

Representative Kay J. Christofferson proposes the following substitute bill:

INCENTIVE PROGRAM AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies and repeals provisions related to tax credits.

Highlighted Provisions:

This bill:

- ▶ creates an independent audit and certification process for the severance tax credit for well recompletion or workover;
- ▶ creates a verification process for the severance tax credit for conversion of natural gas to hydrogen fuel for use in a zero emission motor vehicle;
- ▶ 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



26 codes;

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

29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill has retrospective operation.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **40-6-16**, as last amended by Laws of Utah 2016, Chapter 317

37 **59-5-102**, as last amended by Laws of Utah 2017, Chapter 262

38 **59-7-159**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

39 **59-7-610**, as last amended by Laws of Utah 2015, Chapter 283

40 **59-7-614**, as last amended by Laws of Utah 2018, Chapters 426 and 436

41 **59-7-614.10**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

42 **59-10-137**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

43 **59-10-210**, as last amended by Laws of Utah 2015, Chapter 283

44 **59-10-1007**, as last amended by Laws of Utah 2015, Chapter 283

45 **59-10-1014**, as last amended by Laws of Utah 2018, Chapters 426 and 436

46 **59-10-1024**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

47 **59-10-1037**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

48 **63M-4-401**, as last amended by Laws of Utah 2017, Chapters 227 and 470

49 **63N-2-213**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

50 **63N-2-304**, as last amended by Laws of Utah 2017, Chapter 352

51 ENACTS:

52 **59-7-624**, Utah Code Annotated 1953

53 **59-10-1112**, Utah Code Annotated 1953

54 REPEALS:

55 **59-7-605**, as last amended by Laws of Utah 2016, Chapters 369 and 375

56 **59-10-1009**, as last amended by Laws of Utah 2016, Chapters 369 and 375

57 [63N-2-305](#), as last amended by Laws of Utah 2017, Chapter 352

58

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

60 Section 1. Section **40-6-16** is amended to read:

61 **40-6-16. Duties of division.**

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

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

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

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

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

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

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

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

76 (7) complete the verification of natural gas to hydrogen conversion plants required by
77 Section [59-5-102](#).

78 Section 2. Section **59-5-102** is amended to read:

79 **59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual**
80 **exemption -- Tax credit -- Tax rate reduction.**

81 (1) As used in this section:

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

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

84 [(a)] (c) "Royalty rate" means the percentage of the interests described in Subsection
85 (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian
86 tribe and the oil or gas producer.

87 [(b)] (d) "Taxable value" means the total value of the oil or gas minus:

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

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

91 ~~[(c)]~~ (e) "Taxable volume" means:

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

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

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

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

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

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

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

102 (i) produced; and

103 (ii) (A) saved;

104 (B) sold; or

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

106 ~~[(e)]~~ (g) "Total volume" means:

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

108 (A) produced; and

109 (B) (I) saved;

110 (II) sold; or

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

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

113 (A) produced; and

114 (B) (I) saved;

115 (II) sold; or

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

117 ~~[(f)]~~ (h) "Value of oil or gas taken in kind" means the volume of oil or gas taken in
118 kind multiplied by the market price for oil or gas at the location where the oil or gas was

119 produced on the date the oil or gas was taken in kind.

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

124 (i) produced; and

125 (ii) (A) saved;

126 (B) sold; or

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

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

129 (i) an interest of:

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

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

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

136 (ii) the value of:

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

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

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

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

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

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

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

- 150 (iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and
- 151 (iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.
- 152 (b) The severance tax on natural gas shall be calculated as follows:
- 153 (i) dividing the taxable value by the taxable volume;
- 154 (ii) (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the
- 155 figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection
- 156 (4)(b)(i); and
- 157 (B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure
- 158 calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);
- 159 (iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and
- 160 (iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.
- 161 (c) The severance tax on natural gas liquids shall be calculated by multiplying the
- 162 taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).
- 163 (4) Subject to Subsection (9):
- 164 (a) the severance tax rate for oil is as follows:
- 165 (i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil;
- 166 and
- 167 (ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;
- 168 (b) the severance tax rate for natural gas is as follows:
- 169 (i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per
- 170 MCF for gas; and
- 171 (ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas;
- 172 and
- 173 (c) the severance tax rate for natural gas liquids is 4% of the taxable value of the
- 174 natural gas liquids.
- 175 (5) If oil or gas is shipped outside the state:
- 176 (a) the shipment constitutes a sale; and
- 177 (b) the oil or gas is subject to the tax imposed by this section.
- 178 (6) (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is
- 179 not imposed until the oil or gas is:
- 180 (i) sold;

181 (ii) transported; or

182 (iii) delivered.

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

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

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

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

192 (i) 20% of the taxpayer's payment of expenses of a well recompletion or workover

193 during the calendar year; and

194 (ii) \$30,000.

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

198 (d) (i) To claim a tax credit under this Subsection (7), a taxpayer shall follow the
199 procedures and requirements of this Subsection (7)(d).

200 (ii) The taxpayer shall prepare a report of the taxpayer's expenses of a recompletion or
201 well workover during the calendar year.

202 (iii) An independent certified public accountant shall:

203 (A) review the report from the taxpayer; and

204 (B) attest to the accuracy and validity of the report, including the amount of expenses
205 of a recompletion or well workover.

206 (iv) The taxpayer shall submit the taxpayer's report and the attestation to the division
207 to verify that the expenses certified by the independent certified accountant are well
208 recompletion or workover expenses.

209 (v) The division shall return to the taxpayer:

210 (i) the taxpayer's report;

211 (ii) the attestation by the certified public accountant; and

212 (iii) a report that includes the amount of approved well recompletion or workover
213 expenses.

214 (vi) The taxpayer shall apply to the office for a tax credit certificate to receive a written
215 certification, on a form approved by the commission, that includes:

216 (A) the amount of the taxpayer's payments of expenses of a well recompletion or
217 workover during the calendar year; and

218 (B) the amount of the taxpayer's tax credit.

219 (vii) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate
220 for the same time period that a person is required to keep books and records under Section
221 [59-1-1406](#).

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

223 (i) the name and identifying information of each taxpayer to which the office issues a
224 certificate; and

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

226 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
227 office may make rules to govern the application process for receiving a tax credit certification
228 under this Subsection (7).

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

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

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

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

237 (b) The [~~tax credit a~~] taxpayer may claim [~~under Subsection (8)(a) is~~] a tax credit equal
238 to the [~~amount of tax that the taxpayer owes under this section, subject to a maximum of~~
239 ~~\$5,000,000 per year.~~] lesser of:

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

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

242 (c) (i) To claim a tax credit under this Subsection (8), a taxpayer shall follow the

243 procedures and requirements of this Subsection (8)(c).

