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TAX CREDIT REVIEW AMENDMENTS

2016 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill provides for a review of certain tax credits.

Highlighted Provisions:

This bill:

► requires the Revenue and Taxation Interim Committee to review certain credits related to individual income tax, corporate income tax, motor and special fuel tax, taxation of admitted insurers, and economic development; and

► establishes requirements for the review by the Revenue and Taxation Interim Committee.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-7-612, as last amended by Laws of Utah 2016, Chapter 135

59-7-614, as last amended by Laws of Utah 2015, Chapters 30, 133 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 133

59-7-614.2, as last amended by Laws of Utah 2016, Chapters 135 and 350

59-7-614.5, as last amended by Laws of Utah 2016, Chapter 135



- 28 **59-7-614.7**, as last amended by Laws of Utah 2016, Chapter 135
- 29 **59-7-614.8**, as last amended by Laws of Utah 2016, Chapter 135
- 30 **59-7-614.10**, as enacted by Laws of Utah 2016, Chapter 11
- 31 **59-7-619**, as enacted by Laws of Utah 2015, Chapter 356
- 32 **59-9-107**, as enacted by Laws of Utah 2014, Chapter 435
- 33 **59-10-1012**, as last amended by Laws of Utah 2016, Chapter 135
- 34 **59-10-1013**, as last amended by Laws of Utah 2016, Chapter 135
- 35 **59-10-1014**, as last amended by Laws of Utah 2015, Chapter 133
- 36 **59-10-1024**, as last amended by Laws of Utah 2011, Chapter 384
- 37 **59-10-1025**, as last amended by Laws of Utah 2016, Chapter 354
- 38 **59-10-1029**, as last amended by Laws of Utah 2016, Chapter 135
- 39 **59-10-1030**, as last amended by Laws of Utah 2016, Chapter 135
- 40 **59-10-1034**, as enacted by Laws of Utah 2015, Chapter 356
- 41 **59-10-1037**, as enacted by Laws of Utah 2016, Chapter 11
- 42 **59-10-1106**, as last amended by Laws of Utah 2015, Chapter 133
- 43 **59-10-1107**, as last amended by Laws of Utah 2016, Chapter 135
- 44 **59-10-1108**, as last amended by Laws of Utah 2016, Chapter 135
- 45 **59-13-202**, as last amended by Laws of Utah 2016, Chapter 375
- 46 **63N-2-106**, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and
- 47 amended by Laws of Utah 2015, Chapter 283
- 48 **63N-2-213**, as last amended by Laws of Utah 2016, Chapter 11
- 49 **63N-2-305**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 50 **63N-2-810**, as last amended by Laws of Utah 2016, Chapters 135 and 354

51 ENACTS:

- 52 **59-7-159**, Utah Code Annotated 1953
- 53 **59-10-137**, Utah Code Annotated 1953



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

56 Section 1. Section **59-7-159** is enacted to read:

57 **59-7-159. Review of credits allowed under this chapter.**

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

59 Committee.

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

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

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

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

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

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

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

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

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

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

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

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

83 (i) Section [59-7-601](#);

84 (ii) Section [59-7-607](#);

85 (iii) Section [59-7-612](#);

86 (iv) Section [59-7-614.1](#); and

87 (v) Section [59-7-614.5](#).

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

90 following sections:

- 91 (i) Section 59-7-609;
- 92 (ii) Section 59-7-614.2;
- 93 (iii) Section 59-7-614.10;
- 94 (iv) Section 59-7-617;
- 95 (v) Section 59-7-619; and
- 96 (vi) Section 59-7-620.

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

- 100 (i) Section 59-7-605;
- 101 (ii) Section 59-7-610;
- 102 (iii) Section 59-7-614;
- 103 (iv) Section 59-7-614.7;
- 104 (v) Section 59-7-614.8; and
- 105 (vi) Section 59-7-618.

106 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
107 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
108 2017.

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

111 Section 2. Section **59-7-612** is amended to read:

112 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
113 **forward -- Commission to report modification or repeal of certain federal provisions --**
114 **Revenue and Taxation Interim Committee study.**

115 (1) (a) A taxpayer meeting the requirements of this section may claim the following
116 nonrefundable tax credits:

117 (i) a research tax credit of 5% of the taxpayer's qualified research expenses for the
118 current taxable year that exceed the base amount provided for under Subsection (4);

119 (ii) a tax credit for a payment to a qualified organization for basic research as provided
120 in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the

121 base amount provided for under Subsection (4); and
122 (iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the
123 current taxable year.

124 (b) Subject to Subsection (5), a taxpayer may claim a tax credit under:
125 (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs
126 the qualified research expenses; or
127 (ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment
128 to the qualified organization.

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

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

133 (3) Except as specifically provided for in this section:
134 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
135 Section 41, Internal Revenue Code; and
136 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
137 the tax credits authorized under Subsection (1).

138 (4) For purposes of this section:
139 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
140 Internal Revenue Code, except that:
141 (i) the base amount does not include the calculation of the alternative incremental
142 credit provided for in Section 41(c)(4), Internal Revenue Code;
143 (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources
144 within this state as provided in Part 3, Allocation and Apportionment of Income - Utah
145 UDITPA Provisions; and
146 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
147 the base amount, a taxpayer:
148 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
149 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
150 and
151 (B) may not revoke an election to be treated as a start-up company under Subsection

152 (4)(a)(iii)(A);

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

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

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

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

160 (ii) contract research expenses incurred in this state; and

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

163 (5) (a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or
164 (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the
165 tax credit exceeding the tax liability:

166 (i) may be carried forward for a period that does not exceed the next 14 taxable years;
167 and

168 (ii) may not be carried back to a taxable year preceding the current taxable year.

169 (b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

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

174 (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
175 commission shall provide an electronic report of the modification or repeal to the Revenue and
176 Taxation Interim Committee within 60 days after the day on which the modification or repeal
177 becomes effective.

178 (8) (a) The Revenue and Taxation Interim Committee shall review the tax credits
179 provided for in this section on or before October 1 of the year after the year in which the
180 commission reports under Subsection (7) a modification or repeal of a provision of Section 41,
181 Internal Revenue Code.

182 (b) The review described in Subsection (8)(a) is in addition to the review required by

183 Section 59-7-159.

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

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

- 190 (i) the cost of the tax credits provided for in this section;
- 191 (ii) the purpose and effectiveness of the tax credits provided for in this section;
- 192 (iii) whether the tax credits provided for in this section benefit the state; and
- 193 (iv) whether the tax credits provided for in this section should be:
 - 194 (A) continued;
 - 195 (B) modified; or
 - 196 (C) repealed.

197 ~~[(d)]~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits
 198 provided for in this section, the committee shall issue a report ~~[its findings to the Legislative~~
 199 ~~Management Committee on or before the November interim meeting of the year in which the~~
 200 ~~Revenue and Taxation Interim Committee reviews the tax credits]~~ of the Revenue and Taxation
 201 Interim Committee's findings.

202 Section 3. Section **59-7-614** is amended to read:

203 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**
 204 **Rulemaking authority.**

205 (1) As used in this section:

- 206 (a) (i) "Active solar system" means a system of equipment that is capable of:
 - 207 (A) collecting and converting incident solar radiation into thermal, mechanical, or
 208 electrical energy; and
 - 209 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
 210 apparatus to storage or to the point of use.
- 211 (ii) "Active solar system" includes water heating, space heating or cooling, and
 212 electrical or mechanical energy generation.

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

- 214 (i) converting material into biomass energy, as defined in Section 59-12-102; and
- 215 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.
- 216 (c) "Commercial energy system" means a system that is:
 - 217 (i) (A) an active solar system;
 - 218 (B) a biomass system;
 - 219 (C) a direct use geothermal system;
 - 220 (D) a geothermal electricity system;
 - 221 (E) a geothermal heat pump system;
 - 222 (F) a hydroenergy system;
 - 223 (G) a passive solar system; or
 - 224 (H) a wind system;
 - 225 (ii) located in the state; and
 - 226 (iii) used:
 - 227 (A) to supply energy to a commercial unit; or
 - 228 (B) as a commercial enterprise.
- 229 (d) "Commercial enterprise" means an entity, the purpose of which is to produce
- 230 electrical, mechanical, or thermal energy for sale from a commercial energy system.
- 231 (e) (i) "Commercial unit" means a building or structure that an entity uses to transact
- 232 business.
- 233 (ii) Notwithstanding Subsection (1)(e)(i):
 - 234 (A) with respect to an active solar system used for agricultural water pumping or a wind
 - 235 system, each individual energy generating device is considered to be a commercial unit; or
 - 236 (B) if an energy system is the building or structure that an entity uses to transact
 - 237 business, a commercial unit is the complete energy system itself.
- 238 (f) "Direct use geothermal system" means a system of apparatus and equipment that
- 239 enables the direct use of geothermal energy to meet energy needs, including heating a building,
- 240 an industrial process, and aquaculture.
- 241 (g) "Geothermal electricity" means energy that is:
 - 242 (i) contained in heat that continuously flows outward from the earth; and
 - 243 (ii) used as a sole source of energy to produce electricity.
- 244 (h) "Geothermal energy" means energy generated by heat that is contained in the earth.

