, Internal Revenue Code.]~~

1139 ~~[(4)] (3) (a) If the amount of a tax credit ~~[claimed by a claimant, estate, or trust]~~ that a
1140 claimant, estate, or trust claims under Subsection ~~[(1)]~~ (2)(a)(i) or (ii) exceeds the claimant's,
1141 estate's, or trust's tax liability under this chapter for a taxable year, the ~~[amount of the tax credit~~
1142 ~~exceeding the tax liability]~~ claimant, estate, or trust:~~

1143 (i) may ~~[be carried forward]~~ carry forward the amount of the tax credit that exceeds the

1144 claimant's, estate's, or trust's tax liability for a period that does not exceed the next 14 taxable
1145 years; and

1146 (ii) may not ~~[be carried back]~~ carry back the amount of the tax credit that exceeds the
1147 claimant's, estate's, or trust's tax liability to a taxable year preceding the current taxable year.

1148 (b) A claimant, estate, or trust may not carry forward the tax credit allowed by
1149 Subsection ~~[(+)]~~ (2)(a)(iii).

1150 ~~[(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1151 ~~the commission may make rules for purposes of this section prescribing a certification process~~
1152 ~~for qualified organizations to ensure that amounts paid to the qualified organizations are for~~
1153 ~~basic research conducted in this state.]~~

1154 ~~[(6)]~~ (4) If a provision of Section 41, Internal Revenue Code, is modified or repealed,
1155 the commission shall report the modification or repeal by electronic means to the Revenue and
1156 Taxation Interim Committee within 60 days after the day on which the modification or repeal
1157 becomes effective.

1158 ~~[(7)]~~ (5) (a) The Revenue and Taxation Interim Committee shall review the tax credits
1159 provided for in this section on or before October 1 of the year after the year in which the
1160 commission reports under Subsection ~~[(6)]~~ (4) a modification or repeal of a provision of
1161 Section 41, Internal Revenue Code.

1162 (b) The review described in Subsection ~~[(7)]~~ (5)(a) is in addition to the review required
1163 by Section [59-10-137](#).

1164 ~~[(c) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee~~
1165 ~~is not required to review the tax credits provided for in this section if the only modification to a~~
1166 ~~provision of Section 41, Internal Revenue Code, is the extension of the termination date~~
1167 ~~provided for in Section 41(h), Internal Revenue Code.]~~

1168 ~~[(+)]~~ (c) The Revenue and Taxation Interim Committee shall address in a review under
1169 this ~~[section]~~ Subsection (5):

1170 (i) the cost of the tax credits provided for in this section;

1171 (ii) the purpose and effectiveness of the tax credits provided for in this section;

1172 (iii) whether the tax credits provided for in this section benefit the state; and

1173 (iv) whether the tax credits provided for in this section should be~~[:]~~ continued,
1174 modified, or repealed.

1175 [~~(A) continued;~~]

1176 [~~(B) modified; or~~]

1177 [~~(C) repealed.~~]

1178 [~~(e)~~] (d) If the Revenue and Taxation Interim Committee [~~reviews the tax credits~~
1179 ~~provided for in this section, the committee~~] conducts a review of the tax credits under this
1180 Subsection (5), the Revenue and Taxation Interim Committee shall issue a report of the
1181 Revenue and Taxation Interim Committee's findings.

1182 Section 13. Section **59-10-1014** is amended to read:

1183 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**
1184 **Certification -- Rulemaking authority.**

1185 (1) As used in this section:

1186 (a) (i) "Active solar system" means a system of equipment that is capable of:

1187 (A) collecting and converting incident solar radiation into thermal, mechanical, or
1188 electrical energy; and

1189 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
1190 apparatus to storage or to the point of use.

1191 (ii) "Active solar system" includes water heating, space heating or cooling, and
1192 electrical or mechanical energy generation.

1193 (b) "Biomass system" means a system of apparatus and equipment for use in:

1194 (i) converting material into biomass energy, as defined in Section [59-12-102](#); and

1195 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

1196 (c) "Direct use geothermal system" means a system of apparatus and equipment that
1197 enables the direct use of geothermal energy to meet energy needs, including heating a building,
1198 an industrial process, and aquaculture.

1199 (d) "Geothermal electricity" means energy that is:

1200 (i) contained in heat that continuously flows outward from the earth; and

1201 (ii) used as a sole source of energy to produce electricity.

1202 (e) "Geothermal energy" means energy generated by heat that is contained in the earth.