244 (ii) The taxpayer shall request that the division verify that the taxpayer owns or
245 operates a plant in this state:

246 (A) that converts natural gas to hydrogen fuel; and

247 (B) at which all natural gas is converted to hydrogen fuel for use in zero emission
248 motor vehicles.

249 (d) The division shall submit to the commission an electronic list that includes the
250 name and identifying information of each taxpayer for which the division completed the
251 verification described in Subsection (8)(c).

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

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

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

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

258 (i) produced; and

259 (ii) (A) saved;

260 (B) sold; or

261 (C) transported from the field.

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

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

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

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

273 **59-7-159. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

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

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

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

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

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

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

299 (i) Section 59-7-601;

300 (ii) Section 59-7-607;

301 (iii) Section 59-7-612;

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

303 (v) Section 59-7-614.5.

304 (b) On or before November 30, 2018, and every three years after 2018, the committee

305 shall conduct the review required under Subsection (2) of the tax credits allowed under the
 306 following sections:

- 307 (i) Section 59-7-609;
 308 (ii) Section 59-7-614.2;
 309 (iii) Section 59-7-614.10;
 310 ~~[(iv) Section 59-7-617;]~~
 311 ~~[(v)]~~ (iv) Section 59-7-619; ~~[and]~~
 312 ~~[(vi)]~~ (v) Section 59-7-620[-]; ~~and~~
 313 (vi) Section 59-7-624.

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

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

323 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
 324 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
 325 2017.

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

328 Section 4. Section 59-7-610 is amended to read:

329 **59-7-610. Recycling market development zones tax credit.**

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

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

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

- 367 (B) the date that the taxpayer made the payment to a third party;
368 (C) the amount that the taxpayer paid to each third party;
369 (D) the total amount that the taxpayer paid to all third parties;
370 (E) a statement that the net expenditures support the establishment and operation of
371 recycling or composting technology in Utah; and
372 (F) the amount of the taxpayer's tax credit.

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

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

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

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

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

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

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

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

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

397 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or

398 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
399 calculated:

- 400 (a) for the taxable year in which the taxpayer made the purchases or payments;
401 (b) before any other tax credits the taxpayer may claim for the taxable year; and
402 (c) before the taxpayer claiming a tax credit authorized by this section.

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

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

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

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

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

416 [~~(i) if the taxpayer may claim or carry forward the tax credit in accordance with~~
417 ~~Subsections (1) and (2), and]~~

418 [~~(ii) subject to Subsections (3) and (4).]~~

419 [~~(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January~~
420 ~~1, 2001, a]~~

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

424 [~~(7)] (8) A taxpayer may not claim or carry forward a tax credit [available] under this~~

425 section for a taxable year during which the taxpayer [~~has claimed~~] claims the targeted business

426 income tax credit [available] under Section [~~63N-2-305~~] 59-7-624.

427 Section 5. Section **59-7-614** is amended to read:

428 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**

429 **Rulemaking authority.**

430 (1) As used in this section:

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

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

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

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

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

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

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

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

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

443 (B) a biomass system;

444 (C) a direct use geothermal system;

445 (D) a geothermal electricity system;

446 (E) a geothermal heat pump system;

447 (F) a hydroenergy system;

448 (G) a passive solar system; or

449 (H) a wind system;

450 (ii) located in the state; and

451 (iii) used:

452 (A) to supply energy to a commercial unit; or

453 (B) as a commercial enterprise.

454 (d) "Commercial enterprise" means an entity, the purpose of which is to produce
455 electrical, mechanical, or thermal energy for sale from a commercial energy system.

456 (e) (i) "Commercial unit" means a building or structure that an entity uses to transact
457 business.

458 (ii) Notwithstanding Subsection (1)(e)(i):

459 (A) with respect to an active solar system used for agricultural water pumping or a

460 wind system, each individual energy generating device is considered to be a commercial unit;
461 or

462 (B) if an energy system is the building or structure that an entity uses to transact
463 business, a commercial unit is the complete energy system itself.

464 (f) "Direct use geothermal system" means a system of apparatus and equipment that
465 enables the direct use of geothermal energy to meet energy needs, including heating a building,
466 an industrial process, and aquaculture.

467 (g) "Geothermal electricity" means energy that is:

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

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

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

471 (i) "Geothermal heat pump system" means a system of apparatus and equipment that:

472 (i) enables the use of thermal properties contained in the earth at temperatures well
473 below 100 degrees Fahrenheit; and

474 (ii) helps meet heating and cooling needs of a structure.

475 (j) "Hydroenergy system" means a system of apparatus and equipment that is capable
476 of:

477 (i) intercepting and converting kinetic water energy into electrical or mechanical
478 energy; and

479 (ii) transferring this form of energy by separate apparatus to the point of use or storage.

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

481 (l) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
482 a building and its operable components to provide for collection, storage, and distribution of
483 heating or cooling during the appropriate times of the year by utilizing the climate resources
484 available at the site.

485 (ii) "Passive solar system" includes those portions and components of a building that
486 are expressly designed and required for the collection, storage, and distribution of solar energy.

487 (m) "Photovoltaic system" means an active solar system that generates electricity from
488 sunlight.

489 (n) (i) "Principal recovery portion" means the portion of a lease payment that
490 constitutes the cost a person incurs in acquiring a commercial energy system.

- 491 (ii) "Principal recovery portion" does not include:
- 492 (A) an interest charge; or
- 493 (B) a maintenance expense.
- 494 (o) "Residential energy system" means the following used to supply energy to or for a
- 495 residential unit:
- 496 (i) an active solar system;
- 497 (ii) a biomass system;
- 498 (iii) a direct use geothermal system;
- 499 (iv) a geothermal heat pump system;
- 500 (v) a hydroenergy system;
- 501 (vi) a passive solar system; or
- 502 (vii) a wind system.
- 503 (p) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
- 504 unit that:
- 505 (A) is located in the state; and
- 506 (B) serves as a dwelling for a person, group of persons, or a family.
- 507 (ii) "Residential unit" does not include property subject to a fee under:
- 508 (A) Section [59-2-405](#);
- 509 (B) Section [59-2-405.1](#);
- 510 (C) Section [59-2-405.2](#);
- 511 (D) Section [59-2-405.3](#); or
- 512 (E) Section [72-10-110.5](#).
- 513 (q) "Wind system" means a system of apparatus and equipment that is capable of:
- 514 (i) intercepting and converting wind energy into mechanical or electrical energy; and
- 515 (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,
- 516 or storage.
- 517 (2) A taxpayer may claim an energy system tax credit as provided in this section
- 518 against a tax due under this chapter for a taxable year.
- 519 (3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a
- 520 nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer
- 521 owns or uses if:

