

# HB0299S03 compared with HB0299

{deleted text} shows text that was in HB0299 but was deleted in HB0299S03.

inserted text shows text that was not in HB0299 but was inserted into HB0299S03.

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Senator Curtis S. Bramble proposes the following substitute bill:

## OPPORTUNITY ZONE ENHANCEMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mike Winder**

Senate Sponsor: { } Curtis S. Bramble

Cosponsors:

<u>Sandra Hollins</u>	<u>Douglas V. Sagers</u>
<u>Cheryl K. Acton</u>	<u>Rex P. Shipp</u>
<u>Kyle R. Andersen</u>	<u>Lawanna Shurtliff</u>
<u>Patrice M. Arent</u>	<u>Andrew Stoddard</u>
<u>Stewart E. Barlow</u>	<u>Christine F. Watkins</u>
<u>Brady Brammer</u>	<u>Elizabeth Weight</u>
<u>Jennifer Dailey-Provost</u>	<u>Mark A. Wheatley</u>
<u>Susan Duckworth</u>	<u>Marie H. Poulson</u>

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### LONG TITLE

#### General Description:

This bill modifies provisions related to economic development.

#### Highlighted Provisions:

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This bill:

- ▶ defines terms, including "opportunity zone";
- ▶ modifies provisions related to the administration of certain programs within the Division of Air Quality;
- ▶ modifies provisions related to the Olene Walker Housing Loan Fund;
- ▶ modifies provisions related to the Utah low-income housing tax credit;
- ▶ creates a tax credit for eligible construction costs for a parking structure in an opportunity zone;
- ▶ describes the requirements for a business entity to receive, and for the Governor's Office of Economic Development to issue, a tax credit certificate for eligible construction costs in an opportunity zone; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ None }~~ This bill provides retrospective operation.

### Utah Code Sections Affected:

AMENDS:

**19-2-102**, as last amended by Laws of Utah 2015, Chapter 154

**19-2-107**, as last amended by Laws of Utah 2018, Chapter 281

**35A-8-501**, as last amended by Laws of Utah 2017, Chapter 279

**35A-8-507**, as last amended by Laws of Utah 2016, Chapter 131

**35A-8-510**, as enacted by Laws of Utah 2017, Chapter 279

**59-7-607**, as last amended by Laws of Utah 2017, Chapter 279

**59-10-1010**, as last amended by Laws of Utah 2017, Chapter 279

**63I-1-259**, as last amended by Laws of Utah 2019, Chapters 29 and 479

**63I-1-263**, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

ENACTS:

**59-7-625**, Utah Code Annotated 1953

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59-10-1041, 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

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

Section 1. Section **19-2-102** is amended to read:

**19-2-102. Definitions.**

As used in this chapter:

(1) "Air pollutant" means a substance that qualifies as an air pollutant as defined in 42 U.S.C. Sec. 7602.

(2) "Air pollutant source" means private and public sources of emissions of air pollutants.

(3) "Air pollution" means the presence of an air pollutant in the ambient air in the quantities, for a duration, and under the conditions and circumstances that are injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property, as determined by the rules adopted by the board.

(4) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(5) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, actinolite-tremolite, and libby amphibole.

(6) "Asbestos-containing material" means a material containing more than 1% asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos.

(7) "Asbestos inspection" means an activity undertaken to determine the presence or location, or to assess the condition of, asbestos-containing material or suspected asbestos-containing material, whether by visual or physical examination, or by taking samples of the material.

(8) "Board" means the Air Quality Board.

(9) "Clean school bus" means the same as that term is defined in 42 U.S.C. Sec. 16091.

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(10) "Director" means the director of the Division of Air Quality.

(11) "Division" means the Division of Air Quality created in Section 19-1-105.

(12) "Friable asbestos-containing material" means a material containing more than 1% asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos, that hand pressure can crumble, pulverize, or reduce to powder when dry.

(13) "Indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard.

(14) "Opportunity zone" means an area that has been designated as a qualified opportunity zone in the state under Section 1400Z-1, Internal Revenue Code.