- 245 (i) "Geothermal heat pump system" means a system of apparatus and equipment that:
246 (i) enables the use of thermal properties contained in the earth at temperatures well
247 below 100 degrees Fahrenheit; and
248 (ii) helps meet heating and cooling needs of a structure.
- 249 (j) "Hydroenergy system" means a system of apparatus and equipment that is capable
250 of:
251 (i) intercepting and converting kinetic water energy into electrical or mechanical
252 energy; and
253 (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- 254 (k) "Office" means the Office of Energy Development created in Section [63M-4-401](#).
- 255 (l) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
256 a building and its operable components to provide for collection, storage, and distribution of
257 heating or cooling during the appropriate times of the year by utilizing the climate resources
258 available at the site.
259 (ii) "Passive solar system" includes those portions and components of a building that
260 are expressly designed and required for the collection, storage, and distribution of solar energy.
- 261 (m) (i) "Principal recovery portion" means the portion of a lease payment that
262 constitutes the cost a person incurs in acquiring a commercial energy system.
263 (ii) "Principal recovery portion" does not include:
264 (A) an interest charge; or
265 (B) a maintenance expense.
- 266 (n) "Residential energy system" means the following used to supply energy to or for a
267 residential unit:
268 (i) an active solar system;
269 (ii) a biomass system;
270 (iii) a direct use geothermal system;
271 (iv) a geothermal heat pump system;
272 (v) a hydroenergy system;
273 (vi) a passive solar system; or
274 (vii) a wind system.
- 275 (o) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling

276 unit that:

277 (A) is located in the state; and

278 (B) serves as a dwelling for a person, group of persons, or a family.

279 (ii) "Residential unit" does not include property subject to a fee under:

280 (A) Section 59-2-404;

281 (B) Section 59-2-405;

282 (C) Section 59-2-405.1;

283 (D) Section 59-2-405.2; or

284 (E) Section 59-2-405.3.

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

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

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

288 or storage.

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

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

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

294 (i) the taxpayer:

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

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

299 (ii) the residential energy system is completed and placed in service on or after January
300 1, 2007; and

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

303 (b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 25% of the
304 reasonable costs of each residential energy system installed with respect to each residential unit
305 the taxpayer owns or uses.

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

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

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

312 (v) The total amount of tax credit a taxpayer may claim under this Subsection (3) may
313 not exceed \$2,000 per residential unit.

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

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

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

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

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

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

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

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

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

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

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

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

337 (v) the taxpayer obtains a written certification from the office in accordance with

338 Subsection (7).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

368 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)

369 is equal to the product of:

370 (A) 0.35 cents; and

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

372 (ii) A tax credit under this Subsection (5) may be claimed for production occurring

373 during a period of 48 months beginning with the month in which the commercial energy

374 system is placed in commercial service.

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

376 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial

377 unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor

378 irrevocably elects not to claim the tax credit.

379 (6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a

380 refundable tax credit as provided in this Subsection (6) if:

381 (i) the taxpayer owns a commercial energy system that uses solar equipment capable of

382 producing a total of 660 or more kilowatts of electricity;

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

384 commercial units owned or used by the taxpayer; or

385 (B) the taxpayer sells all or part of the energy produced by the commercial energy

386 system as a commercial enterprise;

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

388 (iv) the commercial energy system is completed and placed in service on or after

389 January 1, 2015; and

390 (v) the taxpayer obtains a written certification from the office in accordance with

391 Subsection (7).

392 (b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6)

393 is equal to the product of:

394 (A) 0.35 cents; and

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

396 (ii) A tax credit under this Subsection (6) may be claimed for production occurring

397 during a period of 48 months beginning with the month in which the commercial energy

398 system is placed in commercial service.

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

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

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

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

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

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

409 (A) has been completely installed;

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

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

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

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

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

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

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

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

428 ~~[(10) (a) On or before October 1, 2017, and every five years after 2017, the Revenue~~
429 ~~and Taxation Interim Committee shall review each tax credit provided by this section and~~
430 ~~report its recommendations to the Legislative Management Committee concerning whether the~~

431 ~~tax credit should be continued, modified, or repealed.]~~

432 ~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (10)(a)~~
433 ~~shall include information concerning the cost of the tax credit, the purpose and effectiveness of~~
434 ~~the tax credit, and the state's benefit from the tax credit.]~~

435 Section 4. Section **59-7-614.2** is amended to read:

436 **59-7-614.2. Refundable economic development tax credit.**

437 (1) As used in this section:

438 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as
439 defined in Section [63N-2-103](#).

440 (b) "Community reinvestment agency" means the same as that term is defined in
441 Section [17C-1-102](#).

442 (c) "Local government entity" means the same as that term is defined in Section
443 [63N-2-103](#).

444 (d) "New incremental jobs" means the same as that term is defined in Section
445 [63N-2-103](#).

446 (e) "New state revenues" means the same as that term is defined in Section [63N-2-103](#).

447 (f) "Office" means the Governor's Office of Economic Development.

448 (2) Subject to the other provisions of this section, a business entity, local government
449 entity, or community reinvestment agency may claim a refundable tax credit for economic
450 development.

451 (3) The tax credit under this section is the amount listed as the tax credit amount on the
452 tax credit certificate that the office issues to the business entity, local government entity, or
453 community reinvestment agency for the taxable year.

454 (4) A community reinvestment agency may claim a tax credit under this section only if
455 a local government entity assigns the tax credit to the community reinvestment agency in
456 accordance with Section [63N-2-104](#).

457 (5) (a) In accordance with any rules prescribed by the commission under Subsection
458 (5)(b), the commission shall make a refund to the following that claim a tax credit under this
459 section:

460 (i) a local government entity;

461 (ii) a community reinvestment agency; or

462 (iii) a business entity if the amount of the tax credit exceeds the business entity's tax
463 liability for a taxable year.

464 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
465 commission may make rules providing procedures for making a refund to a business entity,
466 local government entity, or community reinvestment agency as required by Subsection (5)(a).

467 (6) (a) [~~On or before October 1, 2013, and every five years after October 1, 2013~~] In
468 accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study
469 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
470 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
471 repealed.

472 (b) [~~For~~] Except as provided in Subsection (6)(c), for purposes of the study required by
473 this Subsection (6), the office shall provide the following information, if available to the office,
474 to the Revenue and Taxation Interim Committee by electronic means:

475 (i) the amount of tax credit that the office grants to each business entity, local
476 government entity, or community reinvestment agency for each calendar year;

477 (ii) the criteria that the office uses in granting a tax credit;

478 (iii) (A) for a business entity, the new state revenues generated by the business entity
479 for the calendar year; or

480 (B) for a local government entity, regardless of whether the local government entity
481 assigns the tax credit in accordance with Section 63N-2-104, the new state revenues generated
482 as a result of a new commercial project within the local government entity for each calendar
483 year;

484 (iv) estimates for each of the next [~~five~~] three calendar years of the following:

485 (A) the amount of tax credits that the office will grant;

486 (B) the amount of new state revenues that will be generated; and

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

488 (v) the information contained in the office's latest report [~~to the Legislature~~] under
489 Section 63N-2-106; and

490 (vi) any other information that the Revenue and Taxation Interim Committee requests.

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

493 (ii) If, notwithstanding the redactions made under Subsection (6)(c)(i), reporting the
494 information described in Subsection (6)(b) might disclose the identity of a recipient of a tax
495 credit, the office may file a request with the Revenue and Taxation Interim Committee to
496 provide the information described in Subsection (6)(b) in the aggregate for all entities and
497 agencies that receive the tax credit under this section.

498 ~~[(c)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the
499 recommendations ~~[under]~~ described in Subsection (6)(a) include an evaluation of:

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

503 Section 5. Section **59-7-614.5** is amended to read:

504 **59-7-614.5. Refundable motion picture tax credit.**

505 (1) As used in this section:

506 (a) "Motion picture company" means a taxpayer that meets the definition of a motion
507 picture company under Section [63N-8-102](#).

508 (b) "Office" means the Governor's Office of Economic Development created in Section
509 [63N-1-201](#).

510 (c) "State-approved production" ~~[has the same meaning as]~~ means the same as that
511 term is defined in Section [63N-8-102](#).

512 (2) For a taxable ~~[years]~~ year beginning on or after January 1, 2009, a motion picture
513 company may claim a refundable tax credit for a state-approved production.