522 (i) the taxpayer:
523 (A) purchases and completes a residential energy system to supply all or part of the
524 energy required for the residential unit; or
525 (B) participates in the financing of a residential energy system to supply all or part of
526 the energy required for the residential unit;
527 (ii) the residential energy system is completed and placed in service on or after January
528 1, 2007; and
529 (iii) the taxpayer obtains a written certification from the office in accordance with
530 Subsection (7).
531 (b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection
532 (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy
533 system installed with respect to each residential unit the taxpayer owns or uses.
534 (ii) A tax credit under this Subsection (3) may include installation costs.
535 (iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in
536 which the residential energy system is completed and placed in service.
537 (iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax
538 liability under this chapter for a taxable year, the amount of the tax credit exceeding the
539 liability may be carried forward for a period that does not exceed the next four taxable years.
540 (c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a
541 residential energy system, other than a photovoltaic system, may not exceed \$2,000 per
542 residential unit.
543 (d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a
544 photovoltaic system may not exceed:
545 (i) for a system installed on or after January 1, 2018₂ but on or before December 31,
546 2020, \$1,600;
547 (ii) for a system installed on or after January 1, 2021₂ but on or before December 31,
548 2021, \$1,200;
549 (iii) for a system installed on or after January 1, 2022₂ but on or before December 31,
550 2022, \$800;
551 (iv) for a system installed on or after January 1, 2023₂ but on or before December 31,
552 2023, \$400; and

- 553 (v) for a system installed on or after January 1, 2024, \$0.
- 554 (e) If a taxpayer sells a residential unit to another person before the taxpayer claims the
555 tax credit under this Subsection (3):
- 556 (i) the taxpayer may assign the tax credit to the other person; and
- 557 (ii) (A) if the other person files a return under this chapter, the other person may claim
558 the tax credit under this section as if the other person had met the requirements of this section
559 to claim the tax credit; or
- 560 (B) if the other person files a return under Chapter 10, Individual Income Tax Act, the
561 other person may claim the tax credit under Section 59-10-1014 as if the other person had met
562 the requirements of Section 59-10-1014 to claim the tax credit.
- 563 (4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a
564 refundable tax credit under this Subsection (4) with respect to a commercial energy system if:
- 565 (i) the commercial energy system does not use:
- 566 (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a
567 total of 660 or more kilowatts of electricity; or
- 568 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;
- 569 (ii) the taxpayer purchases or participates in the financing of the commercial energy
570 system;
- 571 (iii) (A) the commercial energy system supplies all or part of the energy required by
572 commercial units owned or used by the taxpayer; or
- 573 (B) the taxpayer sells all or part of the energy produced by the commercial energy
574 system as a commercial enterprise;
- 575 (iv) the commercial energy system is completed and placed in service on or after
576 January 1, 2007; and
- 577 (v) the taxpayer obtains a written certification from the office in accordance with
578 Subsection (7).
- 579 (b) (i) Subject to Subsections (4)(b)(ii) through (v), the tax credit is equal to 10% of the
580 reasonable costs of the commercial energy system.
- 581 (ii) A tax credit under this Subsection (4) may include installation costs.
- 582 (iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in
583 which the commercial energy system is completed and placed in service.

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

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

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

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

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

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

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

600 (ii) (A) the commercial energy system supplies all or part of the energy required by
601 commercial units owned or used by the taxpayer; or

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

604 (iii) the commercial energy system is completed and placed in service on or after
605 January 1, 2007; and

606 (iv) the taxpayer obtains a written certification from the office in accordance with
607 Subsection (7).

608 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)
609 is equal to the product of:

610 (A) 0.35 cents; and

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

612 (ii) A tax credit under this Subsection (5) may be claimed for production occurring
613 during a period of 48 months beginning with the month in which the commercial energy
614 system is placed in commercial service.

615 (iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

616 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial
617 unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor
618 irrevocably elects not to claim the tax credit.

619 (6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a
620 refundable tax credit as provided in this Subsection (6) if:

621 (i) the taxpayer owns a commercial energy system that uses solar equipment capable of
622 producing a total of 660 or more kilowatts of electricity;

623 (ii) (A) the commercial energy system supplies all or part of the energy required by
624 commercial units owned or used by the taxpayer; or

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

627 (iii) the taxpayer does not claim a tax credit under Subsection (4);

628 (iv) the commercial energy system is completed and placed in service on or after
629 January 1, 2015; and

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

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

634 (A) 0.35 cents; and

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

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

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

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

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

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

646 (i) the taxpayer meets the requirements of this section to receive a tax credit; and
647 (ii) the residential energy system or commercial energy system with respect to which
648 the taxpayer seeks to claim a tax credit:

- 649 (A) has been completely installed;
- 650 (B) is a viable system for saving or producing energy from renewable resources; and
- 651 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
652 energy system or commercial energy system uses the state's renewable and nonrenewable
653 energy resources in an appropriate and economic manner.

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

- 656 (i) for determining whether a residential energy system or commercial energy system
657 meets the requirements of Subsection (7)(b)(ii); and
- 658 (ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable
659 costs of a residential energy system or a commercial energy system, as an amount per unit of
660 energy production.

661 (d) A taxpayer that obtains a written certification from the office shall retain the
662 certification for the same time period a person is required to keep books and records under
663 Section [59-1-1406](#).

- 664 (e) The office shall submit to the commission an electronic list that includes:
 - 665 (i) the name and identifying information of each taxpayer to which the office issues a
666 written certification; and
 - 667 (ii) for each taxpayer:
 - 668 (A) the amount of the tax credit listed on the written certification; and
 - 669 (B) the date the renewable energy system was installed.

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

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

674 Section 6. Section **59-7-614.10** is amended to read:

675 **59-7-614.10. Nonrefundable enterprise zone tax credit.**

676 (1) As used in this section:

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

679 (b) "Office" means the Governor's Office of Economic Development created in Section
680 [63N-1-201](#).

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

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

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

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

692 (6) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim
693 Committee shall study the tax credit allowed by this section and make recommendations
694 concerning whether the tax credit should be continued, modified, or repealed.

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

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

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

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

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

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

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

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

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

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

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

- 721 (i) the cost of the tax credit to the state;
- 722 (ii) the purpose and effectiveness of the tax credit; and
- 723 (iii) the extent to which the state benefits from the tax credit.

724 Section 7. Section **59-7-624** is enacted to read:

725 **59-7-624. Targeted business income tax credit.**

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

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

731 (3) For a taxable year for which a business applicant claims a targeted business income
732 tax credit available under this section, the business applicant may not claim or carry forward a
733 tax credit available under Section [59-7-610](#), Section [59-10-1007](#), or Title 63N, Chapter 2, Part
734 2, Enterprise Zone Act.