1203 (f) "Geothermal heat pump system" means a system of apparatus and equipment that:

1204 (i) enables the use of thermal properties contained in the earth at temperatures well

1205 below 100 degrees Fahrenheit; and

- 1206 (ii) helps meet heating and cooling needs of a structure.
- 1207 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable
- 1208 of:
- 1209 (i) intercepting and converting kinetic water energy into electrical or mechanical
- 1210 energy; and
- 1211 (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- 1212 (h) "Office" means the Office of Energy Development created in Section [63M-4-401](#).
- 1213 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
- 1214 a building and its operable components to provide for collection, storage, and distribution of
- 1215 heating or cooling during the appropriate times of the year by utilizing the climate resources
- 1216 available at the site.
- 1217 (ii) "Passive solar system" includes those portions and components of a building that
- 1218 are expressly designed and required for the collection, storage, and distribution of solar energy.
- 1219 (j) "Photovoltaic system" means an active solar system that generates electricity from
- 1220 sunlight.
- 1221 (k) (i) "Principal recovery portion" means the portion of a lease payment that
- 1222 constitutes the cost a person incurs in acquiring a residential energy system.
- 1223 (ii) "Principal recovery portion" does not include:
- 1224 (A) an interest charge; or
- 1225 (B) a maintenance expense.
- 1226 (l) "Residential energy system" means the following used to supply energy to or for a
- 1227 residential unit:
- 1228 (i) an active solar system;
- 1229 (ii) a biomass system;
- 1230 (iii) a direct use geothermal system;
- 1231 (iv) a geothermal heat pump system;
- 1232 (v) a hydroenergy system;
- 1233 (vi) a passive solar system; or
- 1234 (vii) a wind system.
- 1235 (m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
- 1236 unit that:

- 1237 (A) is located in the state; and
- 1238 (B) serves as a dwelling for a person, group of persons, or a family.
- 1239 (ii) "Residential unit" does not include property subject to a fee under:
- 1240 (A) Section 59-2-405;
- 1241 (B) Section 59-2-405.1;
- 1242 (C) Section 59-2-405.2;
- 1243 (D) Section 59-2-405.3; or
- 1244 (E) Section 72-10-110.5.
- 1245 (n) "Wind system" means a system of apparatus and equipment that is capable of:
- 1246 (i) intercepting and converting wind energy into mechanical or electrical energy; and
- 1247 (ii) transferring these forms of energy by a separate apparatus to the point of use or
- 1248 storage.
- 1249 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in
- 1250 this section against a tax due under this chapter for a taxable year.
- 1251 (3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust
- 1252 may claim a nonrefundable tax credit under this section with respect to a residential unit the
- 1253 claimant, estate, or trust owns or uses if:
- 1254 (a) the claimant, estate, or trust:
- 1255 (i) purchases and completes a residential energy system to supply all or part of the
- 1256 energy required for the residential unit; or
- 1257 (ii) participates in the financing of a residential energy system to supply all or part of
- 1258 the energy required for the residential unit;
- 1259 (b) the residential energy system is installed on or after January 1, 2007; and
- 1260 (c) the claimant, estate, or trust obtains a written certification from the office in
- 1261 accordance with Subsection (5).
- 1262 (4) (a) For a residential energy system, other than a photovoltaic system, the tax credit
- 1263 described in this section is equal to the lesser of:
- 1264 (i) 25% of the reasonable costs, including installation costs, of each residential energy
- 1265 system installed with respect to each residential unit the claimant, estate, or trust owns or uses;
- 1266 and
- 1267 (ii) \$2,000.

1268 (b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic
1269 system, the tax credit described in this section is equal to the lesser of:

1270 (i) 25% of the reasonable costs, including installation costs, of each system installed
1271 with respect to each residential unit the claimant, estate, or trust owns or uses; or

1272 (ii) (A) for a system installed on or after January 1, 2007, but on or before December
1273 31, 2017, \$2,000;

1274 (B) for a system installed on or after January 1, 2018, but on or before December 31,
1275 2020, \$1,600;

1276 (C) for a system installed on or after January 1, 2021, but on or before December 31,
1277 2021, \$1,200;

1278 (D) for a system installed on or after January 1, 2022, but on or before December 31,
1279 2022, \$800;

1280 (E) for a system installed on or after January 1, 2023, but on or before December 31,
1281 2023, \$400; and

1282 (F) for a system installed on or after January 1, 2024, \$0.

1283 (c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or
1284 trust may claim and list that amount on the written certification that the office issues under
1285 Subsection (5).

1286 (ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the
1287 written certification that the office issues under Subsection (5).

1288 (d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the
1289 taxable year in which the residential energy system is installed.

1290 (e) If the amount of a tax credit listed on the written certification exceeds a claimant's,
1291 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust
1292 may carry forward the amount of the tax credit exceeding the liability for a period that does not
1293 exceed the next four taxable years.

1294 (f) A claimant, estate, or trust may claim a tax credit with respect to additional
1295 residential energy systems or parts of residential energy systems for a subsequent taxable year
1296 if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per
1297 residential unit.

1298 (g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a

1299 residential energy system installed on a residential unit may claim a tax credit under Subsection
1300 (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax
1301 credit.

