

HB0389S01 compared with HB0389

~~{deleted text}~~ shows text that was in HB0389 but was deleted in HB0389S01.

Inserted text shows text that was not in HB0389 but was inserted into HB0389S01.

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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: _____

LONG TITLE

General Description:

This bill modifies and repeals provisions related to tax credits.

Highlighted Provisions:

This bill:

- ▶ creates ~~{a tax credit certificate}~~ an independent audit and certification process for the severance tax credit for well recompletion or workover ~~{severance tax credit}~~;
- ▶ creates a ~~{tax credit certificate}~~ verification process for the severance tax credit for conversion of natural gas ~~{that is converted}~~ to hydrogen fuel for use in a zero emission motor ~~{vehicles}~~ vehicle;
- ~~{~~ → creates a tax credit certificate process for the research activities corporate and individual income tax credits;
- ~~}~~ ▶ creates a tax credit certificate process for the qualifying solar project individual

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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 codes;
- ▶ repeals the expired income tax credits for the purchase or lease of an energy efficient vehicle; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ENACTS:

59-7-624, Utah Code Annotated 1953

59-10-1112, Utah Code Annotated 1953

~~{ 63N-2-901, Utah Code Annotated 1953~~

~~— 63N-2-902, Utah Code Annotated 1953~~

~~— 63N-2-903, Utah Code Annotated 1953~~

REPEALS:

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

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

63N-2-305, as last amended by Laws of Utah 2017, Chapter 352

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

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

40-6-16. Duties of division.

~~[(1)]~~ In addition to the duties assigned by the board, the division shall:

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

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

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

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

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

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

~~[(2) The director shall, by October 30, 2016, report to the Commission for the~~

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Stewardship of Public Lands regarding the division's recommendations for how the state shall deal with oil, gas, and mining issues in the Utah Public Land Management Act.]

(7) ~~{issue tax credit certificates in accordance with}~~ complete the verification of natural gas to hydrogen conversion plants required by Section 59-5-102.

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

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

(1) As used in this section:

(a) "Division" means the Division of Oil, Gas, and Mining ~~{}~~ created in Section 40-6-15.

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

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

~~{(b)}~~ ~~(c)~~ (d) "Taxable value" means the total value of the oil or gas minus:

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

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

~~{(c)}~~ ~~(d)~~ (e) "Taxable volume" means:

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

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

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

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

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

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

~~{(d)}~~ ~~(e)~~ (f) "Total value" means the value, as determined by Section 59-5-103.1, of all oil or gas that is:

(i) produced; and

(ii) (A) saved;

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(B) sold; or

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

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

(i) for oil, the number of barrels:

(A) produced; and

(B) (I) saved;

(II) sold; or

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

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

(A) produced; and

(B) (I) saved;

(II) sold; or

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

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

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

(i) produced; and

(ii) (A) saved;

(B) sold; or

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

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

(i) an interest of:

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

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

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

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States; and

(ii) the value of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Subject to Subsection (9):

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

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

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and

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

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

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

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

and

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

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

(a) the shipment constitutes a sale; and

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

(6) (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:

(i) sold;

(ii) transported; or

(iii) delivered.

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

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

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

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

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

(ii) \$30,000.

(c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for

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the calendar year in which the taxpayer claims the tax credit.

(d) (i) To claim a tax credit under this Subsection (7), a taxpayer shall ~~receive a tax credit certificate from~~ follow the ~~division~~ procedures and requirements of this Subsection (7)(d).

(ii) The taxpayer shall ~~submit with~~ prepare a report of the taxpayer's ~~application~~ expenses of a recompletion or well workover during the calendar year.

(iii) An independent certified public accountant shall:

(A) review the report from the taxpayer; and

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

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

(v) The division shall return to the taxpayer:

(i) the taxpayer's report;

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

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

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

(A) the amount of the taxpayer's ~~payment~~ payments of expenses ~~for each~~ of a well recompletion or workover during the calendar year~~;~~

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

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

~~—— (ii) issue, on a form provided by the commission, a tax credit certificate to the taxpayer that states}; and~~

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

~~(ff) vii)~~ A taxpayer that receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under

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Section 59-1-1406.

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

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

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

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

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

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

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

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

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

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

(ii) \$5,000,000.

(c) (i) To claim a tax credit under this Subsection (8), a taxpayer shall ~~{receive a tax credit certificate from}~~ follow the ~~division~~ procedures and requirements of this Subsection (8)(c).