735 Section 8. Section **59-10-137** is amended to read:

736 **59-10-137. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

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

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

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

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

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

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

762 (i) Section 59-10-1004;

763 (ii) Section 59-10-1010;

764 (iii) Section 59-10-1015;

765 (iv) Section 59-10-1025;

766 (v) Section 59-10-1027;

767 (vi) Section 59-10-1031;

768 (vii) Section 59-10-1032;

769 (viii) Section 59-10-1035;

- 770 (ix) Section 59-10-1104;
- 771 (x) Section 59-10-1105; and
- 772 (xi) Section 59-10-1108.

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

- 776 (i) Section 59-10-1005;
- 777 (ii) Section 59-10-1006;
- 778 (iii) Section 59-10-1012;
- 779 [~~(iv)~~ Section ~~59-10-1013~~];
- 780 [~~(v)~~] (iv) Section 59-10-1022;
- 781 [~~(vi)~~] (v) Section 59-10-1023;
- 782 [~~(vii)~~] (vi) Section 59-10-1028;
- 783 [~~(viii)~~] (vii) Section 59-10-1034;
- 784 [~~(ix)~~] (viii) Section 59-10-1037; [~~and~~]
- 785 [~~(x)~~] (ix) Section 59-10-1107[-]; and
- 786 (x) Section 59-10-1112.

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

- 790 (i) Section 59-10-1007;
- 791 [~~(ii)~~ Section ~~59-10-1009~~];
- 792 [~~(iii)~~] (ii) Section 59-10-1014;
- 793 [~~(iv)~~] (iii) Section 59-10-1017;
- 794 [~~(v)~~] (iv) Section 59-10-1018;
- 795 [~~(vi)~~] (v) Section 59-10-1019;
- 796 [~~(vii)~~] (vi) Section 59-10-1024;
- 797 [~~(viii)~~] (vii) Section 59-10-1029;
- 798 [~~(ix)~~] (viii) Section 59-10-1030;
- 799 [~~(x)~~] (ix) Section 59-10-1033;
- 800 [~~(xi)~~] (x) Section 59-10-1036;

801 [~~(xii)~~] (xi) Section 59-10-1106; and

802 [~~(xiii)~~] (xii) Section 59-10-1111.

803 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
804 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
805 2017.

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

808 Section 9. Section 59-10-210 is amended to read:

809 **59-10-210. Fiduciary adjustments.**

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

812 (a) of:

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

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

815 (b) as provided in this section.

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

818 (a) the additions to and subtractions from unadjusted income of a resident or
819 nonresident estate or trust required by Section 59-10-202; and

820 (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:

821 (i) Section 59-6-102;

822 (ii) Part 10, Nonrefundable Tax Credit Act;

823 (iii) Part 11, Refundable Tax Credit Act;

824 (iv) Section 59-13-202;

825 (v) Section 63N-2-213; or

826 (vi) Section [~~63N-2-305~~] 59-10-1112.

827 (3) (a) The respective shares of an estate or trust and its beneficiaries, including for the
828 purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be
829 allocated in proportion to their respective shares of federal distributable net income of the
830 estate or trust.

831 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net

832 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be
833 allocated in proportion to that beneficiary's share of the estate or trust income for the taxable
834 year that is, under state law or the governing instrument, required to be distributed currently
835 plus any other amounts of that income distributed in that taxable year.

836 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of
837 the fiduciary adjustments shall be allocated to the estate or trust.

838 (4) (a) The commission shall allow a fiduciary to use a method for determining the
839 allocation of the fiduciary adjustments described in Subsection (2) other than the method
840 described in Subsection (3) if using the method described in Subsection (3) results in an
841 inequity:

842 (i) in allocating the fiduciary adjustments described in Subsection (2); and

843 (ii) if the inequity is substantial:

844 (A) in amount; and

845 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
846 (2).

847 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
848 commission may make rules authorizing a fiduciary to use a method for determining the
849 allocation of the fiduciary adjustments described in Subsection (2) other than the method
850 described in Subsection (3) if using the method described in Subsection (3) results in an
851 inequity:

852 (i) in allocating the fiduciary adjustments described in Subsection (2); and

853 (ii) if the inequity is substantial:

854 (A) in amount; and

855 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
856 (2).

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

858 **59-10-1007. Recycling market development zones tax credit.**

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

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

865 ~~[(A)]~~ (i) commercial composting; or
866 ~~[(B)]~~ (ii) manufacturing facilities or plant units that:

867 ~~[(H)]~~ (A) manufacture, process, compound, or produce recycled items of tangible
868 personal property for sale; or
869 ~~[(H)]~~ (B) reduce or reuse postconsumer waste material[-]; and

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

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

874 (ii) \$2,000.

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

878 ~~[(A) on a form provided by the commission; and]~~
879 ~~[(B) before a claimant, estate, or trust is allowed a tax credit under this section.]~~

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

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

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

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

888 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;
889 (C) the purchase price for the machinery and equipment;

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

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

893 (F) a statement that the machinery and equipment are integral to the composting or

894 recycling process; and

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

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

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

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

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

900 (E) a statement that the net expenditures support the establishment and operation of

901 recycling or composting technology in Utah; and

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

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

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

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

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

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

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

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

924 (i) the name and identifying information of each claimant, estate, or trust to which the

925 office issues a written certification; and

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

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

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

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

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

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

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

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

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

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

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

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

954 [~~(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January~~
955 ~~1, 2001, a]~~

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

959 ~~(7)~~ (8) A claimant, estate, or trust may not claim or carry forward a tax credit
960 available under this section for a taxable year during which the claimant, estate, or trust ~~has~~
961 ~~claimed~~ claims the targeted business income tax credit ~~[available]~~ under Section ~~[[63N-2-305](#)]~~
962 [59-10-1112](#).

963 Section 11. Section **59-10-1014** is amended to read:

964 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**
965 **Certification -- Rulemaking authority.**

966 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

985 (i) enables the use of thermal properties contained in the earth at temperatures well
986 below 100 degrees Fahrenheit; and

987 (ii) helps meet heating and cooling needs of a structure.

988 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable
989 of:

990 (i) intercepting and converting kinetic water energy into electrical or mechanical
991 energy; and

992 (ii) transferring this form of energy by separate apparatus to the point of use or storage.

993 (h) "Office" means the Office of Energy Development created in Section 63M-4-401.

994 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
995 a building and its operable components to provide for collection, storage, and distribution of
996 heating or cooling during the appropriate times of the year by utilizing the climate resources
997 available at the site.

998 (ii) "Passive solar system" includes those portions and components of a building that
999 are expressly designed and required for the collection, storage, and distribution of solar energy.

1000 (j) "Photovoltaic system" means an active solar system that generates electricity from
1001 sunlight.

1002 (k) (i) "Principal recovery portion" means the portion of a lease payment that
1003 constitutes the cost a person incurs in acquiring a residential energy system.

1004 (ii) "Principal recovery portion" does not include:

1005 (A) an interest charge; or

1006 (B) a maintenance expense.

