

Senator Daniel McCay proposes the following substitute bill:

ECONOMIC DEVELOPMENT MODIFICATIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to the Governor's Office of Economic Development.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions;
- ▶ modifies provisions related to tax credit incentives for economic development;
- ▶ repeals provisions related to the Alternative Energy Manufacturing Tax Credit Act;

and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

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



- 26 [59-10-137](#), as enacted by Laws of Utah 2016, Third Special Session, Chapter 1
- 27 [59-10-1025](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 28 [63N-1-102](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 29 [63N-2-103](#), as last amended by Laws of Utah 2016, Chapter 350
- 30 [63N-2-202](#), as last amended by Laws of Utah 2016, Chapter 11
- 31 [63N-4-302](#), as enacted by Laws of Utah 2017, Chapter 274
- 32 [63N-4-402](#), as enacted by Laws of Utah 2018, Chapter 340

33 REPEALS:

- 34 [59-7-614.8](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 35 [59-10-1030](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 36 [63N-2-701](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 37 [63N-2-702](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 38 [63N-2-703](#), as last amended by Laws of Utah 2018, Chapter 149
- 39 [63N-2-704](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 40 [63N-2-705](#), as renumbered and amended by Laws of Utah 2015, Chapter 283

41 **Utah Code Sections Affected by Coordination Clause:**

- 42 [63N-2-103](#), as last amended by Laws of Utah 2016, Chapter 350



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

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

46 **59-7-159. Review of credits allowed under this chapter.**

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

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

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

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

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

56 (iii) (A) invite the Governor's Office of Economic Development to present a summary

57 and analysis of the information for each tax credit regarding which the Governor's Office of
58 Economic Development is required to make a report under this chapter; and

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

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

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

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

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

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

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

72 (i) Section 59-7-601;

73 (ii) Section 59-7-607;

74 (iii) Section 59-7-612;

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

76 (v) Section 59-7-614.5.

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

80 (i) Section 59-7-609;

81 (ii) Section 59-7-614.2;

82 (iii) Section 59-7-614.10;

83 (iv) Section 59-7-617;

84 (v) Section 59-7-619; and

85 (vi) Section 59-7-620.

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

88 following sections:

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

95 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
96 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
97 2017.

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

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

101 **59-10-137. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

- 119 (A) the cost of the tax credit to the state;
- 120 (B) the purpose and effectiveness of the tax credit; and
- 121 (C) the extent to which the state benefits from the tax credit; and
- 122 (v) undertake other review efforts as determined by the committee chairs or as
- 123 otherwise required by law.
- 124 (3) (a) On or before November 30, 2017, and every three years after 2017, the
- 125 committee shall conduct the review required under Subsection (2) of the tax credits allowed
- 126 under the following sections:
 - 127 (i) Section 59-10-1004;
 - 128 (ii) Section 59-10-1010;
 - 129 (iii) Section 59-10-1015;
 - 130 (iv) Section 59-10-1025;
 - 131 (v) Section 59-10-1027;
 - 132 (vi) Section 59-10-1031;
 - 133 (vii) Section 59-10-1032;
 - 134 (viii) Section 59-10-1035;
 - 135 (ix) Section 59-10-1104;
 - 136 (x) Section 59-10-1105; and
 - 137 (xi) Section 59-10-1108.
- 138 (b) On or before November 30, 2018, and every three years after 2018, the committee
- 139 shall conduct the review required under Subsection (2) of the tax credits allowed under the
- 140 following sections:
 - 141 (i) Section 59-10-1005;
 - 142 (ii) Section 59-10-1006;
 - 143 (iii) Section 59-10-1012;
 - 144 (iv) Section 59-10-1013;
 - 145 (v) Section 59-10-1022;
 - 146 (vi) Section 59-10-1023;
 - 147 (vii) Section 59-10-1028;
 - 148 (viii) Section 59-10-1034;
 - 149 (ix) Section 59-10-1037; and

150 (x) Section 59-10-1107.

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

154 (i) Section 59-10-1007;

155 (ii) Section 59-10-1009;

156 (iii) Section 59-10-1014;

157 (iv) Section 59-10-1017;

158 (v) Section 59-10-1018;

159 (vi) Section 59-10-1019;

160 (vii) Section 59-10-1024;

161 (viii) Section 59-10-1029;

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

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

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

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

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

167 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
168 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
169 2017.

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

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

173 **59-10-1025. Nonrefundable tax credit for investment in certain life science**
174 **establishments.**

175 (1) As used in this section:

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

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

180 (c) "Life science establishment" means an establishment primarily engaged in the

181 development or manufacture of products in one or more of the following categories:

182 (i) biotechnologies;

183 (ii) medical devices;

184 (iii) medical diagnostics; and

185 (iv) pharmaceuticals.