514 (3) The tax credit under this section is the amount listed as the tax credit amount on the
515 tax credit certificate that the office issues to a motion picture company under Section
516 [63N-8-103](#) for the taxable year.

517 (4) (a) In accordance with any rules prescribed by the commission under Subsection
518 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
519 credit under this section if the amount of the tax credit exceeds the motion picture company's
520 tax liability for a taxable year.

521 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
522 commission may make rules providing procedures for making a refund to a motion picture
523 company as required by Subsection (4)(a).

524 (5) (a) [~~On or before October 1, 2014, and every five years after October 1, 2014~~] In
525 accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study
526 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
527 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
528 repealed.

529 (b) [~~For~~] (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study
530 required by this Subsection (5), the office shall provide the following information [~~to the~~
531 ~~Revenue and Taxation Interim Committee~~], if available to the office, to the Office of the
532 Legislative Fiscal Analyst by electronic means:

533 [(i)] (A) the amount of tax credit that the office grants to each motion picture company
534 for each calendar year; [~~and~~]

535 (B) estimates of the amount of tax credit that the office will grant for each of the next
536 [~~five~~] three calendar years;

537 [(ii)] (C) the criteria that the office uses in granting the tax credit;

538 [(iii)] (D) the dollars left in the state, as defined in Section 63N-8-102, by each motion
539 picture company for each calendar year;

540 [(iv)] (E) the information contained in the office's latest report [~~to the Legislature~~]
541 under Section 63N-8-105; and

542 [(v)] (F) any other information [~~requested by~~] that the [Revenue and Taxation Interim
543 Committee] Office of the Legislative Fiscal Analyst requests.

544 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
545 redact information that identifies a recipient of a tax credit under this section.

546 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
547 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
548 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
549 provide the information described in Subsection (5)(b)(i) in the aggregate for all motion picture
550 companies that receive the tax credit under this section.

551 (c) As part of the study required by this Subsection (5), the Office of the Legislative
552 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
553 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
554 office under Subsection (5)(b).

555 ~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the
556 recommendations ~~[under]~~ described in Subsection (5)(a) include an evaluation of:

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

560 Section 6. Section **59-7-614.7** is amended to read:

561 **59-7-614.7. Nonrefundable alternative energy development tax credit.**

562 (1) As used in this section:

563 (a) "Alternative energy entity" ~~[is as]~~ means the same as that term is defined in Section
564 63M-4-502.

565 (b) "Alternative energy project" ~~[is as]~~ means the same as that term is defined in
566 Section 63M-4-502.

567 (c) "Office" ~~[is as defined]~~ means the Office of Energy Development created in Section
568 63M-4-401.

569 (2) Subject to the other provisions of this section, an alternative energy entity may
570 claim a nonrefundable tax credit for alternative energy development as provided in this section.

571 (3) The tax credit under this section is the amount listed as the tax credit amount on a
572 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative
573 Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

574 (4) An alternative energy entity may carry forward a tax credit under this section for a
575 period that does not exceed the next seven taxable years if:

576 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
577 taxable year; and

578 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
579 under this chapter for that taxable year.

580 (5) (a) ~~[On or before October 1, 2017, and every five years after October 1, 2017]~~ In
581 accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study
582 the tax credit allowed by this section and make recommendations ~~[to the Legislative~~
583 ~~Management Committee]~~ concerning whether the tax credit should be continued, modified, or
584 repealed.

585 (b) ~~[For]~~ (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study

586 required by this Subsection (5), the office shall provide the following information, if available
587 to the office, to the [Revenue and Taxation Interim Committee] Office of the Legislative Fiscal
588 Analyst by electronic means:

589 [(i)] (A) the amount of tax credit that the office grants to each alternative energy entity
590 for each taxable year;

591 [(ii)] (B) the new state revenues generated by each alternative energy project;

592 [(iii)] (C) the information contained in the office's latest report [~~to the Legislature~~]
593 under Section 63M-4-505; and

594 [(iv)] (D) any other information that the [~~Revenue and Taxation Interim Committee~~]
595 Office of the Legislative Fiscal Analyst requests.

596 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
597 redact information that identifies a recipient of a tax credit under this section.

598 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
599 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
600 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
601 provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative
602 energy entities that receive the tax credit under this section.

603 (c) As part of the study required by this Subsection (5), the Office of the Legislative
604 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
605 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
606 office under Subsection (5)(b).

607 [(e)] (d) The Revenue and Taxation Interim Committee shall ensure that [its] the
608 recommendations [under] described in Subsection (5)(a) include an evaluation of:

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

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

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

612 Section 7. Section 59-7-614.8 is amended to read:

613 **59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.**

614 (1) As used in this section:

615 (a) "Alternative energy entity" means the same as that term is defined in Section
616 63N-2-702.

617 (b) "Alternative energy manufacturing project" means the same as that term is defined
618 in Section [63N-2-702](#).

619 (c) "New incremental job within the state" means the same as that term is defined in
620 Section [63N-2-702](#).

621 (d) "New state revenues" means the same as that term is defined in Section [63N-2-702](#).

622 (e) "Office" means the Governor's Office of Economic Development created in Section
623 [63N-1-201](#).

624 (2) Subject to the other provisions of this section, an alternative energy entity may
625 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
626 section.

627 (3) The tax credit under this section is the amount listed as the tax credit amount on a
628 tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative
629 Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

630 (4) An alternative energy entity may carry forward a tax credit under this section for a
631 period that does not exceed the next seven taxable years if:

632 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
633 taxable year; and

634 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
635 under this chapter for that taxable year.

636 (5) (a) [~~On or before October 1, 2017, and every five years after October 1, 2017~~] In
637 accordance with Section [59-7-159](#), the Revenue and Taxation Interim Committee shall study
638 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
639 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
640 repealed.

641 (b) [~~For~~] Except as provided in Subsection (5)(c), for purposes of the study required by
642 this Subsection (5), the office shall provide the following information, if available to the office,
643 to the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst by
644 electronic means:

645 (i) the amount of tax credit that the office grants to each alternative energy entity for
646 each taxable year;

647 (ii) the new state revenues generated by each alternative energy manufacturing project;

648 (iii) estimates for each of the next [~~five~~] three calendar years of the following:

649 (A) the amount of tax credits that the office will grant;

650 (B) the amount of new state revenues that will be generated; and

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

652 (iv) the information contained in the office's latest report [~~to the Legislature~~] under

653 Section 63N-2-705; and

654 (v) any other information that the [~~Revenue and Taxation Interim Committee~~] Office of

655 the Legislative Fiscal Analyst requests.

656 (c) (i) In providing the information described in Subsection (5)(b), the office shall

657 redact information that identifies a recipient of a tax credit under this section.

658 (ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the

659 information described in Subsection (5)(b) might disclose the identity of a recipient of a tax

660 credit, the office may file a request with the Revenue and Taxation Interim Committee to

661 provide the information described in Subsection (5)(b) in the aggregate for all alternative

662 energy entities that receive the tax credit under this section.

663 (d) As part of the study required by this Subsection (5), the Office of the Legislative

664 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and

665 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the

666 office under Subsection (5)(b).

667 [~~(e)~~] (e) The Revenue and Taxation Interim Committee shall ensure that [its] the

668 recommendations [under] described in Subsection (5)(a) include an evaluation of:

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

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

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

672 Section 8. Section **59-7-614.10** is amended to read:

673 **59-7-614.10. Nonrefundable enterprise zone tax credit.**

674 (1) As used in this section:

675 (a) "Business entity" means a corporation that meets the definition of "business entity"

676 as that term is defined in Section 63N-2-202.

677 (b) "Office" means the Governor's Office of Economic Development created in Section

678 63N-1-201.

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

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

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

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

690 (6) (a) [~~On or before October 1, 2018, and every five years after October 1, 2018~~] In
691 accordance with Section [59-7-159](#), the Revenue and Taxation Interim Committee shall study
692 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
693 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
694 repealed.

695 (b) [~~For~~] (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study
696 required by this Subsection (6), the office shall provide by electronic means the following
697 information for each calendar year to the [~~Revenue and Taxation Interim Committee~~] Office of
698 the Legislative Fiscal Analyst:

699 [(i)] (A) the amount of tax credits provided in each development zone;

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

702 [(iii)] (C) the amount of tax credits awarded for rehabilitating a building in each
703 development zone;

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

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

708 [(vi)] (F) any other information [~~as requested by the Revenue and Taxation Interim~~
709 Committee] that the Office of the Legislative Fiscal Analyst requests.

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

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

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

721 ~~(c)~~ (d) The Revenue and Taxation Interim Committee shall ensure that [its] the
722 recommendations [under] described in Subsection (6)(a) include an evaluation of:

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

726 Section 9. Section **59-7-619** is amended to read:

727 **59-7-619. Nonrefundable high cost infrastructure development tax credit.**

728 (1) As used in this section:

729 (a) "High cost infrastructure project" means the same as that term is defined in Section
730 [63M-4-602](#).