Section 2. Section **19-2-107** is amended to read:

### **19-2-107. Director -- Appointment -- Powers.**

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) (a) The director shall:

(i) prepare and develop comprehensive plans for the prevention, abatement, and control of air pollution in Utah;

(ii) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;

(iii) review plans, specifications, or other data relative to air pollution control equipment or any part of the air pollution control equipment;

(iv) under the direction of the executive director, represent the state in all matters relating to interstate air pollution, including interstate compacts and similar agreements;

(v) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(vi) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(vii) encourage local units of government to handle air pollution within their respective jurisdictions on a cooperative basis and provide technical and consulting assistance to them;

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(viii) determine by means of field studies and sampling the degree of air contamination and air pollution in all parts of the state;

(ix) monitor the effects of the emission of air pollutants from motor vehicles on the quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;

(x) collect and disseminate information relating to air contamination and air pollution and conduct educational and training programs relating to air contamination and air pollution;

(xi) assess and collect noncompliance penalties as required in Section 120 of the federal Clean Air Act, 42 U.S.C. Section 7420;

(xii) comply with the requirements of federal air pollution laws;

(xiii) subject to the provisions of this chapter, enforce rules through the issuance of orders, including:

(A) prohibiting or abating discharges of wastes affecting ambient air;

(B) requiring the construction of new control facilities or any parts of new control facilities or the modification, extension, or alteration of existing control facilities or any parts of new control facilities; or

(C) adopting other remedial measures to prevent, control, or abate air pollution; and

(xiv) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the chairman of the board.

(b) The director may:

(i) employ full-time, temporary, part-time, and contract employees necessary to carry out this chapter;

(ii) subject to the provisions of this chapter, authorize an employee or representative of the department to enter at reasonable times and upon reasonable notice in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible air pollution;

(iii) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air pollution and its causes, effects, prevention, abatement, and control, as advisable and necessary for the discharge of duties assigned under this chapter, including the establishment of inventories of pollution sources;

(iv) collect and disseminate information relating to air pollution and the prevention, control, and abatement of it;

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(v) cooperate with studies and research relating to air pollution and its control, abatement, and prevention;

(vi) subject to Subsection (3), upon request, consult concerning the following with a person proposing to construct, install, or otherwise acquire an air pollutant source in Utah:

(A) the efficacy of proposed air pollution control equipment for the source; or

(B) the air pollution problem that may be related to the source;

(vii) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter;

(viii) subject to Subsection 19-2-104(3)(b)(i), settle or compromise a civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; ~~or~~

(ix) subject to the provisions of this chapter, exercise all incidental powers necessary to carry out the purposes of this chapter, including certification to state or federal authorities for tax purposes that air pollution control equipment has been certified in conformity with Title 19, Chapter 12, Pollution Control Act~~[-];~~ or

(x) in the administration of a program providing an incentive to a private entity for the installation of electric vehicle supply equipment, prioritize the applications of private entities that are installing electric vehicle supply equipment in an opportunity zone.

(3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the requirements of this chapter, the rules adopted under this chapter, or any other provision of law.

Section 3. Section **35A-8-501** is amended to read:

### **35A-8-501. Definitions.**

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households whose incomes are at or below certain income requirements at rental rates affordable to such households.

(2) "Board" means the Housing Board created by this part.

(3) "Fund" means the Olene Walker Housing Loan Fund created by this part.

(4) (a) "Housing sponsor" means a person who constructs, develops, rehabilitates,

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purchases, or owns a housing development that is or will be subject to legally enforceable restrictive covenants that require the housing development to provide, at least in part, affordable housing.

(b) "Housing sponsor" may include:

- (i) a local public body;
- (ii) a nonprofit, limited profit, or for profit corporation;
- (iii) a limited partnership;
- (iv) a limited liability company;
- (v) a joint venture;
- (vi) a subsidiary of the Utah Housing Corporation;
- (vii) a cooperative;
- (viii) a mutual housing organization;
- (ix) a local government;
- (x) a local housing authority;
- (xi) a regional or statewide nonprofit housing or assistance organization; or
- (xii) any other entity that helps provide affordable housing.

(5) "Opportunity zone" means an area that has been designated as a qualified opportunity zone in the state under Section 1400Z-1, Internal Revenue Code.

~~[(5)] (6)~~ "Rural" means a county in the state other than Utah, Salt Lake, Davis, or Weber.