1302 (ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential
1303 energy system may claim as a tax credit under Subsection (3) only the principal recovery
1304 portion of the lease payments.

1305 (iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a
1306 residential energy system may claim a tax credit under Subsection (3) for a period that does not
1307 exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

1308 (h) If a claimant, estate, or trust sells a residential unit to another person before the
1309 claimant, estate, or trust claims the tax credit under Subsection (3):

1310 (i) the claimant, estate, or trust may assign the tax credit to the other person; and

1311 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and
1312 Income Taxes, the other person may claim the tax credit as if the other person had met the
1313 requirements of Section 59-7-614 to claim the tax credit; or

1314 (B) if the other person files a return under this chapter, the other person may claim the
1315 tax credit under this section as if the other person had met the requirements of this section to
1316 claim the tax credit.

1317 (5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1318 claimant, estate, or trust shall obtain a written certification from the office.

1319 (b) The office shall issue a claimant, estate, or trust a written certification if the office
1320 determines that:

1321 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1322 credit; and

1323 (ii) the office determines that the residential energy system with respect to which the
1324 claimant, estate, or trust seeks to claim a tax credit:

1325 (A) has been completely installed;

1326 (B) is a viable system for saving or producing energy from renewable resources; and

1327 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
1328 energy system uses the state's renewable and nonrenewable energy resources in an appropriate
1329 and economic manner.

1330 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1331 office may make rules:

1332 (i) for determining whether a residential energy system meets the requirements of
1333 Subsection (5)(b)(ii); and

1334 (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or
1335 trust may receive under Subsection (4), establishing the reasonable costs of a residential energy
1336 system, as an amount per unit of energy production.

1337 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1338 retain the certification for the same time period a person is required to keep books and records
1339 under Section [59-1-1406](#).

1340 (e) The office shall submit to the commission an electronic list that includes:

1341 (i) the name and identifying information of each claimant, estate, or trust to which the
1342 office issues a written certification; and

1343 (ii) for each claimant, estate, or trust:

1344 (A) the amount of the tax credit listed on the written certification; and

1345 (B) the date the renewable energy system was installed.

1346 (6) A tax credit under this section is in addition to any tax credits provided under the
1347 laws or rules and regulations of the United States.

1348 (7) A purchaser of one or more solar units that claims a tax credit under Section
1349 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
1350 section for that purchase.

1351 Section 14. Section **59-10-1024** is amended to read:

1352 **59-10-1024. Nonrefundable tax credit for qualifying solar projects.**

1353 (1) As used in this section:

1354 (a) "Active solar system" means the same as that term is defined in Section
1355 [59-10-1014](#).

1356 (b) "Office" means the Office of Energy Development, created in Section [63M-4-401](#).

1357 [~~(b)~~] (c) "Purchaser" means a claimant, estate, or trust that purchases one or more solar
1358 units from a qualifying political subdivision.

1359 [~~(c)~~] (d) "Qualifying political subdivision" means:

1360 (i) a city or town in this state;

1361 (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;

1362 or

1363 (iii) a special service district created under Title 17D, Chapter 1, Special Service

1364 District Act.

1365 ~~[(d)]~~ (e) "Qualifying solar project" means the portion of an active solar system:

1366 (i) that a qualifying political subdivision:

1367 (A) constructs;

1368 (B) controls; or

1369 (C) owns;

1370 (ii) with respect to which the qualifying political subdivision described in Subsection

1371 ~~[(1)(e)(i)]~~ (1)(d)(i) sells one or more solar units; and

1372 (iii) that generates electrical output that is furnished:

1373 (A) to one or more residential units; or

1374 (B) for the benefit of one or more residential units.

1375 ~~[(e)]~~ (f) "Residential unit" means the same as that term is defined in Section

1376 [59-10-1014](#).

1377 ~~[(f)]~~ (g) "Solar unit" means a portion of the electrical output:

1378 (i) of a qualifying solar project;

1379 (ii) that a qualifying political subdivision sells to a purchaser; and

1380 (iii) the purchase of which requires that the purchaser agree to bear a proportionate

1381 share of the expense of the qualifying solar project:

1382 (A) in accordance with a written agreement between the purchaser and the qualifying

1383 political subdivision;

1384 (B) in exchange for a credit on the purchaser's electrical bill; and

1385 (C) as determined by a formula established by the qualifying political subdivision.

1386 ~~[(2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009,~~

1387 ~~a purchaser may claim a nonrefundable tax credit equal to the product of:]~~

1388 ~~[(a) the amount the purchaser pays to purchase one or more solar units during the~~

1389 ~~taxable year; and]~~

1390 ~~[(b) 25%.]~~

1391 ~~[(3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a~~

1392 return.]

1393 (2) (a) Subject to Subsections (2)(b) and (3), a purchaser may claim a nonrefundable
1394 tax credit equal to the amount stated on a tax credit certificate issued by the office.