731 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in
732 Section [63M-4-602](#).

733 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
734 [63M-4-602](#).

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

736 (2) Subject to the other provisions of this section, a corporation that is an infrastructure
737 cost-burdened entity may claim a nonrefundable tax credit for development of a high cost
738 infrastructure project as provided in this section.

739 (3) The tax credit under this section is the amount listed as the tax credit amount on a
740 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost

741 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the
742 taxable year.

743 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this
744 section for a period that does not exceed the next seven taxable years if:

745 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this
746 section for a taxable year; and

747 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax
748 liability under this chapter for that taxable year.

749 (5) (a) [~~On or before October 1, 2020, and every five years after October 1, 2020~~] In
750 accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study
751 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
752 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
753 repealed.

754 (b) [~~For~~] (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study
755 required by this Subsection (5), the office shall provide the following information, if available
756 to the office, to the [Revenue and Taxation Interim Committee] Office of the Legislative Fiscal
757 Analyst:

758 [(i)] (A) the amount of tax credit that the office grants to each infrastructure
759 cost-burdened entity for each taxable year;

760 [(ii)] (B) the infrastructure-related revenue generated by each high cost infrastructure
761 project;

762 [(iii)] (C) the information contained in the office's latest report [~~to the Legislature~~]
763 under Section 63M-4-505; and

764 [(iv)] (D) any other information that the [~~Revenue and Taxation Interim Committee~~]
765 Office of the Legislative Fiscal Analyst requests.

766 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
767 redact information that identifies a recipient of a tax credit under this section.

768 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
769 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
770 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
771 provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure

772 cost-burdened entities that receive the tax credit under this section.

773 (c) As part of the study required by this Subsection (5), the Office of the Legislative
774 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
775 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
776 office under Subsection (5)(b).

777 [~~(c)~~] (d) The Revenue and Taxation Interim Committee shall ensure that the [~~Revenue~~
778 ~~and Taxation Interim Committee's~~] recommendations [~~under~~] described in Subsection (5)(a)
779 include an evaluation of:

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

783 Section 10. Section **59-9-107** is amended to read:

784 **59-9-107. Nonrefundable small business jobs credit.**

785 (1) As used in this section:

786 (a) "Credit allowance date" [~~is as~~] means the same as that term is defined in Section
787 [63N-2-602](#).

788 (b) "Office" [~~is as defined~~] means the Governor's Office of Economic Development
789 created in Section [~~63N-1-102~~] [63N-1-201](#).

790 (c) "Tax credit certificate" [~~is as~~] means the same as that term is defined in Section
791 [63N-2-602](#).

792 (2) An entity may claim a nonrefundable tax credit against a tax liability under this
793 chapter in accordance with this section if the entity is issued a tax credit certificate by the office
794 under Subsection [63N-2-603](#)(11). The office shall issue a tax credit certificate to an entity that
795 is allocated tax credits under Subsection [63N-2-603](#)(11)(e).

796 (3) The tax credit under this section is the amount listed as the tax credit amount on the
797 tax credit certificate issued to the entity for the calendar year.

798 (4) An entity may carry forward a tax credit under this section for seven years if:

- 799 (a) the entity is allowed to claim a tax credit under this section for a calendar year; and
- 800 (b) the amount of the tax credit exceeds the entity's tax liability under this chapter for
801 that calendar year.

802 (5) An entity required to pay a retaliatory tax levied under this chapter for a reason

803 other than claiming the tax credit may claim the tax credit after the retaliatory tax amount is
804 calculated, and the tax credit may be used to offset retaliatory tax liability.

805 (6) Notwithstanding the other provisions of this section, this section does not apply to
806 an admitted insurer to the extent that the admitted insurer writes workers' compensation
807 insurance in this state and has premiums taxed under Subsection 59-9-101(2).

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

812 (b) In conducting the review required by Subsection (7)(a), the Revenue and Taxation
813 Interim Committee shall:

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

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

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

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

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

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

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

823 Section 11. Section 59-10-137 is enacted to read:

824 **59-10-137. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

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

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

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

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

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

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

850 (i) Section [59-10-1004](#);

851 (ii) Section [59-10-1010](#);

852 (iii) Section [59-10-1015](#);

853 (iv) Section [59-10-1025](#);

854 (v) Section [59-10-1027](#);

855 (vi) Section [59-10-1031](#);

856 (vii) Section [59-10-1032](#);

857 (viii) Section [59-10-1035](#);

858 (ix) Section [59-10-1104](#);

859 (x) Section [59-10-1105](#); and

860 (xi) Section [59-10-1108](#).

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

864 (i) Section [59-10-1005](#);

- 865 (ii) Section 59-10-1006;
866 (iii) Section 59-10-1012;
867 (iv) Section 59-10-1013;
868 (v) Section 59-10-1022;
869 (vi) Section 59-10-1023;
870 (vii) Section 59-10-1028;
871 (viii) Section 59-10-1034;
872 (ix) Section 59-10-1037; and
873 (x) Section 59-10-1107.
874 (c) On or before November 30, 2019, and every three years after 2019, the committee
875 shall conduct the review required under Subsection (2) of the tax credits allowed under the
876 following sections:
877 (i) Section 59-10-1007;
878 (ii) Section 59-10-1009;
879 (iii) Section 59-10-1014;
880 (iv) Section 59-10-1017;
881 (v) Section 59-10-1018;
882 (vi) Section 59-10-1019;
883 (vii) Section 59-10-1024;
884 (viii) Section 59-10-1029;
885 (ix) Section 59-10-1030;
886 (x) Section 59-10-1033;
887 (xi) Section 59-10-1036;
888 (xii) Section 59-10-1106; and
889 (xiii) Section 59-10-1111.
890 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
891 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
892 2017.
893 (ii) The committee shall complete a review described in this Subsection (3)(d) three
894 years after the effective date of the tax credit and every three years after the initial review date.
895 Section 12. Section **59-10-1012** is amended to read:

896 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**
897 **forward -- Commission to report modification or repeal of certain federal provisions --**
898 **Revenue and Taxation Interim Committee study.**

899 (1) (a) A claimant, estate, or trust meeting the requirements of this section may claim
900 the following nonrefundable tax credits:

901 (i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research
902 expenses for the current taxable year that exceed the base amount provided for under
903 Subsection (3);

904 (ii) a tax credit for a payment to a qualified organization for basic research as provided
905 in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base
906 amount provided for under Subsection (3); and

907 (iii) a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research
908 expenses for the current taxable year.

909 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:

910 (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate,
911 or trust incurs the qualified research expenses; or

912 (ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust
913 makes the payment to the qualified organization.

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

916 (2) Except as specifically provided for in this section:

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

919 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
920 the tax credits authorized under Subsection (1).

921 (3) For purposes of this section:

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

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

926 (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts

927 attributable to sources within this state as provided in Section 59-10-118; and
928 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
929 the base amount, a claimant, estate, or trust:

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

933 (B) may not revoke an election to be treated as a start-up company under Subsection
934 (3)(a)(iii)(A);

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

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

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

941 (i) in-house research expenses incurred in this state; and
942 (ii) contract research expenses incurred in this state; and

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

945 (4) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under
946 Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this
947 chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

948 (i) may be carried forward for a period that does not exceed the next 14 taxable years;
949 and

950 (ii) may not be carried back to a taxable year preceding the current taxable year.

951 (b) A claimant, estate, or trust may not carry forward the tax credit allowed by
952 Subsection (1)(a)(iii).

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

957 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the

958 commission shall report the modification or repeal by electronic means to the Revenue and
959 Taxation Interim Committee within 60 days after the day on which the modification or repeal
960 becomes effective.

961 (7) (a) The Revenue and Taxation Interim Committee shall review the tax credits
962 provided for in this section on or before October 1 of the year after the year in which the
963 commission reports under Subsection (6) a modification or repeal of a provision of Section 41,
964 Internal Revenue Code.

965 (b) The review described in Subsection (7)(a) is in addition to the review required by
966 Section 59-10-137.

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

971 ~~(c)~~ (d) The Revenue and Taxation Interim Committee shall address in a review under
972 this section:

- 973 (i) the cost of the tax credits provided for in this section;
974 (ii) the purpose and effectiveness of the tax credits provided for in this section;
975 (iii) whether the tax credits provided for in this section benefit the state; and
976 (iv) whether the tax credits provided for in this section should be:
977 (A) continued;
978 (B) modified; or
979 (C) repealed.

980 ~~(d)~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits
981 provided for in this section, the committee shall issue a report [its] of the Revenue and
982 Taxation Interim Committee's findings [to the Legislative Management Committee on or
983 before the November interim meeting of the year in which the Revenue and Taxation Interim
984 Committee reviews the tax credits].