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

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

188 (f) "Pass-through entity taxpayer" means the same as that term is defined in Section

189 [59-10-1402](#).

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

191 (i) (A) common stock;

192 (B) preferred stock; or

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

194 (ii) originally issued to:

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

196 (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit

197 under this section was a pass-through entity taxpayer of the pass-through entity on the day on

198 which the qualifying ownership interest was issued and remains a pass-through entity taxpayer

199 of the pass-through entity until the last day of the taxable year for which the eligible claimant,

200 estate, or trust claims a tax credit under this section; and

201 (iii) issued:

202 (A) by a Utah small business corporation;

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

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

205 (h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation"

206 means the same as that term is defined in Section [59-10-1022](#).

207 (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal

208 Revenue Code, is considered to include a pass-through entity.

209 (2) Subject to the other provisions of this section, for a taxable year beginning on or

210 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate

211 issued to the eligible claimant, estate, or trust in accordance with Section [63N-2-808](#) for that

212 taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase
213 price of a qualifying ownership interest in a Utah small business corporation by the claimant,
214 estate, or trust if:

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

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

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

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

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

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

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

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

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

234 (B) the tax credit in the taxable year after the taxable year described in Subsection
235 (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest;
236 and

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

240 (b) may not exceed the lesser of:

241 (i) the amount listed on the tax credit certificate issued in accordance with Section
242 63N-2-808; or

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

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

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

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

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

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

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

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

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

265 (i) the amount of tax credit that the office grants to each eligible business entity for
266 each taxable year;

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

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

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

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

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

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

274 and]

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

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

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

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

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

- 290 (i) the cost of the tax credit under this section;
- 291 (ii) the purpose and effectiveness of the tax credit; and
- 292 (iii) the extent to which the state benefits from the tax credit.

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

294 **63N-1-102. Definitions.**

295 As used in this title:

296 (1) "Baseline jobs" means the number of full-time employee positions that existed
297 within a business entity in the state before the date on which a project related to the business
298 entity is approved by the office or by the board.

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

302 [~~(1)~~] (3) "Board" means the Board of Business and Economic Development created in
303 Section **63N-1-401**.

304 [~~(2)~~] (4) "Council" means the Governor's Economic Development Coordinating

305 Council created in Section 63N-1-501.

306 ~~[(3)]~~ (5) "Executive director" means the executive director of the office.

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

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

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

314 (7) "High paying job" means a newly created full-time employee position where the
315 aggregate average annual gross wage of the employment position, not including health care or
316 other paid or unpaid benefits, is at least 110% of the average wage of the county in which the
317 employment position exists.

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

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

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

323 (9) "New state revenue" means the state revenue collected from a business entity or a
324 business entity's employees during a calendar year minus the baseline state revenue calculation.

325 ~~[(4)]~~ (10) "Office" or "GOED" means the Governor's Office of Economic
326 Development.

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

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

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

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

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

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

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

336 **63N-2-103. Definitions.**

337 As used in this part:

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

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

343 (3) "Development zone" means an economic development zone created under Section
344 63N-2-104.

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

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

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

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

358 [(5)] (4) "Local government entity" means a county, city, or town that enters into an
359 agreement with the office to have a new commercial project that:

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

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

362 [(6)] (5) (a) "New commercial project" means an economic development opportunity
363 that involves new or expanded industrial, manufacturing, distribution, or business services in
364 Utah.

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

366 [(7)] (a) "~~New incremental jobs~~" means ~~full-time employment positions that are filled~~

367 by employees who work at least 30 hours per week and that are:]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

395 [(iii) incremental new state tax revenues paid as individual income taxes under Title
396 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
397 employees of a new or expanded industrial, manufacturing, distribution, or business service

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

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

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

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

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

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

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

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

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

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

415 [(iii) incremental new state tax revenues paid as individual income taxes under Title
416 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
417 employees of a new or expanded industrial, manufacturing, distribution, or business service
418 within a new commercial project as evidenced by payroll records that indicate the amount of
419 employee income taxes withheld and transmitted to the State Tax Commission by the new or
420 expanded industrial, manufacturing, distribution, or business service within the new
421 commercial project; or]

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

423 [(9)] (6) "Significant capital investment" means an amount of at least \$10,000,000 to
424 purchase capital or fixed assets, which may include real property, personal property, and other
425 fixtures related to a new commercial project:

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

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

428 [(10)] (7) "Tax credit" means an economic development tax credit created by Section

429 59-7-614.2 or 59-10-1107.