1007 (l) "Residential energy system" means the following used to supply energy to or for a
1008 residential unit:

1009 (i) an active solar system;

1010 (ii) a biomass system;

1011 (iii) a direct use geothermal system;

1012 (iv) a geothermal heat pump system;

1013 (v) a hydroenergy system;

1014 (vi) a passive solar system; or

1015 (vii) a wind system.

1016 (m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
1017 unit that:

- 1018 (A) is located in the state; and
- 1019 (B) serves as a dwelling for a person, group of persons, or a family.
- 1020 (ii) "Residential unit" does not include property subject to a fee under:
 - 1021 (A) Section 59-2-405;
 - 1022 (B) Section 59-2-405.1;
 - 1023 (C) Section 59-2-405.2;
 - 1024 (D) Section 59-2-405.3; or
 - 1025 (E) Section 72-10-110.5.
- 1026 (n) "Wind system" means a system of apparatus and equipment that is capable of:
 - 1027 (i) intercepting and converting wind energy into mechanical or electrical energy; and
 - 1028 (ii) transferring these forms of energy by a separate apparatus to the point of use or
 - 1029 storage.
- 1030 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in
- 1031 this section against a tax due under this chapter for a taxable year.
- 1032 (3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust
- 1033 may claim a nonrefundable tax credit under this section with respect to a residential unit the
- 1034 claimant, estate, or trust owns or uses if:
 - 1035 (a) the claimant, estate, or trust:
 - 1036 (i) purchases and completes a residential energy system to supply all or part of the
 - 1037 energy required for the residential unit; or
 - 1038 (ii) participates in the financing of a residential energy system to supply all or part of
 - 1039 the energy required for the residential unit;
 - 1040 (b) the residential energy system is installed on or after January 1, 2007; and
 - 1041 (c) the claimant, estate, or trust obtains a written certification from the office in
 - 1042 accordance with Subsection (5).
- 1043 (4) (a) For a residential energy system, other than a photovoltaic system, the tax credit
- 1044 described in this section is equal to the lesser of:
 - 1045 (i) 25% of the reasonable costs, including installation costs, of each residential energy
 - 1046 system installed with respect to each residential unit the claimant, estate, or trust owns or uses;
 - 1047 and
 - 1048 (ii) \$2,000.

1049 (b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic
1050 system, the tax credit described in this section is equal to the lesser of:

1051 (i) 25% of the reasonable costs, including installation costs, of each system installed
1052 with respect to each residential unit the claimant, estate, or trust owns or uses; or

1053 (ii) (A) for a system installed on or after January 1, 2007, but on or before December
1054 31, 2017, \$2,000;

1055 (B) for a system installed on or after January 1, 2018, but on or before December 31,
1056 2020, \$1,600;

1057 (C) for a system installed on or after January 1, 2021, but on or before December 31,
1058 2021, \$1,200;

1059 (D) for a system installed on or after January 1, 2022, but on or before December 31,
1060 2022, \$800;

1061 (E) for a system installed on or after January 1, 2023, but on or before December 31,
1062 2023, \$400; and

1063 (F) for a system installed on or after January 1, 2024, \$0.

1064 (c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or
1065 trust may claim and list that amount on the written certification that the office issues under
1066 Subsection (5).

1067 (ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the
1068 written certification that the office issues under Subsection (5).

1069 (d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the
1070 taxable year in which the residential energy system is installed.

1071 (e) If the amount of a tax credit listed on the written certification exceeds a claimant's,
1072 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust
1073 may carry forward the amount of the tax credit exceeding the liability for a period that does not
1074 exceed the next four taxable years.

1075 (f) A claimant, estate, or trust may claim a tax credit with respect to additional
1076 residential energy systems or parts of residential energy systems for a subsequent taxable year
1077 if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per
1078 residential unit.

1079 (g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a

1080 residential energy system installed on a residential unit may claim a tax credit under Subsection
1081 (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax
1082 credit.

1083 (ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential
1084 energy system may claim as a tax credit under Subsection (3) only the principal recovery
1085 portion of the lease payments.

1086 (iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a
1087 residential energy system may claim a tax credit under Subsection (3) for a period that does not
1088 exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

1089 (h) If a claimant, estate, or trust sells a residential unit to another person before the
1090 claimant, estate, or trust claims the tax credit under Subsection (3):

1091 (i) the claimant, estate, or trust may assign the tax credit to the other person; and

1092 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and
1093 Income Taxes, the other person may claim the tax credit as if the other person had met the
1094 requirements of Section 59-7-614 to claim the tax credit; or

1095 (B) if the other person files a return under this chapter, the other person may claim the
1096 tax credit under this section as if the other person had met the requirements of this section to
1097 claim the tax credit.

1098 (5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1099 claimant, estate, or trust shall obtain a written certification from the office.

1100 (b) The office shall issue a claimant, estate, or trust a written certification if the office
1101 determines that:

1102 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1103 credit; and

1104 (ii) the office determines that the residential energy system with respect to which the
1105 claimant, estate, or trust seeks to claim a tax credit:

1106 (A) has been completely installed;

1107 (B) is a viable system for saving or producing energy from renewable resources; and

1108 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
1109 energy system uses the state's renewable and nonrenewable energy resources in an appropriate
1110 and economic manner.

1111 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1112 office may make rules:

1113 (i) for determining whether a residential energy system meets the requirements of
1114 Subsection (5)(b)(ii); and

1115 (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or
1116 trust may receive under Subsection (4), establishing the reasonable costs of a residential energy
1117 system, as an amount per unit of energy production.

1118 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1119 retain the certification for the same time period a person is required to keep books and records
1120 under Section [59-1-1406](#).

1121 (e) The office shall submit to the commission an electronic list that includes:

1122 (i) the name and identifying information of each claimant, estate, or trust to which the
1123 office issues a written certification; and

1124 (ii) for each claimant, estate, or trust:

1125 (A) the amount of the tax credit listed on the written certification; and

1126 (B) the date the renewable energy system was installed.

1127 (6) A tax credit under this section is in addition to any tax credits provided under the
1128 laws or rules and regulations of the United States.

1129 (7) A purchaser of one or more solar units that claims a tax credit under Section
1130 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
1131 section for that purchase.

1132 Section 12. Section **59-10-1024** is amended to read:

1133 **59-10-1024. Nonrefundable tax credit for qualifying solar projects.**

1134 (1) As used in this section:

1135 (a) "Active solar system" means the same as that term is defined in Section
1136 [59-10-1014](#).

1137 (b) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

1138 [~~(b)~~] (c) "Purchaser" means a claimant, estate, or trust that purchases one or more solar
1139 units from a qualifying political subdivision.