1395 (b) The maximum tax credit per taxpayer taxable year is the lesser of:

1396 (i) 25% of the amount that the purchaser pays to purchase one or more solar units
1397 during the taxable year; and

1398 (ii) \$2,000.

1399 (3) (a) To claim a tax credit under this section, a purchaser shall receive a tax credit
1400 certificate from the office.

1401 (b) The purchaser shall submit, with the purchaser's application for a tax credit
1402 certificate, proof of the purchaser's purchase of one or more solar units.

1403 (c) If the office determines that the purchaser purchased one or more solar units during
1404 the taxable year, the office shall:

1405 (i) determine the amount of the purchaser's tax credit; and

1406 (ii) issue, on a form provided by the commission, a tax credit certificate to the
1407 purchaser that states the amount of the purchaser's tax credit.

1408 (d) If the office determines that a claimant, estate, or trust requesting a tax credit
1409 certificate is not eligible for a tax credit certificate under this section but may be eligible for a
1410 tax credit certificate under Section [59-10-1014](#), the office shall treat the claimant, estate, or
1411 trust as applying for a written certification in accordance with Section [59-10-1014](#).

1412 (e) A purchaser who receives a tax credit certificate shall retain the tax credit certificate
1413 for the same time period that a person is required to keep books and records under Section
1414 [59-1-1406](#).

1415 (f) The office shall submit to the commission an electronic list that includes:

1416 (i) the name and identifying information of each purchaser to whom the office issued a
1417 certificate; and

1418 (ii) for each claimant, estate, or trust:

1419 (A) the amount of the tax credit listed on the written certification; and

1420 (B) the date or dates the claimant, estate, or trust purchased one or more solar units.

1421 (4) A purchaser may carry forward a tax credit under this section for a period that does
1422 not exceed the next four taxable years if:

1423 (a) the purchaser is allowed to claim a tax credit under this section for a taxable year;
1424 and

1425 (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter
1426 for that taxable year.

1427 (5) Subject to Section [59-10-1014](#), a tax credit under this section is in addition to any
1428 other tax credit allowed by this chapter.

1429 Section 15. Section **59-10-1037** is amended to read:

1430 **59-10-1037. Nonrefundable enterprise zone tax credit.**

1431 (1) As used in this section:

1432 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1433 "business entity" as that term is defined in Section [63N-2-202](#).

1434 (b) "Office" means the Governor's Office of Economic Development created in Section
1435 [63N-1-201](#).

1436 (2) Subject to the provisions of this section, a business entity may claim a
1437 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

1438 (3) The enterprise zone tax credit under this section is the amount listed as the tax
1439 credit amount on the tax credit certificate that the office issues to the business entity for the
1440 taxable year.

1441 (4) A business entity may carry forward a tax credit under this section for a period that
1442 does not exceed the next three taxable years, if the amount of the tax credit exceeds the
1443 business entity's tax liability under this chapter for that taxable year.

1444 (5) A business entity may not claim or carry forward a tax credit available under this
1445 part for a taxable year during which the business entity has claimed the targeted business
1446 income tax credit available under Section [~~[63N-2-305](#)~~] [59-10-1112](#).

1447 (6) (a) In accordance with Section [59-10-137](#), the Revenue and Taxation Interim
1448 Committee shall study the tax credit allowed by this section and make recommendations
1449 concerning whether the tax credit should be continued, modified, or repealed.

1450 (b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by
1451 this Subsection (6), the office shall provide by electronic means the following information, if
1452 available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:

1453 (A) the amount of tax credits provided in each development zone;

1454 (B) the number of new full-time employee positions reported to obtain tax credits in
1455 each development zone;

1456 (C) the amount of tax credits awarded for rehabilitating a building in each development
1457 zone;

1458 (D) the amount of tax credits awarded for investing in a plant, equipment, or other
1459 depreciable property in each development zone;

1460 (E) the information related to the tax credit contained in the office's latest report under
1461 Section [63N-1-301](#); and

1462 (F) other information that the Office of the Legislative Fiscal Analyst requests.

1463 (ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall
1464 redact information that identifies a recipient of a tax credit under this section.

1465 (B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting
1466 the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a
1467 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
1468 provide the information described in Subsection (6)(b)(i) in the aggregate for all development
1469 zones that receive the tax credit under this section.

1470 (c) As part of the study required by this Subsection (6), the Office of the Legislative
1471 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
1472 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
1473 office under Subsection (6)(b).

1474 (d) The Revenue and Taxation Interim Committee shall ensure that the
1475 recommendations described in Subsection (6)(a) include an evaluation of:

1476 (i) the cost of the tax credit to the state;

1477 (ii) the purpose and effectiveness of the tax credit; and

1478 (iii) the extent to which the state benefits from the tax credit.