(ii) The taxpayer shall ~~{submit with the taxpayer's application for a tax credit certificate}~~

~~— (A) proof}~~ request that the division verify that the taxpayer owns or operates a plant in this state:

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

(B) ~~{proof that}~~ at which all ~~{ of the natural gas on which the taxpayer owes a severance~~

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~~tax under this section is used for production of;~~ natural gas is converted to hydrogen fuel for use in zero emission motor vehicles.

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

~~— (e) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.~~

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

~~— (i) the name and identifying information of each taxpayer to for which the division issues a certificate; and~~

~~— (ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate;~~ completed the verification described in Subsection (8)(c).

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

(10) The taxes imposed by this section are:

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

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

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Section 59-7-601;

(ii) Section 59-7-607;

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- (iii) Section 59-7-612;
- (iv) Section 59-7-614.1; and
- (v) Section 59-7-614.5.

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

- (i) Section 59-7-609;
- (ii) Section 59-7-614.2;
- (iii) Section 59-7-614.10;
- ~~[(iv) Section 59-7-617;]~~
- ~~[(v)]~~ (iv) Section 59-7-619; ~~[and]~~
- ~~[(vi)]~~ (v) Section 59-7-620~~[-]; and~~
- (vi) Section 59-7-624.

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

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

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

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

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

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

(1) ~~[For taxable years beginning on or after January 1, 1996, a]~~ Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market

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development zone as defined in Section 63N-2-402 may claim ~~a tax credit as provided in this section.]~~ the following nonrefundable tax credits:

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

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

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

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

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

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

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

(ii) \$2,000.

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

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

~~[(B) before a taxpayer is allowed a tax credit under this section.]~~

(2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the Governor's Office of Economic Development a written certification, on a form ~~provided~~ approved by the commission, that includes:

(i) a statement that the taxpayer is operating a business within the boundaries of a recycling market development zone;

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

(A) the type of the machinery and equipment that the taxpayer purchased;

(B) the date that the taxpayer purchased the machinery and equipment;

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

(D) the total purchase price for all machinery and equipment for which the taxpayer is claiming a tax credit;

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

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recycling process; and

(F) the amount of the taxpayer's tax credit; and

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

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer paid to all third parties;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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section for a taxable year during which the taxpayer [~~has claimed~~] claims the targeted business income tax credit [~~available~~] under Section [~~63N-2-305~~] 59-7-624.

Section 5. Section ~~{59-7-612}~~ 59-7-614 is amended to read:

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

~~_____ (1) As used in this section:~~

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

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

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

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

~~_____ (ii) contract research expenses incurred in this state.~~

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

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

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

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

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

~~_____ [(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs~~

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~~the qualified research expenses; or]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (b) A taxpayer may not carry forward the tax credit allowed by Subsection [(1)] (2)(a)(iii):~~

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

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

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

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

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

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

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

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

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

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

~~—— [(A) continued;]~~

~~—— [(B) modified; or]~~

~~—— [(C) repealed.]~~

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

~~—— Section 6. Section 59-7-614 is amended to read:~~

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

(1) As used in this section:

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

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

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

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

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

- (i) converting material into biomass energy, as defined in Section 59-12-102; and
- (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

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

- (i) (A) an active solar system;
- (B) a biomass system;
- (C) a direct use geothermal system;
- (D) a geothermal electricity system;
- (E) a geothermal heat pump system;
- (F) a hydroenergy system;
- (G) a passive solar system; or
- (H) a wind system;
- (ii) located in the state; and
- (iii) used:

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

(B) as a commercial enterprise.

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

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

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

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

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

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

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

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

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- (ii) used as a sole source of energy to produce electricity.
- (h) "Geothermal energy" means energy generated by heat that is contained in the earth.
- (i) "Geothermal heat pump system" means a system of apparatus and equipment that:
 - (i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and
 - (ii) helps meet heating and cooling needs of a structure.
- (j) "Hydroenergy system" means a system of apparatus and equipment that is capable of:
 - (i) intercepting and converting kinetic water energy into electrical or mechanical energy; and
 - (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- (k) "Office" means the Office of Energy Development created in Section 63M-4-401.
- (l) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.
 - (ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.
- (m) "Photovoltaic system" means an active solar system that generates electricity from sunlight.
- (n) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.
 - (ii) "Principal recovery portion" does not include:
 - (A) an interest charge; or
 - (B) a maintenance expense.
- (o) "Residential energy system" means the following used to supply energy to or for a residential unit:
 - (i) an active solar system;
 - (ii) a biomass system;
 - (iii) a direct use geothermal system;
 - (iv) a geothermal heat pump system;

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- (v) a hydroenergy system;
- (vi) a passive solar system; or
- (vii) a wind system.