1140 [~~(c)~~] (d) "Qualifying political subdivision" means:

1141 (i) a city or town in this state;

1142 (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;

1143 or

1144 (iii) a special service district created under Title 17D, Chapter 1, Special Service

1145 District Act.

1146 ~~[(d)]~~ (e) "Qualifying solar project" means the portion of an active solar system:

1147 (i) that a qualifying political subdivision:

1148 (A) constructs;

1149 (B) controls; or

1150 (C) owns;

1151 (ii) with respect to which the qualifying political subdivision ~~[described in Subsection~~

1152 ~~(1)(e)(i)]~~ sells one or more solar units; and

1153 (iii) that generates electrical output that is furnished:

1154 (A) to one or more residential units; or

1155 (B) for the benefit of one or more residential units.

1156 ~~[(e)]~~ (f) "Residential unit" means the same as that term is defined in Section

1157 59-10-1014.

1158 ~~[(f)]~~ (g) "Solar unit" means a portion of the electrical output:

1159 (i) of a qualifying solar project;

1160 (ii) that a qualifying political subdivision sells to a purchaser; and

1161 (iii) the purchase of which requires that the purchaser agree to bear a proportionate

1162 share of the expense of the qualifying solar project:

1163 (A) in accordance with a written agreement between the purchaser and the qualifying

1164 political subdivision;

1165 (B) in exchange for a credit on the purchaser's electrical bill; and

1166 (C) as determined by a formula established by the qualifying political subdivision.

1167 ~~[(2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009,~~

1168 ~~a purchaser may claim a nonrefundable tax credit equal to the product of:]~~

1169 ~~[(a) the amount the purchaser pays to purchase one or more solar units during the~~

1170 ~~taxable year; and]~~

1171 ~~[(b) 25%.]~~

1172 ~~[(3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a~~

1173 return.]

1174 (2) (a) Subject to Subsections (2)(b) and (3), a purchaser may claim a nonrefundable
1175 tax credit equal to the amount stated on a tax credit certificate issued by the office.

1176 (b) The maximum tax credit per taxpayer per taxable year is the lesser of:

1177 (i) 25% of the amount that the purchaser pays to purchase one or more solar units
1178 during the taxable year; and

1179 (ii) \$2,000.

1180 (3) (a) To claim a tax credit under this section, a purchaser shall receive a tax credit
1181 certificate from the office.

1182 (b) The purchaser shall submit, with the purchaser's application for a tax credit
1183 certificate, proof of the purchaser's purchase of one or more solar units.

1184 (c) If the office determines that the purchaser purchased one or more solar units during
1185 the taxable year, the office shall:

1186 (i) determine the amount of the purchaser's tax credit; and

1187 (ii) issue, on a form approved by the commission, a tax credit certificate to the
1188 purchaser that states the amount of the purchaser's tax credit.

1189 (d) If the office determines that a claimant, estate, or trust requesting a tax credit
1190 certificate is not eligible for a tax credit certificate under this section but may be eligible for a
1191 tax credit certificate under Section [59-10-1014](#), the office shall treat the claimant, estate, or
1192 trust as applying for a written certification in accordance with Section [59-10-1014](#).

1193 (e) A purchaser who receives a tax credit certificate shall retain the tax credit certificate
1194 for the same time period that a person is required to keep books and records under Section
1195 [59-1-1406](#).

1196 (f) The office shall submit to the commission an electronic list that includes:

1197 (i) the name and identifying information of each purchaser to whom the office issued a
1198 certificate; and

1199 (ii) for each claimant, estate, or trust:

1200 (A) the amount of the tax credit listed on the written certification; and

1201 (B) the date or dates the claimant, estate, or trust purchased one or more solar units.

1202 (4) A purchaser may carry forward a tax credit under this section for a period that does
1203 not exceed the next four taxable years if:

1204 (a) the purchaser is allowed to claim a tax credit under this section for a taxable year;
1205 and

1206 (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter
1207 for that taxable year.

1208 (5) Subject to Section [59-10-1014](#), a tax credit under this section is in addition to any
1209 other tax credit allowed by this chapter.

1210 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1211 office may make rules to govern the application process for receiving a tax credit certificate.

1212 Section 13. Section **59-10-1037** is amended to read:

1213 **59-10-1037. Nonrefundable enterprise zone tax credit.**

1214 (1) As used in this section:

1215 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1216 "business entity" as that term is defined in Section [63N-2-202](#).

1217 (b) "Office" means the Governor's Office of Economic Development created in Section
1218 [63N-1-201](#).

1219 (2) Subject to the provisions of this section, a business entity may claim a
1220 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

1221 (3) The enterprise zone tax credit under this section is the amount listed as the tax
1222 credit amount on the tax credit certificate that the office issues to the business entity for the
1223 taxable year.

1224 (4) A business entity may carry forward a tax credit under this section for a period that
1225 does not exceed the next three taxable years, if the amount of the tax credit exceeds the
1226 business entity's tax liability under this chapter for that taxable year.

1227 (5) A business entity may not claim or carry forward a tax credit available under this
1228 part for a taxable year during which the business entity has claimed the targeted business
1229 income tax credit available under Section [~~63N-2-305~~] [59-10-1112](#).

1230 (6) (a) In accordance with Section [59-10-137](#), the Revenue and Taxation Interim
1231 Committee shall study the tax credit allowed by this section and make recommendations
1232 concerning whether the tax credit should be continued, modified, or repealed.

1233 (b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by
1234 this Subsection (6), the office shall provide by electronic means the following information, if

1235 available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:
1236 (A) the amount of tax credits provided in each development zone;
1237 (B) the number of new full-time employee positions reported to obtain tax credits in
1238 each development zone;
1239 (C) the amount of tax credits awarded for rehabilitating a building in each development
1240 zone;
1241 (D) the amount of tax credits awarded for investing in a plant, equipment, or other
1242 depreciable property in each development zone;
1243 (E) the information related to the tax credit contained in the office's latest report under
1244 Section [63N-1-301](#); and
1245 (F) other information that the Office of the Legislative Fiscal Analyst requests.
1246 (ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall
1247 redact information that identifies a recipient of a tax credit under this section.
1248 (B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting
1249 the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a
1250 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
1251 provide the information described in Subsection (6)(b)(i) in the aggregate for all development
1252 zones that receive the tax credit under this section.
1253 (c) As part of the study required by this Subsection (6), the Office of the Legislative
1254 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
1255 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
1256 office under Subsection (6)(b).
1257 (d) The Revenue and Taxation Interim Committee shall ensure that the
1258 recommendations described in Subsection (6)(a) include an evaluation of:
1259 (i) the cost of the tax credit to the state;
1260 (ii) the purpose and effectiveness of the tax credit; and
1261 (iii) the extent to which the state benefits from the tax credit.
1262 Section 14. Section **59-10-1112** is enacted to read:
1263 **59-10-1112. Targeted business income tax credit.**
1264 (1) As used in this section, "business applicant" means the same as that term is defined
1265 in Section [63N-2-302](#).