Section 4. Section **35A-8-507** is amended to read:

### **35A-8-507. Application process and priorities.**

(1) (a) In each calendar year that money is available from the fund for distribution by the executive director under the direction of the board, the executive director shall, at least once in that year, announce a grant and loan application period by sending notice to interested persons.

(b) The executive director shall accept applications that are received in a timely manner.

(2) The executive director shall give priority to applications for projects and activities in the following order:

- (a) first, to applications for projects and activities intended to minimize homelessness;

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(b) second, to applications for projects and activities that use existing privately owned housing stock, including privately owned housing stock purchased by a nonprofit public development authority; and

(c) third, to all other applications.

(3) Within each level of priority described in Subsection (2), the executive director shall give preference to applications that demonstrate the following:

(a) a high degree of leverage with other sources of financing;

(b) high recipient contributions to total project costs, including allied contributions from other sources such as professional, craft, and trade services and lender interest rate subsidies;

(c) high local government project contributions in the form of infrastructure improvements, or other assistance;

(d) projects that encourage ownership, management, and other project-related responsibility opportunities;

(e) projects that demonstrate a strong probability of serving the original target group or income level for a period of at least 15 years;

(f) projects where the applicant has demonstrated the ability, stability, and resources to complete the project;

(g) projects that appear to serve the greatest need;

(h) projects that provide housing for persons and families with the lowest income;

(i) projects that promote economic development benefits;

(j) projects that align with a local government plan to address housing and homeless services; [~~and~~]

(k) projects that would mitigate or correct existing health, safety, or welfare problems[~~;~~]; and

(l) projects undertaken within the boundaries of an opportunity zone.

(4) The executive director may give consideration to projects that increase the supply of accessible housing.

Section 5. Section **35A-8-510** is amended to read:

### **35A-8-510. Housing loan fund board approval.**

(1) The board shall review the project applications described in Subsection



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35A-8-509(5).

(2) The board may approve a project that meets the requirements of Subsections 35A-8-509(4) and (5) to receive funds from the Economic Revitalization and Investment Fund.

(3) The board shall give preference to projects:

(a) that include significant additional or matching funds from an individual, private organization, or local government entity;

(b) that include significant contributions by the applicant to total project costs, including contributions secured by the applicant from other sources such as professional, craft, and trade services and lender interest rate subsidies;

(c) with significant local government contributions in the form of infrastructure, improvements, or other assistance;

(d) where the applicant has demonstrated the ability, stability, and resources to complete the project;

(e) that will serve the greatest need;

(f) that promote economic development benefits;

(g) that allow integration into a local government housing plan;

(h) that would mitigate or correct existing health, safety, or welfare concerns; ~~or~~

(i) that remedy a gap in the supply of and demand for affordable housing~~[-]; or~~

(j) that are undertaken within the boundaries of an opportunity zone.

Section 6. Section **59-7-607** is amended to read:

### **59-7-607. Utah low-income housing tax credit.**

(1) As used in this section:

(a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the Utah Housing Corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate; and

(ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate.

(b) "Building" means a qualified low-income building as defined in Section 42(c),

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Internal Revenue Code.

(c) "Credit period" means the "credit period" as defined in Section 42(f)(1), Internal Revenue Code.

(d) (i) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor itself or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the Utah Housing Corporation regarding the assignment of tax credits under this section.

(ii) Before the Utah Housing Corporation may issue an allocation certificate to a housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's designated reporter to the Utah Housing Corporation.

(iii) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate to a qualified taxpayer, a designated reporter shall provide the information described in Subsection (6) to the Utah Housing Corporation.

(e) "Federal low-income housing tax credit" means the federal tax credit described in Section 42, Internal Revenue Code.

(f) "Housing sponsor" means an entity that owns a qualified development.

(g) "Opportunity zone" means an area that has been designated as a qualified opportunity zone in the state under Section 1400Z-1, Internal Revenue Code.

~~(g)~~ (h) "Qualified allocation plan" means a qualified allocation plan adopted by the Utah Housing Corporation in accordance with Section 42(m), Internal Revenue Code.

~~(h)~~ (i) "Qualified development" means a "qualified low-income housing project":

(i) as defined in Section 42(g)(1), Internal Revenue Code; and

(ii) that is located in the state.

~~(i)~~ (j) (i) "Qualified taxpayer" means a person that:

(A) owns a direct or indirect interest in a qualified development; and

(B) meets the requirements to claim a tax credit under this section.