985 Section 13. Section **59-10-1013** is amended to read:

986 **59-10-1013. Tax credits for machinery, equipment, or both primarily used for**
987 **conducting qualified research or basic research -- Carry forward -- Commission to report**
988 **modification or repeal of certain federal provisions -- Revenue and Taxation Interim**

989 **Committee study.**

990 (1) As used in this section:

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

994 (b) "Equipment" includes:

995 (i) a computer;

996 (ii) computer equipment; and

997 (iii) computer software.

998 (c) "Purchase price":

999 (i) includes the cost of installing an item of machinery or equipment; and

1000 (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an
1001 item of machinery or equipment.1002 (d) "Qualified organization" [~~is as~~] means the same as that term is defined in Section
1003 41(e)(6), Internal Revenue Code.1004 (e) "Qualified research" [~~is as~~] means the same as that term is defined in Section 41(d),
1005 Internal Revenue Code, except that the term includes only qualified research conducted in this
1006 state.1007 (2) (a) Except as provided in Subsection (2)(c), for a taxable [~~years~~] year beginning on
1008 or after January 1, 1999, but beginning before December 31, 2010, a claimant, estate, or trust
1009 meeting the requirements of this section may claim the following nonrefundable tax credits:

1010 (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

1011 (A) purchased by the claimant, estate, or trust during the taxable year;

1012 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

1013 (C) that is primarily used to conduct qualified research in this state; and

1014 (ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for
1015 machinery, equipment, or both:

1016 (A) purchased by the claimant, estate, or trust during the taxable year;

1017 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

1018 (C) that is donated to a qualified organization; and

1019 (D) that is primarily used to conduct basic research in this state.

1020 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under
1021 this section for the taxable year for which the claimant, estate, or trust purchases the machinery,
1022 equipment, or both.

1023 (c) If a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a
1024 purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax
1025 credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to
1026 conduct qualified research in the state for a time period that is less than 12 consecutive months.

1027 (3) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in
1028 this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

1029 (4) If the amount of a tax credit claimed by a claimant, estate, or trust under this
1030 section exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year,
1031 the amount of the tax credit exceeding the tax liability:

1032 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
1033 and

1034 (b) may not be carried back to a taxable year preceding the current taxable year.

1035 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1036 commission may make rules for purposes of this section prescribing a certification process for
1037 qualified organizations to ensure that machinery, equipment, or both provided to the qualified
1038 organization is to be primarily used to conduct basic research in this state.

1039 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
1040 commission shall report the modification or repeal by electronic means to the Revenue and
1041 Taxation Interim Committee within 60 days after the day on which the modification or repeal
1042 becomes effective.

1043 (7) (a) The Revenue and Taxation Interim Committee shall review the tax credits
1044 provided for in this section on or before October 1 of the year after the year in which the
1045 commission reports under Subsection (6) a modification or repeal of a provision of Section 41,
1046 Internal Revenue Code.

1047 (b) The review described in Subsection (7)(a) is in addition to the review required by
1048 Section 59-10-137.

1049 ~~(b)~~ (c) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim
1050 Committee is not required to review the tax credits provided for in this section if the only

1051 modification to a provision of Section 41, Internal Revenue Code, is the extension of the
 1052 termination date provided for in Section 41(h), Internal Revenue Code.

1053 ~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall address in a review under
 1054 this section the:

- 1055 (i) cost of the tax credits provided for in this section;
- 1056 (ii) purpose and effectiveness of the tax credits provided for in this section;
- 1057 (iii) whether the tax credits provided for in this section benefit the state; and
- 1058 (iv) whether the tax credits provided for in this section should be:
 - 1059 (A) continued;
 - 1060 (B) modified; or
 - 1061 (C) repealed.

1062 ~~[(d)]~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits
 1063 provided for in this section, the committee shall issue a report [its] of the Revenue and
 1064 Taxation Interim Committee's findings [to the Legislative Management Committee on or
 1065 before the November interim meeting of the year in which the Revenue and Taxation Interim
 1066 Committee reviews the tax credits].

1067 Section 14. Section **59-10-1014** is amended to read:

1068 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**
 1069 **Certification -- Rulemaking authority.**

1070 (1) As used in this section:

1071 (a) (i) "Active solar system" means a system of equipment that is capable of:

1072 (A) collecting and converting incident solar radiation into thermal, mechanical, or
 1073 electrical energy; and

1074 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
 1075 apparatus to storage or to the point of use.

1076 (ii) "Active solar system" includes water heating, space heating or cooling, and
 1077 electrical or mechanical energy generation.

1078 (b) "Biomass system" means a system of apparatus and equipment for use in:

1079 (i) converting material into biomass energy, as defined in Section **59-12-102**; and

1080 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

1081 (c) "Direct use geothermal system" means a system of apparatus and equipment that

1082 enables the direct use of geothermal energy to meet energy needs, including heating a building,
1083 an industrial process, and aquaculture.

1084 (d) "Geothermal electricity" means energy that is:

1085 (i) contained in heat that continuously flows outward from the earth; and

1086 (ii) used as a sole source of energy to produce electricity.

1087 (e) "Geothermal energy" means energy generated by heat that is contained in the earth.

1088 (f) "Geothermal heat pump system" means a system of apparatus and equipment that:

1089 (i) enables the use of thermal properties contained in the earth at temperatures well

1090 below 100 degrees Fahrenheit; and

1091 (ii) helps meet heating and cooling needs of a structure.

1092 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable

1093 of:

1094 (i) intercepting and converting kinetic water energy into electrical or mechanical
1095 energy; and

1096 (ii) transferring this form of energy by separate apparatus to the point of use or storage.

1097 (h) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

1098 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
1099 a building and its operable components to provide for collection, storage, and distribution of
1100 heating or cooling during the appropriate times of the year by utilizing the climate resources
1101 available at the site.

1102 (ii) "Passive solar system" includes those portions and components of a building that
1103 are expressly designed and required for the collection, storage, and distribution of solar energy.

1104 (j) (i) "Principal recovery portion" means the portion of a lease payment that
1105 constitutes the cost a person incurs in acquiring a residential energy system.

1106 (ii) "Principal recovery portion" does not include:

1107 (A) an interest charge; or

1108 (B) a maintenance expense.

1109 (k) "Residential energy system" means the following used to supply energy to or for a
1110 residential unit:

1111 (i) an active solar system;

1112 (ii) a biomass system;

- 1113 (iii) a direct use geothermal system;
- 1114 (iv) a geothermal heat pump system;
- 1115 (v) a hydroenergy system;
- 1116 (vi) a passive solar system; or
- 1117 (vii) a wind system.
- 1118 (l) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
- 1119 unit that:
- 1120 (A) is located in the state; and
- 1121 (B) serves as a dwelling for a person, group of persons, or a family.
- 1122 (ii) "Residential unit" does not include property subject to a fee under:
- 1123 (A) Section 59-2-404;
- 1124 (B) Section 59-2-405;
- 1125 (C) Section 59-2-405.1;
- 1126 (D) Section 59-2-405.2; or
- 1127 (E) Section 59-2-405.3.
- 1128 (m) "Wind system" means a system of apparatus and equipment that is capable of:
- 1129 (i) intercepting and converting wind energy into mechanical or electrical energy; and
- 1130 (ii) transferring these forms of energy by a separate apparatus to the point of use or
- 1131 storage.
- 1132 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in
- 1133 this section against a tax due under this chapter for a taxable year.
- 1134 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust
- 1135 may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit
- 1136 the claimant, estate, or trust owns or uses if:
- 1137 (i) the claimant, estate, or trust:
- 1138 (A) purchases and completes a residential energy system to supply all or part of the
- 1139 energy required for the residential unit; or
- 1140 (B) participates in the financing of a residential energy system to supply all or part of
- 1141 the energy required for the residential unit;
- 1142 (ii) the residential energy system is completed and placed in service on or after January
- 1143 1, 2007; and

1144 (iii) the claimant, estate, or trust obtains a written certification from the office in
1145 accordance with Subsection (4).

1146 (b) (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit is equal to 25% of
1147 the reasonable costs of each residential energy system installed with respect to each residential
1148 unit the claimant, estate, or trust owns or uses.

1149 (ii) A tax credit under this Subsection (3) may include installation costs.

1150 (iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the
1151 taxable year in which the residential energy system is completed and placed in service.

1152 (iv) If the amount of a tax credit under this Subsection (3) exceeds a claimant's,
1153 estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit
1154 exceeding the liability may be carried forward for a period that does not exceed the next four
1155 taxable years.

1156 (v) The total amount of tax credit a claimant, estate, or trust may claim under this
1157 Subsection (3) may not exceed \$2,000 per residential unit.