430 [(11)] (8) "Tax credit amount" means the amount the office lists as a tax credit on a tax
431 credit certificate for a taxable year.

432 [(12)] (9) "Tax credit certificate" means a certificate issued by the office that:

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

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

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

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

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

441 **63N-2-202. Definitions.**

442 As used in this part:

443 (1) "Business entity" means an entity, sole proprietorship, or individual:

444 (a) including a claimant, estate, or trust; and

445 (b) under which or by whom business is conducted or transacted.

446 (2) "Claimant" means a resident or nonresident person that has:

447 (a) Utah taxable income as defined in Section 59-7-101; or

448 (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and

449 Reporting of Tax Liability and Information.

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

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

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

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

460 [~~(a)~~ for a period of at least six consecutive months; and]
461 [~~(b)~~ where the period ends in the tax year for which the credit is claimed.]
462 [~~(7)~~] (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business
463 entity may:

464 (a) claim:
465 (i) as provided by statute; and
466 (ii) in an amount that does not exceed the business entity's tax liability for a taxable
467 year under:

468 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
469 (B) Title 59, Chapter 10, Individual Income Tax Act; and

470 (b) carry forward or carry back:
471 (i) if allowed by statute; and
472 (ii) to the extent that the amount of the tax credit exceeds the business entity's tax
473 liability for a taxable year under:

474 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
475 (B) Title 59, Chapter 10, Individual Income Tax Act.

476 [~~(8)~~] (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits
477 described in Section [63N-2-213](#).

478 [~~(9)~~] (8) "Trust" means a nonresident trust or a resident trust that has state taxable
479 income under Title 59, Chapter 10, Part 2, Trusts and Estates.

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

481 **63N-4-302. Definitions.**

482 As used in this part:

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

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

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

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

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

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

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

499 (a) has fewer than 150 employees;

500 (b) has less than \$10,000,000 in net income for the preceding taxable year;

501 (c) maintains the business's principal business operations in the state; and

502 (d) is engaged in an industry related to:

503 (i) aerospace;

504 (ii) defense;

505 (iii) energy and natural resources;

506 (iv) financial services;

507 (v) life sciences;

508 (vi) outdoor products;

509 (vii) software development;

510 (viii) information technology;

511 (ix) manufacturing; or

512 (x) agribusiness.

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

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

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

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

522 equal to zero.

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

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

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

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

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

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

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

539 (12) "Investment authority" means the minimum amount of investment a rural
540 investment company must make in eligible small businesses in order for credit-eligible
541 contributions to the rural investment company to qualify for a rural job creation tax credit
542 under Section [59-7-621](#) or [59-10-1038](#).

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

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

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

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

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

553 amount is equal to zero.

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

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

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

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

566 (17) "Rural investment company" means a person approved by the office under Section
567 [63N-4-303](#).

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

569 (i) 50% of the rural investment company's credit-eligible capital contributions; and
570 (ii) the product of:

571 (A) the total sum of new annual jobs reported to the state in the rural investment
572 company's exit report described in Section [63N-4-309](#); and

573 (B) \$20,000.

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

576 (19) "Tax credit" means a rural job creation tax credit created by Section [59-7-621](#) or
577 [59-10-1038](#).

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

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

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

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

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

584 Section 8. Section **63N-4-402** is amended to read:

585 **63N-4-402. Definitions.**

586 As used in this part:

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

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

591 (i) construction;

592 (ii) staffing;

593 (iii) retail trade; or

594 (iv) public utility activities.

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

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

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

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

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

604 [~~(i) construction;~~]

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

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

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

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

612 [~~(4)~~] (2) (a) "Owner or officer" means an individual who owns an ownership interest in
613 an entity or holds a position where the person has authority to manage, direct, control, or make
614 decisions for:

- 615 (i) the entity or a portion of the entity; or
- 616 (ii) an employee, agent, or independent contractor of the entity.
- 617 (b) "Owner or officer" includes:
- 618 (i) a member of a board of directors or other governing body of an entity; or
- 619 (ii) a partner in any type of partnership.
- 620 [~~5~~] (3) "Rural employment expansion grant" means a grant available under this part.