(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor as determined by the governing documents of the housing sponsor.

~~(j)~~ (k) (i) "Special low-income housing tax credit certificate" means a certificate:

(A) in a form prescribed by the commission;

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(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year in accordance with this section; and

(C) that specifies the amount of the tax credit a qualified taxpayer may claim under this section.

(ii) The Utah Housing Corporation may only issue one or more special low-income housing tax credit certificates if the aggregate specified amount on all special low-income housing tax credit certificates issued in relation to a qualified development does not exceed the aggregate amount of tax credit awarded to the qualified development and issued to a housing sponsor in an allocation certificate.

(2) (a) For taxable years beginning on or after January 1, 1995, a qualified taxpayer who has been issued a special low-income housing tax credit certificate by the Utah Housing Corporation may claim a nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act.

(b) The tax credit shall be in an amount equal to the tax credit amount specified on the special low-income housing tax credit certificate that the Utah Housing Corporation issues to a qualified taxpayer under this section.

(c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For a calendar year beginning on or after January 1, 2017, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 34.5 cents; and

(B) the population of Utah.

(iii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

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(3) (a) The Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in a qualified development;

(ii) the level of area median income being served by a qualified development;

(iii) the need for the tax credit for the economic feasibility of a qualified development;

[and]

(iv) the extended period for which a qualified development commits to remain as affordable housing;

~~(c) The criteria created by the Utah Housing Corporation shall give preference to a~~ [:]

and

(v) if the qualified development ~~fin~~ is being undertaken within the boundaries of an opportunity zone.

(4) Any housing sponsor may apply to the Utah Housing Corporation for a tax credit allocation under this section.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualified development in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall issue an allocation certificate to a housing sponsor as evidence of the allocation.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the tax credit allocated to a qualified development as determined by the Utah Housing Corporation.

(c) The amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit awarded to a qualified development.

(6) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form prescribed by the Utah Housing Corporation:

(a) a list of each qualified taxpayer that has been assigned a portion of the tax credit

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awarded in an allocation certificate;

(b) for each qualified taxpayer described in Subsection (6)(a), the amount of tax credit that has been assigned; and

(c) an aggregate list of the tax credit amount assigned related to a qualified development demonstrating that the aggregate annual amount of the tax credits assigned does not exceed the aggregate annual tax credit awarded in the allocation certificate.

(7) The Utah Housing Corporation shall provide a special low-income housing tax credit certificate to a qualified taxpayer if:

(a) a designated reporter has provided the information regarding the qualified taxpayer as described in Subsection (6); and

(b) the Utah Housing Corporation has verified that the aggregate tax credit amount assigned with respect to a qualified development does not exceed the total tax credit awarded in the allocation certificate.

(8) (a) All elections made by a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a qualified development is required to recapture a portion of any federal low-income housing tax credit, then each qualified taxpayer shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

(iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credit as described in this Subsection (8)(b).

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in subsequent years.

(10) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

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- (i) before the application of the tax credits earned in the current year; and
- (ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee which shall include at least:

- (a) the purpose and effectiveness of the tax credits; and
- (b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 7. Section **59-7-625** is enacted to read:

**59-7-625. Nonrefundable tax credit for eligible construction costs in an opportunity zone.**

(1) As used in this section:

(a) "Business entity" means a taxpayer that receives a tax credit certificate in accordance with Section 63N-2-903.

(b) "Eligible construction costs" means the same as that term is defined in Section 63N-2-902.

(c) "Eligible parking structure" means the same as that term is defined in Section 63N-2-902.

(d) "Opportunity zone" means the same as that term is defined in Section 63N-2-902.

(2) A business entity may claim a nonrefundable tax credit for eligible construction costs for an eligible parking structure in an opportunity zone in an amount equal to the amount stated on the tax credit certificate issued in accordance with Section 63N-2-903.

(3) (a) A business entity may carry forward the amount of the tax credit that exceeds the business entity's tax liability for a period of three years.

(b) A business entity may not carry back the amount of the tax credit that exceeds the business entity's tax liability.

Section 8. Section **59-10-1010** is amended to read:

**59-10-1010. Utah low-income housing tax credit.**

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(1) As used in this section:

(a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the Utah Housing Corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate; and

(ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Credit period" means the "credit period" as defined in Section 42(f)(1), Internal Revenue Code.