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

- (A) is located in the state; and
- (B) serves as a dwelling for a person, group of persons, or a family.
- (ii) "Residential unit" does not include property subject to a fee under:

- (A) Section 59-2-405;
- (B) Section 59-2-405.1;
- (C) Section 59-2-405.2;
- (D) Section 59-2-405.3; or
- (E) Section 72-10-110.5.

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

- (i) intercepting and converting wind energy into mechanical or electrical energy; and
- (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,

or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

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

(i) the taxpayer:

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

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

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

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

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

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

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

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

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

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

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

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

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

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

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

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

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

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

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

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the requirements of Section 59-10-1014 to claim the tax credit.

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

(i) the commercial energy system does not use:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) 0.35 cents; and

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

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

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

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

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

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

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

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commercial units owned or used by the taxpayer; or

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

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

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

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

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

(A) 0.35 cents; and

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

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

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

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

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

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

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

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

(A) has been completely installed;

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

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

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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office may make rules:

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

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

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

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

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

(ii) for each taxpayer:

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and

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analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

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

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

Section ~~48~~7. Section **59-7-624** is enacted to read:

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

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

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

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

Section ~~49~~8. Section **59-10-137** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

(iii) Section 59-10-1015;

(iv) Section 59-10-1025;

(v) Section 59-10-1027;

(vi) Section 59-10-1031;

(vii) Section 59-10-1032;

(viii) Section 59-10-1035;

(ix) Section 59-10-1104;

(x) Section 59-10-1105; and

(xi) Section 59-10-1108.

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

(i) Section 59-10-1005;

(ii) Section 59-10-1006;

(iii) Section 59-10-1012;

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~~[(iv) Section 59-10-1013;]~~

~~[(v)]~~ (iv) Section 59-10-1022;

~~[(vi)]~~ (v) Section 59-10-1023;

~~[(vii)]~~ (vi) Section 59-10-1028;

~~[(viii)]~~ (vii) Section 59-10-1034;

~~[(ix)]~~ (viii) Section 59-10-1037; ~~[and]~~

~~[(x)]~~ (ix) Section 59-10-1107[-]; and

(x) Section 59-10-1112.

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

(i) Section 59-10-1007;

~~[(ii) Section 59-10-1009;]~~

~~[(iii)]~~ (ii) Section 59-10-1014;

~~[(iv)]~~ (iii) Section 59-10-1017;

~~[(v)]~~ (iv) Section 59-10-1018;

~~[(vi)]~~ (v) Section 59-10-1019;

~~[(vii)]~~ (vi) Section 59-10-1024;

~~[(viii)]~~ (vii) Section 59-10-1029;

~~[(ix)]~~ (viii) Section 59-10-1030;

~~[(x)]~~ (ix) Section 59-10-1033;

~~[(xi)]~~ (x) Section 59-10-1036;

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

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

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

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

Section ~~59-10-209~~9. Section **59-10-210** is amended to read:

59-10-210. Fiduciary adjustments.

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

(a) of:

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

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

(b) as provided in this section.

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

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

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

(i) Section 59-6-102;

(ii) Part 10, Nonrefundable Tax Credit Act;

(iii) Part 11, Refundable Tax Credit Act;

(iv) Section 59-13-202;

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

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

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

(b) If the estate or trust described in Subsection (3)(a) has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be allocated in proportion to that beneficiary's share of the estate or trust income for the taxable year that is, under state law or the governing instrument, required to be distributed currently plus any other amounts of that income distributed in that taxable year.

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

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

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inequity:

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

(2).

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

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

(2).