1479 Section 16. Section **59-10-1112** is enacted to read:

1480 **59-10-1112. Targeted business income tax credit.**

1481 (1) As used in this section, "business applicant" means the same as that term is defined
1482 in Section [63N-2-302](#).

1483 (2) A business applicant that is certified and issued a targeted business income tax
1484 eligibility certificate by the office under Section [63N-2-304](#) may claim a refundable tax credit

1485 in the amount specified on the targeted business income tax eligibility certificate.

1486 (3) For a taxable year for which a business applicant claims a targeted business income
1487 tax credit available under this section, the business applicant may not claim or carry forward a
1488 tax credit available under Section 59-7-610, Section 59-10-1007, or Title 63N, Chapter 2, Part
1489 2, Enterprise Zone Act.

1490 Section 17. Section **63N-2-213** is amended to read:

1491 **63N-2-213. State tax credits.**

1492 (1) The office shall certify a business entity's eligibility for a tax credit described in this
1493 section.

1494 (2) A business entity seeking to receive a tax credit as provided in this section shall
1495 provide the office with:

1496 (a) an application for a tax credit certificate in a form approved by the office, including
1497 a certification, by an officer of the business entity, of a signature on the application; and

1498 (b) documentation that demonstrates the business entity has met the requirements to
1499 receive the tax credit.

1500 (3) If, after review of an application and documentation provided by a business entity
1501 as described in Subsection (2), the office determines that the application and documentation are
1502 inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

1503 (a) deny the tax credit; or

1504 (b) inform the business entity that the application or documentation was inadequate
1505 and ask the business entity to submit additional documentation.

1506 (4) If, after review of an application and documentation provided by a business entity
1507 as described in Subsection (2), the office determines that the application and documentation
1508 provide reasonable justification for authorizing a tax credit, the office shall:

1509 (a) determine the amount of the tax credit to be granted to the business entity;

1510 (b) issue a tax credit certificate to the business entity; and

1511 (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

1512 (5) A business entity may not claim a tax credit under this section unless the business
1513 entity has a tax credit certificate issued by the office.

1514 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1515 office shall make rules describing:

- 1516 (a) the form and content of an application for a tax credit under this section;
- 1517 (b) the documentation requirements for a business entity to receive a tax credit
- 1518 certificate under this section; and
- 1519 (c) administration of the program, including relevant timelines and deadlines.
- 1520 (7) Subject to the limitations of Subsections (8) through (10), and if the requirements
- 1521 of this part are met, the following nonrefundable tax credits against a tax under Title 59,
- 1522 Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income
- 1523 Tax Act, are applicable in an enterprise zone:
 - 1524 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
 - 1525 employee position created within the enterprise zone;
 - 1526 (b) an additional \$500 tax credit may be claimed if the new full-time employee position
 - 1527 created within the enterprise zone pays at least 125% of:
 - 1528 (i) the county average monthly nonagricultural payroll wage for the respective industry
 - 1529 as determined by the Department of Workforce Services; or
 - 1530 (ii) if the county average monthly nonagricultural payroll wage is not available for the
 - 1531 respective industry, the total average monthly nonagricultural payroll wage in the respective
 - 1532 county where the enterprise zone is located;
 - 1533 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
 - 1534 position created within the enterprise zone is in a business entity that adds value to agricultural
 - 1535 commodities through manufacturing or processing;
 - 1536 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
 - 1537 new full-time employee position created within the enterprise zone that is filled by an
 - 1538 employee who is insured under an employer-sponsored health insurance program if the
 - 1539 employer pays at least 50% of the premium cost for the year for which the credit is claimed;
 - 1540 (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the
 - 1541 enterprise zone that has been vacant for two years or more; and
 - 1542 (f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
 - 1543 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
 - 1544 property.
- 1545 (8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax
- 1546 credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30

1547 full-time employee positions in a taxable year.

1548 (b) A business entity that received a tax credit for one or more new full-time employee
1549 positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for
1550 a new full-time employee position in a subsequent taxable year under Subsections (7)(a)
1551 through (d) if:

1552 (i) the business entity has created a new full-time position within the enterprise zone;
1553 and

1554 (ii) the total number of full-time employee positions at the business entity at any point
1555 during the tax year for which the tax credit is being claimed is greater than the highest number
1556 of full-time employee positions that existed at the business entity in the previous three taxable
1557 years.

1558 (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a)
1559 through (d).

1560 (9) If the amount of a tax credit under this section exceeds a business entity's tax
1561 liability under this chapter for a taxable year, the business entity may carry forward the amount
1562 of the tax credit exceeding the liability for a period that does not exceed the next three taxable
1563 years.

1564 (10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business
1565 entity primarily engaged in retail trade or by a public utilities business.

1566 (11) A business entity that has no employees:

1567 (a) may not claim tax credits under Subsections (7)(a) through (d); and

1568 (b) may claim tax credits under Subsections (7)(e) through (f).