(d) (i) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor itself or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the Utah Housing Corporation regarding the assignment of tax credits under this section.

(ii) Before the Utah Housing Corporation may issue an allocation certificate to a housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's designated reporter to the Utah Housing Corporation.

(iii) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate to a qualified taxpayer, a designated reporter shall provide the information described in Subsection (6) to the Utah Housing Corporation.

(e) "Federal low-income housing credit" means the federal low-income housing credit described in Section 42, Internal Revenue Code.

(f) "Housing sponsor" means an entity that owns a qualified development.

(g) "Opportunity zone" means an area that has been designated as a qualified opportunity zone in the state under Section 1400Z-1, Internal Revenue Code.

~~(g)~~ (h) "Qualified allocation plan" means a qualified allocation plan adopted by the Utah Housing Corporation in accordance with Section 42(m), Internal Revenue Code.

~~(h)~~ (i) "Qualified development" means a "qualified low-income housing project":

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(i) as defined in Section 42(g)(1), Internal Revenue Code; and

(ii) that is located in the state.

[~~(f)~~] ~~(j)~~ (i) "Qualified taxpayer" means a claimant, estate, or trust that:

(A) owns a direct or indirect interest in a qualified development; and

(B) meets the requirements to claim a tax credit under this section.

(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor as determined by the governing documents of the housing sponsor.

[~~(f)~~] ~~(k)~~ (i) "Special low-income housing tax credit certificate" means a certificate:

(A) in a form prescribed by the commission;

(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year in accordance with this section; and

(C) that specifies the amount of the tax credit a qualified taxpayer may claim under this section.

(ii) The Utah Housing Corporation may only issue one or more special low-income housing tax credit certificates if the aggregate specified amount on all special low-income housing tax credit certificates issued in relation to a qualified development does not exceed the aggregate amount of tax credit awarded to a qualified development and issued to a housing sponsor in an allocation certificate.

(2) (a) For taxable years beginning on or after January 1, 1995, a qualified taxpayer who has been issued a special low-income housing tax credit certificate by the Utah Housing Corporation may claim a nonrefundable tax credit against taxes otherwise due under this chapter.

(b) The tax credit shall be in an amount equal to the tax credit amount specified on the special low-income housing tax credit certificate that the Utah Housing Corporation issues to a qualified taxpayer under this section.

(c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 12.5 cents; and



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(B) the population of Utah.

(ii) For a calendar year beginning on or after January 1, 2017, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 34.5 cents; and

(B) the population of Utah.

(iii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) The Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in a qualified development;

(ii) the level of area median income being served by a qualified development;

(iii) the need for the tax credit for the economic feasibility of a qualified development;

[and]

(iv) the extended period for which a qualified development commits to remain as affordable housing~~;~~.

~~—— (c) The criteria created by the Utah Housing Corporation shall give preference to a [:]:~~

and

(v) if the qualified development ~~(in)~~ is being undertaken within the boundaries of an opportunity zone.

(4) Any housing sponsor may apply to the Utah Housing Corporation for a tax credit allocation under this section.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualified development in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall issue an allocation certificate to a housing

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sponsor as evidence of the allocation.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the tax credit allocated to a qualified development as determined by the Utah Housing Corporation.

(c) The amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing credit awarded to a qualified development.

(6) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form prescribed by the Utah Housing Corporation:

(a) a list of each qualified taxpayer that has been assigned a portion of the tax credit awarded in an allocation certificate;

(b) for each qualified taxpayer described in Subsection (6)(a), the amount of tax credit that has been assigned; and

(c) an aggregate list of the tax credit amount assigned related to a qualified development demonstrating that the aggregate annual amount of the tax credits assigned does not exceed the aggregate annual tax credit awarded in the allocation certificate.

(7) The Utah Housing Corporation shall provide a special low-income housing tax credit certificate to a qualified taxpayer if:

(a) a designated reporter has provided the information regarding the qualified taxpayer as described in Subsection (6); and

(b) the Utah Housing Corporation has verified that the aggregate tax credit amount assigned with respect to a qualified development does not exceed the total tax credit awarded in the allocation certificate.