621 Section 9. **Repealer.**

622 This bill repeals:

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

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

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

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

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

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

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

630 Section 10. **Retrospective operation.**

631 This bill has retrospective operation for a taxable year beginning on or after January 1,
632 2019.

633 Section 11. **Coordinating H.B. 264 with H.B. 433 -- Substantive and technical**
634 **amendments.**

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

638 **"63N-2-103. Definitions.**

639 As used in this part:

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

641 [~~1~~] (2) "Business entity" means a person that enters into an agreement with the office
642 to initiate a new commercial project in Utah that will qualify the person to receive a tax credit
643 under Section **59-7-614.2** or **59-10-1107.**

644 [~~2~~] (3) "Community reinvestment agency" [~~has the same meaning~~] means the same as
645 that term is defined in Section **17C-1-102.**

646 ~~[(3)]~~ (4) "Development zone" means an economic development zone created under
647 Section 63N-2-104.

648 (5) "Inland port authority" means the Utah Inland Port Authority, created in Section
649 11-58-201.

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

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

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

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

663 ~~[(5)]~~ (6) "Local government entity" means a county, city, ~~[or] town, or inland port~~
664 ~~authority~~ that enters into an agreement with the office to have a new commercial project that:

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

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

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

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

670 ~~[(6)]~~ (7) (a) "New commercial project" means an economic development opportunity
671 that involves new or expanded industrial, manufacturing, distribution, or business services in
672 Utah.

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

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

676 ~~[(i) with respect to a business entity, created in addition to the baseline count of~~

677 employment positions that existed within the business entity before the new commercial
678 project;]

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

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

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

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

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

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

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

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

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

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

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

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

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

703 [(iii) incremental new state tax revenues paid as individual income taxes under Title
704 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
705 employees of a new or expanded industrial, manufacturing, distribution, or business service
706 within a new commercial project as evidenced by payroll records that indicate the amount of
707 employee income taxes withheld and transmitted to the State Tax Commission by the new or

708 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
709 ~~commercial project; or]~~
710 ~~[(iv) a combination of Subsections (8)(a)(i) through (iii); or]~~
711 ~~[(b) with respect to a local government entity:]~~
712 ~~[(i) incremental new state sales and use tax revenues that are collected under Title 59,~~
713 ~~Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development~~
714 ~~zone;]~~
715 ~~[(ii) incremental new state tax revenues that are collected as a result of a new~~
716 ~~commercial project in a development zone under:]~~
717 ~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~
718 ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~
719 ~~Information;]~~
720 ~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~
721 ~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~
722 ~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);]~~
723 ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~
724 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~
725 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~
726 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~
727 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~
728 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
729 ~~commercial project; or]~~
730 ~~[(iv) a combination of Subsections (8)(b)(i) through (iii).]~~
731 ~~[(9)] (8) "Significant capital investment" means an amount of at least \$10,000,000 to~~
732 ~~purchase capital or fixed assets, which may include real property, personal property, and other~~
733 ~~fixtures related to a new commercial project:~~
734 ~~(a) that represents an expansion of existing operations in the state; or~~
735 ~~(b) that maintains or increases the business entity's existing work force in the state.~~
736 ~~[(10)] (9) "Tax credit" means an economic development tax credit created by Section~~
737 ~~59-7-614.2 or 59-10-1107.~~
738 ~~[(11)] (10) "Tax credit amount" means the amount the office lists as a tax credit on a~~

739 tax credit certificate for a taxable year.

740 ~~[(12)]~~ (11) "Tax credit certificate" means a certificate issued by the office that:

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

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

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

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

748 Section 12. **Coordinating H.B. 264 with S.B. 269 -- Substantive and technical**
749 **amendments.**

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

754 "63N-2-103. Definitions.

755 As used in this part:

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

758 ~~[(1)]~~ (2) "Business entity" means a person that enters into an agreement with the office
759 to initiate a new commercial project in Utah that will qualify the person to receive a tax credit
760 under Section [59-7-614.2](#) or [59-10-1107](#).

761 ~~[(2)]~~ (3) "Community reinvestment agency" ~~[has the same meaning]~~ means the same as
762 that term is defined in Section [17C-1-102](#).

763 ~~[(3)]~~ (4) "Development zone" means an economic development zone created under
764 Section [63N-2-104](#).

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

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

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

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

778 (5) "Local government entity" means:

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

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

782 ~~[(b)]~~ (ii) qualifies the county, city, or town to receive a tax credit under Section
783 [59-7-614.2](#); or

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

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

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

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

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

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

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

800 (b) "New incremental jobs" may include full-time equivalent positions that are filled

801 by more than one employee, if each employee who works less than 30 hours per week is
802 provided benefits comparable to a full-time employee.}]

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

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

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

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

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

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

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

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

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

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

818 [~~(iii) incremental new state tax revenues paid as individual income taxes under Title
819 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
820 employees of a new or expanded industrial, manufacturing, distribution, or business service
821 within a new commercial project as evidenced by payroll records that indicate the amount of
822 employee income taxes withheld and transmitted to the State Tax Commission by the new or
823 expanded industrial, manufacturing, distribution, or business service within the new
824 commercial project; or]~~