1158 (vi) A claimant, estate, or trust may claim a tax credit with respect to additional
1159 residential energy systems or parts of residential energy systems for a subsequent taxable year
1160 if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per
1161 residential unit.

1162 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that leases a
1163 residential energy system installed on a residential unit may claim a tax credit under this
1164 Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to
1165 claim the tax credit.

1166 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential
1167 energy system may claim as a tax credit under this Subsection (3) only the principal recovery
1168 portion of the lease payments.

1169 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential
1170 energy system may claim a tax credit under this Subsection (3) for a period that does not
1171 exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

1172 (d) If a claimant, estate, or trust sells a residential unit to another person before the
1173 claimant, estate, or trust claims the tax credit under this Subsection (3):

1174 (i) the claimant, estate, or trust may assign the tax credit to the other person; and

1175 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and
1176 Income Taxes, the other person may claim the tax credit as if the other person had met the
1177 requirements of Section 59-7-614 to claim the tax credit; or

1178 (B) if the other person files a return under this chapter, the other person may claim the
1179 tax credit under this section as if the other person had met the requirements of this section to
1180 claim the tax credit.

1181 (4) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1182 claimant, estate, or trust shall obtain a written certification from the office.

1183 (b) The office shall issue a claimant, estate, or trust a written certification if the office
1184 determines that:

1185 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1186 credit; and

1187 (ii) the office determines that the residential energy system with respect to which the
1188 claimant, estate, or trust seeks to claim a tax credit:

1189 (A) has been completely installed;

1190 (B) is a viable system for saving or producing energy from renewable resources; and

1191 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
1192 energy system uses the state's renewable and nonrenewable energy resources in an appropriate
1193 and economic manner.

1194 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1195 office may make rules:

1196 (i) for determining whether a residential energy system meets the requirements of
1197 Subsection (4)(b)(ii); and

1198 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs
1199 of a residential energy system, as an amount per unit of energy production.

1200 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1201 retain the certification for the same time period a person is required to keep books and records
1202 under Section 59-1-1406.

1203 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1204 commission may make rules to address the certification of a tax credit under this section.

1205 (6) A tax credit under this section is in addition to any tax credits provided under the

1206 laws or rules and regulations of the United States.

1207 (7) A purchaser of one or more solar units that claims a tax credit under Section
1208 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
1209 section for that purchase.

1210 [~~(8)(a) On or before October 1, 2017, and every five years after 2017, the Revenue and~~
1211 ~~Taxation Interim Committee shall review each tax credit provided by this section and report its~~
1212 ~~recommendations to the Legislative Management Committee concerning whether the tax credit~~
1213 ~~should be continued, modified, or repealed.]~~

1214 [~~(b) The Revenue and Taxation Interim Committee's report under Subsection (8)(a)~~
1215 ~~shall include information concerning the cost of the tax credit, the purpose and effectiveness of~~
1216 ~~the tax credit, and the state's benefit from the tax credit.]~~

1217 Section 15. Section **59-10-1024** is amended to read:

1218 **59-10-1024. Nonrefundable tax credit for qualifying solar projects.**

1219 (1) As used in this section:

1220 (a) "Active solar system" [~~is as~~] means the same as that term is defined in Section
1221 [59-10-1014](#).

1222 (b) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units
1223 from a qualifying political subdivision.

1224 (c) "Qualifying political subdivision" means:

1225 (i) a city or town in this state;

1226 (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;

1227 or

1228 (iii) a special service district created under Title 17D, Chapter 1, Special Service
1229 District Act.

1230 (d) "Qualifying solar project" means the portion of an active solar system:

1231 (i) that a qualifying political subdivision:

1232 (A) constructs;

1233 (B) controls; or

1234 (C) owns;

1235 (ii) with respect to which the qualifying political subdivision described in Subsection

1236 (1)(c)(i) sells one or more solar units; and

- 1237 (iii) that generates electrical output that is furnished:
- 1238 (A) to one or more residential units; or
- 1239 (B) for the benefit of one or more residential units.
- 1240 (e) "Residential unit" ~~[is as]~~ means the same as that term is defined in Section
- 1241 59-10-1014.
- 1242 (f) "Solar unit" means a portion of the electrical output:
- 1243 (i) of a qualifying solar project;
- 1244 (ii) that a qualifying political subdivision sells to a purchaser; and
- 1245 (iii) the purchase of which requires that the purchaser agree to bear a proportionate
- 1246 share of the expense of the qualifying solar project:
- 1247 (A) in accordance with a written agreement between the purchaser and the qualifying
- 1248 political subdivision;
- 1249 (B) in exchange for a credit on the purchaser's electrical bill; and
- 1250 (C) as determined by a formula established by the qualifying political subdivision.
- 1251 (2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009, a
- 1252 purchaser may claim a nonrefundable tax credit equal to the product of:
- 1253 (a) the amount the purchaser pays to purchase one or more solar units during the
- 1254 taxable year; and
- 1255 (b) 25%.
- 1256 (3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a
- 1257 return.
- 1258 (4) A purchaser may carry forward a tax credit under this section for a period that does
- 1259 not exceed the next four taxable years if:
- 1260 (a) the purchaser is allowed to claim a tax credit under this section for a taxable year;
- 1261 and
- 1262 (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter
- 1263 for that taxable year.
- 1264 (5) Subject to Section 59-10-1014, a tax credit under this section is in addition to any
- 1265 other tax credit allowed by this chapter.
- 1266 ~~[(6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the~~
- 1267 ~~Revenue and Taxation Interim Committee shall review the tax credit allowed by this section~~

1268 and report its recommendations to the Legislative Management Committee concerning whether
1269 the tax credit should be continued, modified, or repealed.]

1270 [~~(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a)~~
1271 ~~shall include information concerning the cost of the tax credit, the purpose and effectiveness of~~
1272 ~~the tax credit, and the state's benefit from the tax credit.]~~

1273 Section 16. Section **59-10-1025** is amended to read:

1274 **59-10-1025. Nonrefundable tax credit for investment in certain life science**
1275 **establishments.**

1276 (1) As used in this section:

1277 (a) "Commercial domicile" means the principal place from which the trade or business
1278 of a Utah small business corporation is directed or managed.

1279 (b) "Eligible claimant, estate, or trust" means the same as that term is defined in
1280 Section [63N-2-802](#).

1281 (c) "Life science establishment" means an establishment primarily engaged in the
1282 development or manufacture of products in one or more of the following categories:

1283 (i) biotechnologies;

1284 (ii) medical devices;

1285 (iii) medical diagnostics; and

1286 (iv) pharmaceuticals.

1287 (d) "Office" means the Governor's Office of Economic Development.

1288 (e) "Pass-through entity" means the same as that term is defined in Section [59-10-1402](#).

1289 (f) "Pass-through entity taxpayer" means the same as that term is defined in Section
1290 [59-10-1402](#).

1291 (g) "Qualifying ownership interest" means an ownership interest that is:

1292 (i) (A) common stock;

1293 (B) preferred stock; or

1294 (C) an ownership interest in a pass-through entity;

1295 (ii) originally issued to:

1296 (A) an eligible claimant, estate, or trust; or

1297 (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit
1298 under this section was a pass-through entity taxpayer of the pass-through entity on the day on

1299 which the qualifying ownership interest was issued and remains a pass-through entity taxpayer
1300 of the pass-through entity until the last day of the taxable year for which the eligible claimant,
1301 estate, or trust claims a tax credit under this section; and

1302 (iii) issued:

1303 (A) by a Utah small business corporation;

1304 (B) on or after January 1, 2011; and

1305 (C) for money or other property, except for stock or securities.

1306 (h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation"
1307 means the same as that term is defined in Section 59-10-1022.

1308 (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal
1309 Revenue Code, is considered to include a pass-through entity.

1310 (2) Subject to the other provisions of this section, for a taxable year beginning on or
1311 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate
1312 issued to the eligible claimant, estate, or trust in accordance with Section 63N-2-808 for that
1313 taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase
1314 price of a qualifying ownership interest in a Utah small business corporation by the claimant,
1315 estate, or trust if:

1316 (a) the qualifying ownership interest is issued by a Utah small business corporation that
1317 is a life science establishment;

1318 (b) the qualifying ownership interest in the Utah small business corporation is
1319 purchased for at least \$25,000;

1320 (c) the eligible claimant, estate, or trust owned less than 30% of the qualifying
1321 ownership interest of the Utah small business corporation at the time of the purchase of the
1322 qualifying ownership interest; and

1323 (d) on each day of the taxable year in which the purchase of the qualifying ownership
1324 interest was made, the Utah small business corporation described in Subsection (2)(a) has at
1325 least 50% of its employees in the state.