(8) (a) All elections made by a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a qualified taxpayer is required to recapture a portion of any federal low-income housing credit, the qualified taxpayer shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.

(iii) The designated reporter shall identify each qualified taxpayer that is required to

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recapture a portion of any state tax credits as described in this Subsection (8)(b).

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in subsequent years.

(10) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee which shall include at least:

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

(b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

Section 9. Section **59-10-1041** is enacted to read:

**59-10-1041. Nonrefundable tax credit for eligible construction costs in an opportunity zone.**

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that receives a tax credit certificate in accordance with Section 63N-2-903.

(b) "Eligible construction costs" means the same as that term is defined in Section 63N-2-902.

(c) "Eligible parking structure" means the same as that term is defined in Section 63N-2-902.

(d) "Opportunity zone" means the same as that term is defined in Section 63N-2-902.

(2) A business entity may claim a nonrefundable tax credit for eligible construction

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costs for an eligible parking structure in an opportunity zone in an amount equal to the amount stated on the tax credit certificate issued in accordance with Section 63N-2-903.

(3) (a) A business entity may carry forward the amount of the tax credit that exceeds the business entity's tax liability for a period of three years.

(b) A business entity may not carry back the amount of the tax credit that exceeds the business entity's tax liability.

Section 10. Section **63I-1-259** is amended to read:

### **63I-1-259. Repeal dates, Title 59.**

- (1) Section 59-1-213.1 is repealed on May 9, 2024.
- (2) Section 59-1-213.2 is repealed on May 9, 2024.
- (3) Subsection 59-1-405(1)(g) is repealed on May 9, 2024.
- (4) Subsection 59-1-405(2)(b) is repealed on May 9, 2024.
- (5) Section 59-7-618 is repealed July 1, 2020.
- (6) Section 59-7-625 is repealed January 1, 2026.
- ~~[(6)]~~ (7) Section 59-9-102.5 is repealed December 31, 2020.
- ~~[(7)]~~ (8) Section 59-10-1033 is repealed July 1, 2020.
- (9) Section 59-10-1041 is repealed January 1, 2026.

~~[(8)]~~ (10) Subsection 59-12-2219(13), which addresses new revenue supplanting existing allocations, is repealed on June 30, 2020.

~~[(9)]~~ (11) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1, 2023.

Section 11. Section **63I-1-263** is amended to read:

### **63I-1-263. Repeal dates, Titles 63A to 63N.**

- (1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:
  - (a) Subsection 63A-1-201(1) is repealed;
  - (b) Subsection 63A-1-202(2)(c), the language that states "using criteria established by the board" is repealed;
  - (c) Section 63A-1-203 is repealed;
  - (d) Subsections 63A-1-204(1) and (2), the language that states "After consultation with the board, and" is repealed; and
  - (e) Subsection 63A-1-204(1)(b), the language that states "using the standards provided

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in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states ", of whom only one may be a legislator, in accordance with Subsection (3)(e)," is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

"(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.";

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states "the president of the Senate, the speaker of the House, the governor," is repealed and replaced with "the governor"; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is

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repealed.

(12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(13) Section 63M-7-212 is repealed on December 31, 2019.

(14) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;

and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(15) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

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(18) (a) Subsection 63J-1-602.1(53), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

"(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee."

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv)."

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

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(25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (26)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (26)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(27) Section 63N-2-512 is repealed on July 1, 2021.

(28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(29) Title 63N, Chapter 2, Part 9, Opportunity Zone Incentive Act, is repealed January



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1, 2026.

~~[(29)]~~ (30) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

~~[(30)]~~ (31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

~~[(31)]~~ (32) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~[(32)]~~ (33) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

"(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.";

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states ", president, or speaker, respectively," is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

"(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section."

~~[(33)]~~ (34) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states "Talent Ready Utah," is repealed; and

(c) in Subsection 9-22-114(5), the language that states "representatives of Talent Ready Utah," is repealed.

~~[(34)]~~ (35) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 12. Section **63N-2-901** is enacted to read:

### **Part 9. Opportunity Zone Incentive Act**

#### **63N-2-901. Title.**

This part is known as the "Opportunity Zone Incentive Act."

Section 13. Section **63N-2-902** is enacted to read:

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### 63N-2-902. Definitions.

As used in this part:

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

(2) (a) "Eligible construction costs" means the documented costs of the physical construction of an eligible parking structure.