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

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

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

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

832 ~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~
833 ~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and~~
834 ~~Information;]~~
835 ~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~
836 ~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~
837 ~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);]~~
838 ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~
839 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~
840 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~
841 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~
842 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~
843 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
844 ~~commercial project; or]~~
845 ~~[(iv) a combination of Subsections (8)(b)(i) through (iii).]~~
846 ~~[(9)] (7) "Significant capital investment" means an amount of at least \$10,000,000 to~~
847 ~~purchase capital or fixed assets, which may include real property, personal property, and other~~
848 ~~fixtures related to a new commercial project:~~
849 ~~(a) that represents an expansion of existing operations in the state; or~~
850 ~~(b) that maintains or increases the business entity's existing work force in the state.~~
851 ~~[(10)] (8) "Tax credit" means an economic development tax credit created by Section~~
852 ~~59-7-614.2 or 59-10-1107.~~
853 ~~[(11)] (9) "Tax credit amount" means the amount the office lists as a tax credit on a tax~~
854 ~~credit certificate for a taxable year.~~
855 ~~[(12)] (10) "Tax credit certificate" means a certificate issued by the office that:~~
856 ~~(a) lists the name of the business entity, local government entity, or community~~
857 ~~development and renewal agency to which the office authorizes a tax credit;~~
858 ~~(b) lists the business entity's, local government entity's, or community development and~~
859 ~~renewal agency's taxpayer identification number;~~
860 ~~(c) lists the amount of tax credit that the office authorizes the business entity, local~~
861 ~~government entity, or community development and renewal agency for the taxable year; and~~
862 ~~(d) may include other information as determined by the office."~~

863 Section 13. **Coordinating H.B. 264, H.B. 433, and S.B. 269 -- Substantive and**
864 **technical amendments.**

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

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

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

871 **"63N-2-103. Definitions.**

872 As used in this part:

873 (1) "Authority" means:

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

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

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

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

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

879 ~~[(1)]~~ (3) "Business entity" means a person that enters into an agreement with the office
880 to initiate a new commercial project in Utah that will qualify the person to receive a tax credit
881 under Section [59-7-614.2](#) or [59-10-1107](#).

882 ~~[(2)]~~ (4) "Community reinvestment agency" has the same meaning as that term is
883 defined in Section [17C-1-102](#).

884 ~~[(3)]~~ (5) "Development zone" means an economic development zone created under
885 Section [63N-2-104](#).

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

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

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

894 county in which the employment positions will exist; or]

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

899 ~~[(5)] (6) "Local government entity" means a county, city, [or] town, or authority that~~
900 ~~enters into an agreement with the office to have a new commercial project that:~~

901 (a) is initiated within:

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

903 or

904 ~~(ii) an authority project area; and~~

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

907 ~~[(6)] (7) (a) "New commercial project" means an economic development opportunity~~
908 ~~that involves new or expanded industrial, manufacturing, distribution, or business services in~~
909 ~~Utah.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

940 ~~[(iii) incremental new state tax revenues paid as individual income taxes under Title~~
941 ~~59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by~~
942 ~~employees of a new or expanded industrial, manufacturing, distribution, or business service~~
943 ~~within a new commercial project as evidenced by payroll records that indicate the amount of~~
944 ~~employee income taxes withheld and transmitted to the State Tax Commission by the new or~~
945 ~~expanded industrial, manufacturing, distribution, or business service within the new~~
946 ~~commercial project; or]~~

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

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

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

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

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

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

956 Information;]

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

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

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

960 [(iii) incremental new state tax revenues paid as individual income taxes under Title
961 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
962 employees of a new or expanded industrial, manufacturing, distribution, or business service
963 within a new commercial project as evidenced by payroll records that indicate the amount of
964 employee income taxes withheld and transmitted to the State Tax Commission by the new or
965 expanded industrial, manufacturing, distribution, or business service within the new
966 commercial project; or]

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

968 [(9)] (8) "Significant capital investment" means an amount of at least \$10,000,000 to
969 purchase capital or fixed assets, which may include real property, personal property, and other
970 fixtures related to a new commercial project:

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

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

973 [(10)] (9) "Tax credit" means an economic development tax credit created by Section
974 59-7-614.2 or 59-10-1107.

975 [(11)] (10) "Tax credit amount" means the amount the office lists as a tax credit on a
976 tax credit certificate for a taxable year.

977 [(12)] (11) "Tax credit certificate" means a certificate issued by the office that:

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

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

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

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

985