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

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

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

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

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

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

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

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

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

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test

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inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah; and

(ii) \$2,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) before any other tax credits the claimant, estate, or trust may claim for the taxable

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year; and

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

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

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

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

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

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

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

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

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

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

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

Section ~~{12}~~ 11. Section ~~{59-10-1012}~~ 59-10-1014 is amended to read:

~~{~~ 59-10-1012. Definitions--Tax credits for research activities conducted in the

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~~state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.~~

~~—— (1) As used in this section:~~

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

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

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

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

~~—— (ii) contract research expenses incurred in this state.~~

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

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

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

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

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

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

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

~~—— (b) A claimant, estate, or trust may claim a tax credit in an amount equal to the amount~~

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~~stated on the tax credit certificate for each tax credit:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (i) may [be carried forward] carry forward the amount of the tax credit that exceeds the claimant's, estate's, or trust's tax liability for a period that does not exceed the next 14 taxable years; and~~

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

~~—— (b) A claimant, estate, or trust may not carry forward the tax credit allowed by Subsection [(1)] (2)(a)(iii).~~

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

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

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

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

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

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~~provided for in Section 41(h), Internal Revenue Code.]~~

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

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

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

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

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

~~—— [(A) continued;]~~

~~—— [(B) modified; or]~~

~~—— [(C) repealed.]~~

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

~~—— Section 13. Section 59-10-1014 is amended to read:~~

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

(1) As used in this section:

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

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

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

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

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

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

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

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building,

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an industrial process, and aquaculture.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) an interest charge; or

(B) a maintenance expense.

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

(i) an active solar system;

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- (ii) a biomass system;
- (iii) a direct use geothermal system;
- (iv) a geothermal heat pump system;
- (v) a hydroenergy system;
- (vi) a passive solar system; or
- (vii) a wind system.

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

- (A) is located in the state; and
 - (B) serves as a dwelling for a person, group of persons, or a family.
- (ii) "Residential unit" does not include property subject to a fee under:

- (A) Section 59-2-405;
- (B) Section 59-2-405.1;
- (C) Section 59-2-405.2;
- (D) Section 59-2-405.3; or
- (E) Section 72-10-110.5.

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

- (i) intercepting and converting wind energy into mechanical or electrical energy; and
- (ii) transferring these forms of energy by a separate apparatus to the point of use or

storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

(a) the claimant, estate, or trust:

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

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

(b) the residential energy system is installed on or after January 1, 2007; and

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(c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(4) (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

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

(ii) \$2,000.

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

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

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

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

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

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

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

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

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

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

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

(e) If the amount of a tax credit listed on the written certification exceeds a claimant's,

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estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

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

(g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

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

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

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

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

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

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

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

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

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax

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credit; and

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

(A) has been completely installed;

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{14}~~12. Section **59-10-1024** is amended to read:

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

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(1) As used in this section:

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

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

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

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

(i) a city or town in this state;

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

or

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

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

(i) that a qualifying political subdivision:

(A) constructs;

(B) controls; or

(C) owns;

(ii) with respect to which the qualifying political subdivision ~~[described in Subsection (b)(1)(c)(i)]~~ [(1)(d)(i)] sells one or more solar units; and

(iii) that generates electrical output that is furnished:

(A) to one or more residential units; or

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

~~[(e)]~~ (f) "Residential unit" means the same as that term is defined in Section 59-10-1014.

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

(i) of a qualifying solar project;

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

(iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:

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

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political subdivision;

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

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

~~[(2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009, a purchaser may claim a nonrefundable tax credit equal to the product of:]~~

~~[(a) the amount the purchaser pays to purchase one or more solar units during the taxable year; and]~~

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

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

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

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

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

(ii) \$2,000.

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

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

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

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

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

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

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

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59-1-1406.

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the

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business entity's tax liability under this chapter for that taxable year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~416~~14. Section **59-10-1112** is enacted to read:

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

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

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

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

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

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

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

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

(b) The director:

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

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

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

(3) The purposes of the office are to:

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

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(b) implement:

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

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

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

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

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

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7, 59-10-1029, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6) (a) For purposes of administering this section, the office may make rules, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

Section ~~17~~16. Section **63N-2-213** is amended to read:

63N-2-213. State tax credits.

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

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

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provide the office with:

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

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

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

(a) deny the tax credit; or

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

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

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

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

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

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

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

(a) the form and content of an application for a tax credit under this section;

(b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and

(c) administration of the program, including relevant timelines and deadlines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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years.

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

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

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

(11) A business entity that has no employees:

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~18~~17. Section **63N-2-304** is amended to read:

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

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

(i) is located in:

(A) an enterprise zone; and

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

(ii) meets the requirements of Section 63N-2-212;

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

(iv) is not engaged in the following:

(A) construction;

(B) retail trade; or

(C) public utility activities.

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

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

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

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

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

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

(B) if the community investment project includes significant new capital development, the capital development the business applicant plans to make as the basis for qualifying for a

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targeted business income tax credit;

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

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

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

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

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

(iii) any additional information required by the office.