(b) "Eligible construction costs" do not include:

(i) planning;

(ii) engineering or legal work;

(iii) permitting; or

(iv) acquisition of land.

(3) "Eligible parking structure" means a newly built parking ~~lot or parking~~ structure that:

(a) is located within ~~an opportunity zone;~~

~~(b) a county of the first class;~~

~~(b) is located within an opportunity zone;~~

~~(c) is located within a community development project area under Title 17C, Chapter 4, Community Development, or a community reinvestment project area under Title 17C, Chapter 5, Community Reinvestment;~~

~~(d) is located within ~~250~~1,320 feet of a transit station;~~

~~(e) is located within 300 feet of a state highway as designated under Title 72, Chapter 4, Designation of State Highways Act;~~

~~(~~c~~)~~f~~) contains at least 50 parking spaces; and~~

~~(~~d~~)~~g~~) is available to members of the public entering or exiting public transit service at a transit station.~~

(4) "Opportunity zone" means an area that has been designated as a qualified opportunity zone in the state under Section 1400Z-1, Internal Revenue Code.

(5) "Qualified application" means an application for a tax credit certificate that meets the requirements of Section 63N-2-903.

(6) "Tax credit" means a tax credit described in:

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(a) Section 59-7-625, for a business entity that files an income tax return under Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(b) Section 59-10-1041, for a business entity that files an income tax return~~f~~.

~~(7) "Transit corridor" means public transit service that uses or occupies:~~

~~(a) public transit rail right-of-way; or~~

~~(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit.~~

~~(8) under Title 59, Chapter 10, Individual Income Tax Act.~~

(7) "Transit station" means a facility, station, or terminal leased or operated by or on behalf of a public transit district where members of the public enter or exit public transit service on a train or bus~~f~~ in a transit corridor.

Section 14. Section **63N-2-903** is enacted to read:

**63N-2-903. Tax credit for eligible construction costs in an opportunity zone.**

(1) A business entity that seeks to claim a tax credit under this part shall apply ~~f~~ annually to the office for a tax credit certificate on a form provided by the office~~f~~ and approved by the State Tax Commission.

(2) The business entity shall include in the application the following information for the year for which the business entity seeks to claim a tax credit:

(a) proof of the eligible construction costs paid or incurred for an eligible parking structure;

(b) a letter of support from the municipality where the eligible parking structure is located; and

(~~f~~~~b~~)~~c~~) responses to questions developed by the office regarding the benefits that the business entity and members of the public receive from the availability of the tax credit.

(3) The office shall issue a tax credit certificate to a business entity that the office determines:

(a) ~~f~~ submitted one of the first three qualifying applications for an eligible parking structure received by the office on or after July 1, 2020;

(~~f~~~~a~~)~~b~~) paid or incurred eligible construction costs for an eligible parking structure;

(c) ~~f~~ met all post performance requirements as required by the office; and

(~~f~~~~b~~)~~d~~) completed a qualified application.

(4) The tax credit certificate shall state the amount of the business entity's tax credit.

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which is equal to 25% of the eligible construction costs paid or incurred for an eligible parking structure.

(5) The office shall submit to the State Tax Commission an electronic list that includes:

(a) the name and identifying information of each business entity to which the office issues a tax credit certificate; and

(b) for each business entity, the amount of the tax credit stated on the tax credit certificate.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~and in accordance with the provisions of this part,~~ the office ~~may~~ shall make rules ~~governing administration of the~~ describing the:

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

(b) documentation requirements for a business entity to receive a tax credit certificate ~~process described in~~ under this part; and

(c) administration of the requirements of this part, including relevant timelines, deadlines, and post performance requirements that a business entity shall comply with to qualify for a tax credit certificate under this part.

(7) The office shall include in the annual report described in Section 63N-1-301:

(a) a description of the effectiveness of the tax credit;

(b) the total amount of all tax credits issued during the year; and

(c) the number of business entities to which the department issued a tax credit certificate.

### Section 15. Retrospective operation.

The following have retrospective operation for a taxable year beginning on or after January 1, 2020:

(1) Section 59-7-625;

(2) Section 59-10-1041;

(3) Section 63N-2-901;

(4) Section 63N-2-902; and

(5) Section 63N-2-903.