1326 (3) Subject to Subsection (4), the tax credit under Subsection (2):

1327 (a) may only be claimed by an eligible claimant, estate, or trust:

1328 (i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit
1329 certificate issued in accordance with Section 63N-2-808; and

1330 (ii) subject to obtaining a tax credit certificate for each taxable year as required by
1331 Subsection (3)(a)(i), for a period of three taxable years as follows:

1332 (A) the tax credit in the taxable year in which the purchase of the qualifying ownership
1333 interest was made may not exceed 10% of the purchase price of the qualifying ownership
1334 interest;

1335 (B) the tax credit in the taxable year after the taxable year described in Subsection
1336 (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest;
1337 and

1338 (C) the tax credit in the taxable year two years after the taxable year described in
1339 Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership
1340 interest; and

1341 (b) may not exceed the lesser of:

1342 (i) the amount listed on the tax credit certificate issued in accordance with Section
1343 [63N-2-808](#); or

1344 (ii) \$350,000 in a taxable year.

1345 (4) An eligible claimant, estate, or trust may not claim a tax credit under this section
1346 for a taxable year if the eligible claimant, estate, or trust:

1347 (a) has sold any of the qualifying ownership interest during the taxable year; or

1348 (b) does not hold a tax credit certificate for that taxable year that is issued to the
1349 eligible claimant, estate, or trust by the office in accordance with Section [63N-2-808](#).

1350 (5) If a Utah small business corporation in which an eligible claimant, estate, or trust
1351 purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the
1352 eligible claimant, estate, or trust may not claim both the tax credit provided in this section and
1353 a capital loss on the qualifying ownership interest.

1354 (6) If an eligible claimant is a pass-through entity taxpayer that files a return under
1355 Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax
1356 credit under this section on the return filed under Chapter 7, Corporate Franchise and Income
1357 Taxes.

1358 (7) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1359 this section.

1360 (8) (a) In accordance with Section [59-10-137](#), the Revenue and Taxation Interim

1361 Committee shall study the tax credit allowed by this section and make recommendations
1362 concerning whether the tax credit should be continued, modified, or repealed.

1363 (b) Except as provided in Subsection (8)(c), for purposes of the study required by this
1364 Subsection (8), the office shall provide the following information, if available to the office, to
1365 the Office of the Legislative Fiscal Analyst by electronic means:

1366 (i) the amount of tax credit that the office grants to each eligible business entity for
1367 each taxable year;

1368 (ii) the amount of eligible new state tax revenues generated by each eligible product or
1369 project;

1370 (iii) estimates for each of the next three calendar years of the following:

1371 (A) the amount of tax credit that the office will grant;

1372 (B) the amount of eligible new state tax revenues that will be generated; and

1373 (C) the number of new incremental jobs within the state that will be generated;

1374 (iv) the information contained in the office's latest report under Section [63N-2-705](#);

1375 and

1376 (v) any other information that the Office of the Legislative Fiscal Analyst requests.

1377 (c) (i) In providing the information described in Subsection (8)(b), the office shall
1378 redact information that identifies a recipient of a tax credit under this section.

1379 (ii) If, notwithstanding the redactions made under Subsection (8)(c)(i), reporting the
1380 information described in Subsection (8)(b) might disclose the identity of a recipient of a tax
1381 credit, the office may file a request with the Revenue and Taxation Interim Committee to
1382 provide the information described in Subsection (8)(b) in the aggregate for all entities that
1383 receive the tax credit under this section.

1384 (d) As part of the study required by this Subsection (8), the Office of the Legislative
1385 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
1386 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
1387 office under Subsection (8)(b).

1388 (e) The Revenue and Taxation Interim Committee shall ensure that the
1389 recommendations described in Subsection (8)(a) include an evaluation of:

1390 (i) the cost of the tax credit under this section;

1391 (ii) the purpose and effectiveness of the tax credit; and

1392 (iii) the extent to which the state benefits from the tax credit.

1393 Section 17. Section **59-10-1029** is amended to read:

1394 **59-10-1029. Nonrefundable alternative energy development tax credit.**

1395 (1) As used in this section:

1396 (a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section
1397 63M-4-502.

1398 (b) "Alternative energy project" [~~is as~~] means the same as that term is defined in
1399 Section 63M-4-502.

1400 (c) "Office" [~~is as defined in~~] means the Office of Energy Development created in
1401 Section 63M-4-401.

1402 (2) Subject to the other provisions of this section, an alternative energy entity may
1403 claim a nonrefundable tax credit for alternative energy development as provided in this section.

1404 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1405 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative
1406 Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

1407 (4) An alternative energy entity may carry forward a tax credit under this section for a
1408 period that does not exceed the next seven taxable years if:

1409 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1410 taxable year; and

1411 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
1412 under this chapter for that taxable year.

1413 (5) (a) [~~On or before October 1, 2017, and every five years after October 1, 2017~~] In
1414 accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study
1415 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
1416 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
1417 repealed.

1418 (b) [~~For~~] (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study
1419 required by this Subsection (5), the office shall provide the following information, if available
1420 to the office, to the [Revenue and Taxation Interim Committee] Office of the Legislative Fiscal
1421 Analyst by electronic means:

1422 [(~~†~~)] (A) the amount of tax credit that the office grants to each alternative energy entity

1423 for each taxable year;

1424 ~~[(ii)]~~ (B) the new state revenues generated by each alternative energy project;

1425 ~~[(iii)]~~ (C) the information contained in the office's latest report ~~[to the Legislature]~~

1426 under Section 63M-4-505; and

1427 ~~[(iv)]~~ (D) any other information that the ~~[Revenue and Taxation Interim Committee]~~

1428 Office of the Legislative Fiscal Analyst requests.

1429 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
1430 redact information that identifies a recipient of a tax credit under this section.

1431 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
1432 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
1433 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
1434 provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative
1435 energy entities that receive the tax credit under this section.

1436 (c) As part of the study required by this Subsection (5), the Office of the Legislative
1437 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
1438 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
1439 office under Subsection (5)(b).

1440 ~~[(c)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the
1441 recommendations ~~[under]~~ described in Subsection (5)(a) include an evaluation of:

1442 (i) the cost of the tax credit to the state;

1443 (ii) the purpose and effectiveness of the tax credit; and

1444 (iii) the extent to which the state benefits from the tax credit.

1445 Section 18. Section **59-10-1030** is amended to read:

1446 **59-10-1030. Nonrefundable alternative energy manufacturing tax credit.**

1447 (1) As used in this section:

1448 (a) "Alternative energy entity" means the same as that term is defined in Section
1449 63N-2-702.

1450 (b) "Alternative energy manufacturing project" means the same as that term is defined
1451 in Section 63N-2-702.

1452 (c) "New incremental job with the state" means the same as that term is defined in

1453 Section [63N-2-702](#).

1454 (d) "New state revenues" means the same as that term is defined in Section [63N-2-702](#).

1455 (e) "Office" means the Governor's Office of Economic Development created in Section
1456 [63N-1-201](#).

1457 (2) Subject to the other provisions of this section, an alternative energy entity may
1458 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
1459 section.

1460 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1461 tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative
1462 Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

1463 (4) An alternative energy entity may carry forward a tax credit under this section for a
1464 period that does not exceed the next seven taxable years if:

1465 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1466 taxable year; and

1467 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
1468 under this chapter for that taxable year.

1469 (5) (a) [~~On or before October 1, 2017, and every five years after October 1, 2017~~] In
1470 accordance with Section [59-10-137](#), the Revenue and Taxation Interim Committee shall study
1471 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
1472 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
1473 repealed.

1474 (b) [~~For~~] Except as provided in Subsection (5)(c), for purposes of the study required by
1475 this Subsection (5), the office shall provide the following information, if available to the office,
1476 to the [~~Revenue and Taxation Interim Committee~~] [Office of the Legislative Fiscal Analyst](#) by
1477 electronic means:

1478 (i) the amount of tax credit that the office grants to each alternative energy entity for
1479 each taxable year;

1480 (ii) the new state revenues generated by each alternative energy manufacturing project;

1481 (iii) estimates for each of the next [~~five~~] three calendar years of the following:

1482 (A) the amount of tax credits that the office will grant;

1483 (B) the amount of new state revenues that will be generated; and

- 1484 (C) the number of new incremental jobs within the state that will be generated;
- 1485 (iv) the information contained in the office's latest report [~~to the Legislature~~] under
- 1486 Section [~~63N-2-705~~] [63N-1-301](#); and
- 1487 (v) any other information that the [~~Revenue and Taxation Interim Committee~~] Office of
- 1488 the Legislative Fiscal Analyst requests.
- 1489 (c) (i) In providing the information described in Subsection (5)(b), the office shall
- 1490 redact information that identifies a recipient of a tax credit under this section.
- 1491 (ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the
- 1492 information described in Subsection (5)(b) might disclose the identity of a recipient of a tax
- 1493 credit, the office may file a request with the Revenue and Taxation Interim Committee to
- 1494 provide the information described in Subsection (5)(b) in the aggregate for all alternative
- 1495 energy entities that receive the tax credit under this section.
- 1496 (d) As part of the study required by this Subsection (5), the Office of the Legislative
- 1497 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
- 1498 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
- 1499 office under Subsection (5)(b).
- 1500 [~~e~~] (e) The Revenue and Taxation Interim Committee shall ensure that [its] the
- 1501 recommendations [under] described in Subsection (5)(a) include an evaluation of:
- 1502 (i) the cost of the tax credit to the state;
- 1503 (ii) the purpose and effectiveness of the tax credit; and
- 1504 (iii) the extent to which the state benefits from the tax credit.
- 1505 Section 19. Section **59-10-1034** is amended to read:
- 1506 **59-10-1034. Nonrefundable high cost infrastructure development tax credit.**
- 1507 (1) As used in this section:
- 1508 (a) "High cost infrastructure project" means the same as that term is defined in Section
- 1509 [63M-4-602](#).
- 1510 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in
- 1511 Section [63M-4-602](#).
- 1512 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
- 1513 [63M-4-602](#).
- 1514 (d) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

1515 (2) Subject to the other provisions of this section, a claimant, estate, or trust that is an
1516 infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a
1517 high cost infrastructure project as provided in this section.