1266 (2) A business applicant that is certified and issued a targeted business income tax
1267 eligibility certificate by the office under Section [63N-2-304](#) may claim a refundable tax credit
1268 in the amount specified on the targeted business income tax eligibility certificate.

1269 (3) For a taxable year for which a business applicant claims a targeted business income
1270 tax credit available under this section, the business applicant may not claim or carry forward a
1271 tax credit available under Section [59-7-610](#), Section [59-10-1007](#), or Title 63N, Chapter 2, Part
1272 2, Enterprise Zone Act.

1273 Section 15. Section **63M-4-401** is amended to read:

1274 **63M-4-401. Office of Energy Development -- Creation -- Director -- Purpose --**
1275 **Rulemaking regarding confidential information -- Fees.**

1276 (1) There is created an Office of Energy Development.

1277 (2) (a) The governor's energy advisor shall serve as the director of the office or appoint
1278 a director of the office.

1279 (b) The director:

1280 (i) shall, if the governor's energy advisor appoints a director under Subsection (2)(a),
1281 report to the governor's energy advisor; and

1282 (ii) may appoint staff as funding within existing budgets allows.

1283 (c) The office may consolidate energy staff and functions existing in the state energy
1284 program.

1285 (3) The purposes of the office are to:

1286 (a) serve as the primary resource for advancing energy and mineral development in the
1287 state;

1288 (b) implement:

1289 (i) the state energy policy under Section [63M-4-301](#); and

1290 (ii) the governor's energy and mineral development goals and objectives;

1291 (c) advance energy education, outreach, and research, including the creation of
1292 elementary, higher education, and technical college energy education programs;

1293 (d) promote energy and mineral development workforce initiatives; and

1294 (e) support collaborative research initiatives targeted at Utah-specific energy and
1295 mineral development.

1296 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal

1297 Funds Procedures Act, the office may:

1298 (a) seek federal grants or loans;

1299 (b) seek to participate in federal programs; and

1300 (c) in accordance with applicable federal program guidelines, administer federally

1301 funded state energy programs.

1302 (5) The office shall perform the duties required by Sections [11-42a-106](#), [59-5-102](#),

1303 [59-7-614.7](#), [59-10-1029](#), Part 5, Alternative Energy Development Tax Credit Act, and Part 6,

1304 High Cost Infrastructure Development Tax Credit Act.

1305 (6) (a) For purposes of administering this section, the office may make rules, by

1306 following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative

1307 Rulemaking Act, to maintain as confidential, and not as a public record, information that the

1308 office receives from any source.

1309 (b) The office shall maintain information the office receives from any source at the

1310 level of confidentiality assigned by the source.

1311 (7) The office may charge application, filing, and processing fees in amounts

1312 determined by the office in accordance with Section [63J-1-504](#) as dedicated credits for

1313 performing office duties described in this part.

1314 Section 16. Section **63N-2-213** is amended to read:

1315 **63N-2-213. State tax credits.**

1316 (1) The office shall certify a business entity's eligibility for a tax credit described in this

1317 section.

1318 (2) A business entity seeking to receive a tax credit as provided in this section shall

1319 provide the office with:

1320 (a) an application for a tax credit certificate in a form approved by the office, including

1321 a certification, by an officer of the business entity, of a signature on the application; and

1322 (b) documentation that demonstrates the business entity has met the requirements to

1323 receive the tax credit.

1324 (3) If, after review of an application and documentation provided by a business entity

1325 as described in Subsection (2), the office determines that the application and documentation are

1326 inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

1327 (a) deny the tax credit; or

1328 (b) inform the business entity that the application or documentation was inadequate
1329 and ask the business entity to submit additional documentation.

1330 (4) If, after review of an application and documentation provided by a business entity
1331 as described in Subsection (2), the office determines that the application and documentation
1332 provide reasonable justification for authorizing a tax credit, the office shall:

- 1333 (a) determine the amount of the tax credit to be granted to the business entity;
- 1334 (b) issue a tax credit certificate to the business entity; and
- 1335 (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

1336 (5) A business entity may not claim a tax credit under this section unless the business
1337 entity has a tax credit certificate issued by the office.

1338 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1339 office shall make rules describing:

- 1340 (a) the form and content of an application for a tax credit under this section;
- 1341 (b) the documentation requirements for a business entity to receive a tax credit
1342 certificate under this section; and
- 1343 (c) administration of the program, including relevant timelines and deadlines.

1344 (7) Subject to the limitations of Subsections (8) through (10), and if the requirements
1345 of this part are met, the following nonrefundable tax credits against a tax under Title 59,
1346 Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income
1347 Tax Act, are applicable in an enterprise zone:

1348 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
1349 employee position created within the enterprise zone;

1350 (b) an additional \$500 tax credit may be claimed if the new full-time employee position
1351 created within the enterprise zone pays at least 125% of:

1352 (i) the county average monthly nonagricultural payroll wage for the respective industry
1353 as determined by the Department of Workforce Services; or

1354 (ii) if the county average monthly nonagricultural payroll wage is not available for the
1355 respective industry, the total average monthly nonagricultural payroll wage in the respective
1356 county where the enterprise zone is located;

1357 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
1358 position created within the enterprise zone is in a business entity that adds value to agricultural

1359 commodities through manufacturing or processing;

1360 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
1361 new full-time employee position created within the enterprise zone that is filled by an
1362 employee who is insured under an employer-sponsored health insurance program if the
1363 employer pays at least 50% of the premium cost for the year for which the credit is claimed;

1364 (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the
1365 enterprise zone that has been vacant for two years or more; and

1366 (f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
1367 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
1368 property.

1369 (8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax
1370 credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30
1371 full-time employee positions in a taxable year.

1372 (b) A business entity that received a tax credit for one or more new full-time employee
1373 positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for
1374 a new full-time employee position in a subsequent taxable year under Subsections (7)(a)
1375 through (d) if:

1376 (i) the business entity has created a new full-time position within the enterprise zone;
1377 and

1378 (ii) the total number of full-time employee positions at the business entity at any point
1379 during the tax year for which the tax credit is being claimed is greater than the highest number
1380 of full-time employee positions that existed at the business entity in the previous three taxable
1381 years.

1382 (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a)
1383 through (d).

1384 (9) If the amount of a tax credit under this section exceeds a business entity's tax
1385 liability under this chapter for a taxable year, the business entity may carry forward the amount
1386 of the tax credit exceeding the liability for a period that does not exceed the next three taxable
1387 years.

1388 (10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business
1389 entity primarily engaged in retail trade or by a public utilities business.

1390 (11) A business entity that has no employees:

1391 (a) may not claim tax credits under Subsections (7)(a) through (d); and

1392 (b) may claim tax credits under Subsections (7)(e) through (f).