1569 (12) (a) A business entity may not claim or carry forward a tax credit available under
1570 this part for a taxable year during which the business entity has claimed the targeted business
1571 income tax credit available under Section [~~63N-2-305~~] [63N-2-304](#).

1572 (b) A business entity may not claim or carry forward a tax credit available under this
1573 section for a taxable year during which the business entity claims or carries forward a tax credit
1574 available under Section [59-7-610](#) or [59-10-1007](#).

1575 (13) (a) On or before November 30, 2018, and every three years after 2018, the
1576 Revenue and Taxation Interim Committee shall review the tax credits provided by this section
1577 and make recommendations concerning whether the tax credits should be continued, modified,

1578 or repealed.

1579 (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation
1580 Interim Committee shall:

1581 (i) schedule time on at least one committee agenda to conduct the review;

1582 (ii) invite state agencies, individuals, and organizations concerned with the credits
1583 under review to provide testimony;

1584 (iii) ensure that the recommendations described in this section include an evaluation of:

1585 (A) the cost of the tax credits to the state;

1586 (B) the purpose and effectiveness of the tax credits; and

1587 (C) the extent to which the state benefits from the tax credits; and

1588 (iv) undertake other review efforts as determined by the chairs of the Revenue and
1589 Taxation Interim Committee.

1590 Section 18. Section **63N-2-304** is amended to read:

1591 **63N-2-304. Application for targeted business income tax credit.**

1592 (1) (a) [~~For a taxable year beginning on or after January 1, 2017, a~~] A business
1593 applicant may apply to the office for a targeted business income tax credit eligibility certificate
1594 under this part if the business applicant:

1595 (i) is located in:

1596 (A) an enterprise zone; and

1597 (B) a county with a population of less than 25,000;

1598 (ii) meets the requirements of Section [63N-2-212](#);

1599 (iii) provides a community investment project within the enterprise zone; and

1600 (iv) is not engaged in the following:

1601 (A) construction;

1602 (B) retail trade; or

1603 (C) public utility activities.

1604 (b) For a taxable year for which a business applicant claims a targeted business income
1605 tax credit available under this part, the business applicant may not claim or carry forward a tax
1606 credit available under Section [59-7-610](#), [59-10-1007](#), or [63N-2-213](#).

1607 (2) (a) A business applicant seeking to claim a targeted business income tax credit
1608 under this part shall submit an application to the office by no later than June 1 of the taxable

1609 year in which the business applicant is seeking to claim the targeted business income tax credit.

1610 (b) The application described in Subsection (2)(a) shall include:

1611 (i) any documentation required by the office to demonstrate that the business applicant
1612 meets the requirements of Subsection (1);

1613 (ii) a plan developed by the business applicant that describes:

1614 (A) if the community investment project includes significant new employment, the
1615 projected number and anticipated wage level of the jobs that the business applicant plans to
1616 create as the basis for qualifying for a targeted business income tax credit;

1617 (B) if the community investment project includes significant new capital development,
1618 the capital development the business applicant plans to make as the basis for qualifying for a
1619 targeted business income tax credit;

1620 (C) how the business applicant's plan coordinates with the goals of the enterprise zone
1621 in which the business applicant is providing a community investment project;

1622 (D) how the business applicant's plan coordinates with the overall economic
1623 development goals of the county or municipality in which the business applicant is providing a
1624 community investment project;

1625 (E) any matching funds that will be used for the community investment project;

1626 (F) how any targeted business income tax credit incentives that were awarded in a
1627 previous year have been used for the community investment project by the business applicant;
1628 and

1629 (G) the requested amount of the targeted business income tax credit; and

1630 (iii) any additional information required by the office.

1631 (3) (a) The office shall:

1632 (i) evaluate an application filed under Subsection (2);

1633 (ii) determine whether the business applicant is potentially eligible for a targeted
1634 business income tax credit; and

1635 (iii) if the business applicant is potentially eligible for a targeted business income tax
1636 credit, determine performance benchmarks and the deadline for meeting those benchmarks that
1637 the business applicant must achieve before the office awards a targeted business income tax
1638 credit to the business applicant.

1639 (b) If the office determines that the business applicant is potentially eligible for a

1640 targeted business income tax credit, the office shall:

1641 (i) notify the business applicant that the business applicant is eligible for a targeted
1642 business income tax credit if the business applicant meets the performance benchmarks by the
1643 deadline as determined by the office as described in Subsection (3)(a)(iii);

1644 (ii) notify the business applicant of the potential amount of the targeted business
1645 income tax credit that may be awarded to the business applicant, which amount may be no
1646 more than \$100,000 for the business applicant in a taxable year; and

1647 (iii) monitor a business applicant to ensure compliance with this section and to
1648 measure the business applicant's progress in meeting performance benchmarks.