(3) (a) The office shall:

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

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

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

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

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

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

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

(c) If the business applicant provides evidence to the office, in a form prescribed by the

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office, that the business applicant has achieved the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii), the office shall:

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

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

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

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

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

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

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

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

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

(ii) compliance with this section.

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

Part 9. Research Expenses Tax Credit Act

~~63N-2-901. Definitions:~~

~~(1) As used in this part:~~

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

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

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

~~(d) "Qualified research" means the same as that term is defined in Section 41(d).~~

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~~Internal Revenue Code, except that the term includes only qualified research conducted in this state:~~

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

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

~~—— (ii) contract research expenses incurred in this state.~~

~~—— (f) "Taxpayer" means:~~

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

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

~~—— (2) Except as provided in Subsections (1) and 63N-2-903(2), a term used in this part that is defined in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41, Internal Revenue Code.~~

~~—— Section 20. Section 63N-2-902 is enacted to read:~~

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

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

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

~~—— (a) proof of the taxpayer's:~~

~~—— (i) qualified research expenses during the current taxable year;~~

~~—— (ii) payment to a qualified organization for basic research during the current taxable year; or~~

~~—— (iii) both, if the taxpayer is applying for a tax credit certificate to claim a tax credit for both the taxpayer's qualified research expenses and payments the taxpayer made to a qualified organization for basic research;~~

~~—— (b) information to verify the calculation of the taxpayer's base amount in accordance with Section 63N-2-903;~~

~~—— (c) for each tax credit for which the taxpayer applies to receive a tax credit certificate, the taxpayer's calculation of the amount of tax credit that the taxpayer is eligible to claim;~~

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~~—— (d) a statement explaining whether the taxpayer applying for a tax credit certificate files a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act; and~~

~~—— (e) any other information the office needs to verify the calculation of the amount of the taxpayer's tax credit in accordance with Section 63N-2-903.~~

~~—— (3) (a) If, after review of the application, the office determines that the taxpayer is eligible for one or more tax credits under Section 59-7-612 or 59-10-1012, the office shall:~~

~~—— (i) determine the amount of each tax credit that the taxpayer is eligible to claim;~~

~~—— (ii) issue, on a form provided by the commission, a tax credit certificate to the taxpayer that states:~~

~~—— (A) each tax credit that the office certifies that the taxpayer is eligible to claim; and~~

~~—— (B) the amount of each tax credit that the taxpayer may claim; and~~

~~—— (iii) provide to the commission an electronic list that includes:~~

~~—— (A) the name and identifying information of each taxpayer to which the office issues a certificate; and~~

~~—— (B) for each taxpayer, the amount of each tax credit listed on the tax credit certificate.~~

~~—— (b) (i) If, after review of the application, the office determines that the taxpayer has provided inadequate information to issue a tax credit certificate on some or all of the expenses or payments for which the taxpayer seeks to claim a tax credit, the office shall:~~

~~—— (A) inform the taxpayer that the application is incomplete or inadequate; and~~

~~—— (B) request that the taxpayer submit additional documentation within a time frame specified by the office.~~

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

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

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

~~—— (4) A taxpayer shall retain a copy of the tax credit certificate issued under Subsection~~

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~~(3) for the same time period the taxpayer is required to keep books and records under Section 59-1-1406;~~

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

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

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

~~—— (c) administration of the tax credit certificate issuance process, including relevant timelines and deadlines;~~

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

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

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

~~—— (i) the taxpayer incurred during the taxable year; and~~

~~—— (ii) exceed the base amount calculated in accordance with Subsection (2);~~

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

~~—— (i) the taxpayer made during the taxable year; and~~

~~—— (ii) exceeds the taxpayer's base amount calculated in accordance with Subsection (2);~~

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

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

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

~~—— (ii) contract research expenses incurred in this state;~~

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

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

~~—— (ii) (A) for a taxpayer that files an income tax return under Title 59, Chapter 7;~~

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~~Corporate Franchise and Income Taxes, the taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in Title 59, Chapter 7, Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; or~~

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

~~—— (iii) a taxpayer:~~

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

~~—— (B) may not revoke an election to be treated as a start-up company under Subsection (2)(b)(iii)(A);~~

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

~~—— Section 22}~~ **18. Repealer.**

This bill repeals:

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

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

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

Section ~~{23}~~ **19. Retrospective operation.**

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