1393 (12) (a) A business entity may not claim or carry forward a tax credit available under
1394 this part for a taxable year during which the business entity has claimed the targeted business
1395 income tax credit available under Section [~~63N-2-305~~] 63N-2-304.

1396 (b) A business entity may not claim or carry forward a tax credit available under this
1397 section for a taxable year during which the business entity claims or carries forward a tax credit
1398 available under Section 59-7-610 or 59-10-1007.

1399 (13) (a) On or before November 30, 2018, and every three years after 2018, the
1400 Revenue and Taxation Interim Committee shall review the tax credits provided by this section
1401 and make recommendations concerning whether the tax credits should be continued, modified,
1402 or repealed.

1403 (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation
1404 Interim Committee shall:

1405 (i) schedule time on at least one committee agenda to conduct the review;

1406 (ii) invite state agencies, individuals, and organizations concerned with the credits
1407 under review to provide testimony;

1408 (iii) ensure that the recommendations described in this section include an evaluation of:

1409 (A) the cost of the tax credits to the state;

1410 (B) the purpose and effectiveness of the tax credits; and

1411 (C) the extent to which the state benefits from the tax credits; and

1412 (iv) undertake other review efforts as determined by the chairs of the Revenue and
1413 Taxation Interim Committee.

1414 Section 17. Section **63N-2-304** is amended to read:

1415 **63N-2-304. Application for targeted business income tax credit.**

1416 (1) (a) [~~For a taxable year beginning on or after January 1, 2017, a~~] A business
1417 applicant may apply to the office for a targeted business income tax credit eligibility certificate
1418 under this part if the business applicant:

1419 (i) is located in:

1420 (A) an enterprise zone; and

- 1421 (B) a county with a population of less than 25,000;
- 1422 (ii) meets the requirements of Section [63N-2-212](#);
- 1423 (iii) provides a community investment project within the enterprise zone; and
- 1424 (iv) is not engaged in the following:
 - 1425 (A) construction;
 - 1426 (B) retail trade; or
 - 1427 (C) public utility activities.
- 1428 (b) For a taxable year for which a business applicant claims a targeted business income
- 1429 tax credit available under this part, the business applicant may not claim or carry forward a tax
- 1430 credit available under Section [59-7-610](#), [59-10-1007](#), or [63N-2-213](#).
- 1431 (2) (a) A business applicant seeking to claim a targeted business income tax credit
- 1432 under this part shall submit an application to the office by no later than June 1 of the taxable
- 1433 year in which the business applicant is seeking to claim the targeted business income tax credit.
- 1434 (b) The application described in Subsection (2)(a) shall include:
 - 1435 (i) any documentation required by the office to demonstrate that the business applicant
 - 1436 meets the requirements of Subsection (1);
 - 1437 (ii) a plan developed by the business applicant that describes:
 - 1438 (A) if the community investment project includes significant new employment, the
 - 1439 projected number and anticipated wage level of the jobs that the business applicant plans to
 - 1440 create as the basis for qualifying for a targeted business income tax credit;
 - 1441 (B) if the community investment project includes significant new capital development,
 - 1442 the capital development the business applicant plans to make as the basis for qualifying for a
 - 1443 targeted business income tax credit;
 - 1444 (C) how the business applicant's plan coordinates with the goals of the enterprise zone
 - 1445 in which the business applicant is providing a community investment project;
 - 1446 (D) how the business applicant's plan coordinates with the overall economic
 - 1447 development goals of the county or municipality in which the business applicant is providing a
 - 1448 community investment project;
 - 1449 (E) any matching funds that will be used for the community investment project;
 - 1450 (F) how any targeted business income tax credit incentives that were awarded in a
 - 1451 previous year have been used for the community investment project by the business applicant;

1452 and

1453 (G) the requested amount of the targeted business income tax credit; and

1454 (iii) any additional information required by the office.

1455 (3) (a) The office shall:

1456 (i) evaluate an application filed under Subsection (2);

1457 (ii) determine whether the business applicant is potentially eligible for a targeted

1458 business income tax credit; and

1459 (iii) if the business applicant is potentially eligible for a targeted business income tax
1460 credit, determine performance benchmarks and the deadline for meeting those benchmarks that
1461 the business applicant must achieve before the office awards a targeted business income tax
1462 credit to the business applicant.

1463 (b) If the office determines that the business applicant is potentially eligible for a
1464 targeted business income tax credit, the office shall:

1465 (i) notify the business applicant that the business applicant is eligible for a targeted
1466 business income tax credit if the business applicant meets the performance benchmarks by the
1467 deadline as determined by the office as described in Subsection (3)(a)(iii);

1468 (ii) notify the business applicant of the potential amount of the targeted business
1469 income tax credit that may be awarded to the business applicant, which amount may be no
1470 more than \$100,000 for the business applicant in a taxable year; and

1471 (iii) monitor a business applicant to ensure compliance with this section and to
1472 measure the business applicant's progress in meeting performance benchmarks.

1473 (c) If the business applicant provides evidence to the office, in a form prescribed by the
1474 office, that the business applicant has achieved the performance benchmarks by the deadline as
1475 determined by the office as described in Subsection (3)(a)(iii), the office shall:

1476 (i) certify that the business applicant is eligible for a targeted business income tax
1477 credit;

1478 (ii) issue a targeted business income tax credit eligibility certificate to the business
1479 applicant in accordance with [~~Section 63N-2-305~~; and];

1480 (A) for a business applicant that files a return under Title 59, Chapter 7, Corporate
1481 Franchise and Income Taxes, Section 59-7-624; or

1482 (B) for a business applicant that files a return under Title 59, Chapter 10, Individual

1483 Income Tax Act, Section 59-10-1112; and

1484 (iii) provide a duplicate copy of the targeted business income tax credit eligibility
1485 certificate to the State Tax Commission.

1486 (4) The total amount of the targeted business income tax credit eligibility certificates
1487 that the office issues under this part for all business applicants may not exceed \$300,000 in any
1488 fiscal year.

1489 (5) (a) A business applicant shall retain the targeted business income tax credit
1490 eligibility certificate as issued under Subsection (3) for the same time period that a person is
1491 required to keep books and records under Section 59-1-1406.

1492 (b) The office may audit a business applicant to ensure:

1493 (i) eligibility for a targeted business income tax credit; and

1494 (ii) compliance with this section.

1495 **Section 18. Repealer.**

1496 This bill repeals:

1497 Section 59-7-605, Definitions -- Tax credits related to energy efficient vehicles.

1498 Section 59-10-1009, Definitions -- Tax credits related to energy efficient vehicles.

1499 Section 63N-2-305, Targeted business income tax credit structure -- Revenue and
1500 **Taxation Interim Committee study.**

1501 **Section 19. Retrospective operation.**

1502 This bill has retrospective operation for a taxable year beginning on or after January 1,
1503 2019.