1649 (c) If the business applicant provides evidence to the office, in a form prescribed by the
1650 office, that the business applicant has achieved the performance benchmarks by the deadline as
1651 determined by the office as described in Subsection (3)(a)(iii), the office shall:

1652 (i) certify that the business applicant is eligible for a targeted business income tax
1653 credit;

1654 (ii) issue a targeted business income tax credit eligibility certificate to the business
1655 applicant in accordance with [~~Section 63N-2-305~~; and];

1656 (A) for a business applicant that files a return under Title 59, Chapter 7, Corporate
1657 Franchise and Income Taxes, Section 59-7-624; or

1658 (B) for a business applicant that files a return under Title 59, Chapter 10, Individual
1659 Income Tax Act, Section 59-10-1112; and

1660 (iii) provide a duplicate copy of the targeted business income tax credit eligibility
1661 certificate to the State Tax Commission.

1662 (4) The total amount of the targeted business income tax credit eligibility certificates
1663 that the office issues under this part for all business applicants may not exceed \$300,000 in any
1664 fiscal year.

1665 (5) (a) A business applicant shall retain the targeted business income tax credit
1666 eligibility certificate as issued under Subsection (3) for the same time period that a person is
1667 required to keep books and records under Section 59-1-1406.

1668 (b) The office may audit a business applicant to ensure:

1669 (i) eligibility for a targeted business income tax credit; and

1670 (ii) compliance with this section.

1671 Section 19. Section **63N-2-901** is enacted to read:

1672 **Part 9. Research Expenses Tax Credit Act**

1673 **63N-2-901. Definitions.**

1674 (1) As used in this part:

1675 (a) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal
1676 Revenue Code, except that the term includes only basic research conducted in this state.

1677 (b) "Commission" means the State Tax Commission.

1678 (c) "Qualified organization" means the same as that term is defined in Section 41(e)(6),
1679 Internal Revenue Code.

1680 (d) "Qualified research" means the same as that term is defined in Section 41(d),
1681 Internal Revenue Code, except that the term includes only qualified research conducted in this
1682 state.

1683 (e) "Qualified research expenses" means the same as that term is defined in Section
1684 41(b), Internal Revenue Code, except that the term includes only:

1685 (i) in-house research expenses incurred in this state; and

1686 (ii) contract research expenses incurred in this state.

1687 (f) "Taxpayer" means:

1688 (i) for a person that files an income tax return under Title 59, Chapter 7, Corporate
1689 Franchise and Income Taxes, a taxpayer as that term is defined in Section [59-7-101](#); or

1690 (ii) for a person that files an income tax return under Title 59, Chapter 10, Individual
1691 Income Tax Act, a claimant, estate, or trust as those terms are defined in Section [59-10-1002](#).

1692 (2) Except as provided in Subsections (1) and [63N-2-903\(2\)](#), a term used in this part
1693 that is defined in Section 41, Internal Revenue Code, means the same as that term is defined in
1694 Section 41, Internal Revenue Code.

1695 Section 20. Section **63N-2-902** is enacted to read:

1696 **63N-2-902. Research expenses tax credit certificate.**

1697 (1) To claim a nonrefundable tax credit under Section [59-7-612](#) or [59-10-1012](#), a
1698 taxpayer shall first receive a tax credit certificate in accordance with this section.

1699 (2) To receive a tax credit certificate, the taxpayer shall submit to the office an
1700 application that includes:

1701 (a) proof of the taxpayer's:

- 1702 (i) qualified research expenses during the current taxable year;
1703 (ii) payment to a qualified organization for basic research during the current taxable
1704 year; or
1705 (iii) both, if the taxpayer is applying for a tax credit certificate to claim a tax credit for
1706 both the taxpayer's qualified research expenses and payments the taxpayer made to a qualified
1707 organization for basic research;
1708 (b) information to verify the calculation of the taxpayer's base amount in accordance
1709 with Section [63N-2-903](#);
1710 (c) for each tax credit for which the taxpayer applies to receive a tax credit certificate,
1711 the taxpayer's calculation of the amount of tax credit that the taxpayer is eligible to claim;
1712 (d) a statement explaining whether the taxpayer applying for a tax credit certificate
1713 files a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59,
1714 Chapter 10, Individual Income Tax Act; and
1715 (e) any other information the office needs to verify the calculation of the amount of the
1716 taxpayer's tax credit in accordance with Section [63N-2-903](#).
1717 (3) (a) If, after review of the application, the office determines that the taxpayer is
1718 eligible for one or more tax credits under Section [59-7-612](#) or [59-10-1012](#), the office shall:
1719 (i) determine the amount of each tax credit that the taxpayer is eligible to claim;
1720 (ii) issue, on a form provided by the commission, a tax credit certificate to the taxpayer
1721 that states:
1722 (A) each tax credit that the office certifies that the taxpayer is eligible to claim; and
1723 (B) the amount of each tax credit that the taxpayer may claim; and
1724 (iii) provide to the commission an electronic list that includes:
1725 (A) the name and identifying information of each taxpayer to which the office issues a
1726 certificate; and
1727 (B) for each taxpayer, the amount of each tax credit listed on the tax credit certificate.
1728 (b) (i) If, after review of the application, the office determines that the taxpayer has
1729 provided inadequate information to issue a tax credit certificate on some or all of the expenses
1730 or payments for which the taxpayer seeks to claim a tax credit, the office shall:
1731 (A) inform the taxpayer that the application is incomplete or inadequate; and
1732 (B) request that the taxpayer submit additional documentation within a time frame

1733 specified by the office.

1734 (ii) If the taxpayer fails to comply with the request for additional documentation, the
1735 office shall:

1736 (A) for an application that the office is able to certify some of the submitted expenses
1737 or payments, issue a tax credit certificate in accordance with Subsection (3)(a) for the qualified
1738 research expenses or payment to a qualified organization for basic research that the office is
1739 able to certify; or

1740 (B) for an application that the office is unable to certify any of the submitted expenses
1741 or payments, deny a tax credit certificate.

1742 (4) A taxpayer shall retain a copy of the tax credit certificate issued under Subsection
1743 (3) for the same time period the taxpayer is required to keep books and records under Section
1744 59-1-1406.

1745 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1746 office shall make rules describing:

1747 (a) the form of an application for a tax credit certificate under this section;

1748 (b) the documentation requirements for a taxpayer to receive a tax credit certificate
1749 under this section; and

1750 (c) administration of the tax credit certificate issuance process, including relevant
1751 timelines and deadlines.

1752 Section 21. Section **63N-2-903** is enacted to read:

1753 **63N-2-903. Calculation of state tax credit.**

1754 (1) (a) The research tax credit described in Subsection 59-7-612(2)(a)(i) or
1755 59-10-1012(2)(a)(i) is equal to 5% of the taxpayer's qualified research expenses that:

1756 (i) the taxpayer incurred during the taxable year; and

1757 (ii) exceed the base amount calculated in accordance with Subsection (2).

1758 (b) The tax credit described in Subsection 59-7-612(2)(a)(ii) or 59-10-1012(2)(a)(ii) is
1759 equal to 5% of the payment to a qualified organization for basic research that:

1760 (i) the taxpayer made during the taxable year; and

1761 (ii) exceeds the taxpayer's base amount calculated in accordance with Subsection (2).

1762 (c) The additional research tax credit described in Subsection 59-7-612(2)(a)(iii) or
1763 59-10-1012(2)(a)(iii) is equal to 7.5% of the taxpayer's qualified research expenses incurred

1764 during the taxable year.

1765 (2) (a) The office shall calculate qualified research expenses as provided in Section
1766 41(b), Internal Revenue Code, except that the taxpayer shall include only:

1767 (i) in-house research expenses incurred in this state; and

1768 (ii) contract research expenses incurred in this state.

1769 (b) The office shall calculate a taxpayer's base amount as provided in Section 41(c),
1770 Internal Revenue Code, except that:

1771 (i) the base amount does not include the calculation of the alternative incremental
1772 credit provided for in Section 41(c)(4), Internal Revenue Code;

1773 (ii) (A) for a taxpayer that files an income tax return under Title 59, Chapter 7,
1774 Corporate Franchise and Income Taxes, the taxpayer's gross receipts include only those gross
1775 receipts attributable to sources within this state as provided in Title 59, Chapter 7, Part 3,
1776 Allocation and Apportionment of Income - Utah UDITPA Provisions; or

1777 (B) for a taxpayer that files an income tax return under Title 59, Chapter 10, Individual
1778 Income Tax Act, the taxpayer's gross receipts include only those gross receipts attributable to
1779 sources within this state as provided in Section 59-10-118; and

1780 (iii) a taxpayer:

1781 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B),
1782 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
1783 and

1784 (B) may not revoke an election to be treated as a start-up company under Subsection
1785 (2)(b)(iii)(A).

1786 (c) The office shall determine whether a taxpayer made a payment to a qualified
1787 organization for basic research as provided in Section 41(e), Internal Revenue Code.

1788 **Section 22. Repealer.**

1789 This bill repeals:

1790 Section **59-7-605, Definitions -- Tax credits related to energy efficient vehicles.**

1791 Section **59-10-1009, Definitions -- Tax credits related to energy efficient vehicles.**

1792 Section **63N-2-305, Targeted business income tax credit structure -- Revenue and**
1793 **Taxation Interim Committee study.**

1794 Section 23. **Retrospective operation.**

1795 This bill has retrospective operation for a taxable year beginning on or after January 1,
1796 2019.