1518 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1519 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost
1520 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the
1521 taxable year.

1522 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this
1523 section for a period that does not exceed the next seven taxable years if:

1524 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this
1525 section for a taxable year; and

1526 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax
1527 liability under this chapter for that taxable year.

1528 (5) (a) ~~[On or before October 1, 2020, and every five years after October 1, 2020]~~ In
1529 accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study
1530 the tax credit allowed by this section and make recommendations ~~[to the Legislative~~
1531 ~~Management Committee]~~ concerning whether the tax credit should be continued, modified, or
1532 repealed.

1533 (b) ~~[For]~~ (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study
1534 required by this Subsection (5), the office shall provide the following information, if available
1535 to the office, to the [Revenue and Taxation Interim Committee] Office of the Legislative Fiscal
1536 Analyst:

1537 ~~[(i)]~~ (A) the amount of tax credit that the office grants to each infrastructure
1538 cost-burdened entity for each taxable year;

1539 ~~[(ii)]~~ (B) the infrastructure-related revenue generated by each high cost infrastructure
1540 project;

1541 ~~[(iii)]~~ (C) the information contained in the office's latest report ~~[to the Legislature]~~
1542 under Section 63M-4-505; and

1543 ~~[(iv)]~~ (D) any other information that the ~~[Revenue and Taxation Interim Committee]~~
1544 Office of the Legislative Fiscal Analyst requests.

1545 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall

1546 redact information that identifies a recipient of a tax credit under this section.

1547 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
1548 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
1549 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
1550 provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure
1551 cost-burdened entities that receive the tax credit under this section.

1552 (c) As part of the study required by this Subsection (5), the Office of the Legislative
1553 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
1554 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
1555 office under Subsection (5)(b).

1556 ~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that the ~~[Revenue~~
1557 ~~and Taxation Interim Committee's]~~ recommendations ~~[under]~~ described in Subsection (5)(a)
1558 include an evaluation of:

- 1559 (i) the cost of the tax credit to the state;
1560 (ii) the purpose and effectiveness of the tax credit; and
1561 (iii) the extent to which the state benefits from the tax credit.

1562 Section 20. Section **59-10-1037** is amended to read:

1563 **59-10-1037. Nonrefundable enterprise zone tax credit.**

1564 (1) As used in this section:

1565 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1566 "business entity" as that term is defined in Section [63N-2-202](#).

1567 (b) "Office" means the Governor's Office of Economic Development created in Section
1568 [63N-1-201](#).

1569 (2) Subject to the provisions of this section, a business entity may claim a
1570 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

1571 (3) The enterprise zone tax credit under this section is the amount listed as the tax
1572 credit amount on the tax credit certificate that the office issues to the business entity for the
1573 taxable year.

1574 (4) A business entity may carry forward a tax credit under this section for a period that
1575 does not exceed the next three taxable years, if the amount of the tax credit exceeds the
1576 business entity's tax liability under this chapter for that taxable year.

1577 (5) A business entity may not claim or carry forward a tax credit available under this
1578 part for a taxable year during which the business entity has claimed the targeted business
1579 income tax credit available under Section [63N-2-305](#).

1580 (6) (a) [~~On or before October 1, 2018, and every five years after October 1, 2018~~] In
1581 accordance with Section [59-10-137](#), the Revenue and Taxation Interim Committee shall study
1582 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
1583 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
1584 repealed.

1585 (b) [~~For~~] (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study
1586 required by this Subsection (6), the office shall provide by electronic means the following
1587 information, if available to the office, for each calendar year to the [~~Revenue and Taxation~~
1588 Interim Committee] Office of the Legislative Fiscal Analyst:

1589 [(i)] (A) the amount of tax credits provided in each development zone;

1590 [(ii)] (B) the number of new full-time employee positions reported to obtain tax credits
1591 in each development zone;

1592 [(iii)] (C) the amount of tax credits awarded for rehabilitating a building in each
1593 development zone;

1594 [(iv)] (D) the amount of tax credits awarded for investing in a plant, equipment, or
1595 other depreciable property in each development zone;

1596 [(v)] (E) the information related to the tax credit contained in the office's latest report
1597 [~~to the Legislature~~] under Section [63N-1-301](#); and

1598 [(vi)] (F) other information [~~as requested by the Revenue and Taxation Interim~~
1599 ~~Committee~~] that the Office of the Legislative Fiscal Analyst requests.

1600 (ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall
1601 redact information that identifies a recipient of a tax credit under this section.

1602 (B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting
1603 the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a
1604 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
1605 provide the information described in Subsection (6)(b)(i) in the aggregate for all development
1606 zones that receive the tax credit under this section.

1607 (c) As part of the study required by this Subsection (6), the Office of the Legislative

1608 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
 1609 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
 1610 office under Subsection (6)(b).

1611 ~~[(c)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the
 1612 recommendations ~~[under]~~ described in Subsection (6)(a) include an evaluation of:

- 1613 (i) the cost of the tax credit to the state;
- 1614 (ii) the purpose and effectiveness of the tax credit; and
- 1615 (iii) the extent to which the state benefits from the tax credit.

1616 Section 21. Section **59-10-1106** is amended to read:

1617 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**
 1618 **Certification -- Rulemaking authority.**

1619 (1) As used in this section:

1620 (a) "Active solar system" ~~[has the same meaning as]~~ means the same as that term is
 1621 defined in Section 59-10-1014.

1622 (b) "Biomass system" ~~[has the same meaning as]~~ means the same as that term is
 1623 defined in Section 59-10-1014.

1624 (c) "Commercial energy system" ~~[has the same meaning as]~~ means the same as that
 1625 term is defined in Section 59-7-614.

1626 (d) "Commercial enterprise" ~~[has the same meaning as]~~ means the same as that term is
 1627 defined in Section 59-7-614.

1628 (e) (i) "Commercial unit" ~~[has the same meaning as]~~ means the same as that term is
 1629 defined in Section 59-7-614.

1630 (ii) Notwithstanding Subsection (1)(e)(i):

1631 (A) with respect to an active solar system used for agricultural water pumping or a
 1632 wind system, each individual energy generating device is considered to be a commercial unit;
 1633 or

1634 (B) if an energy system is the building or structure that a claimant, estate, or trust uses
 1635 to transact business, a commercial unit is the complete energy system itself.

1636 (f) "Direct use geothermal system" ~~[has the same meaning as]~~ means the same as that
 1637 term is defined in Section 59-10-1014.

1638 (g) "Geothermal electricity" ~~[has the same meaning as]~~ means the same as that term is

1639 defined in Section 59-10-1014.

1640 (h) "Geothermal energy" [~~has the same meaning as~~] means the same as that term is
1641 defined in Section 59-10-1014.

1642 (i) "Geothermal heat pump system" [~~has the same meaning as~~] means the same as that
1643 term is defined in Section 59-10-1014.

1644 (j) "Hydroenergy system" [~~has the same meaning as~~] means the same as that term is
1645 defined in Section 59-10-1014.

1646 (k) "Office" means the Office of Energy Development created in Section 63M-4-401.

1647 (l) "Passive solar system" [~~has the same meaning as~~] means the same as that term is
1648 defined in Section 59-10-1014.

1649 (m) "Principal recovery portion" [~~has the same meaning as~~] means the same as that
1650 term is defined in Section 59-10-1014.

1651 (n) "Wind system" [~~has the same meaning as~~] means the same as that term is defined in
1652 Section 59-10-1014.

1653 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in
1654 this section against a tax due under this chapter for a taxable year.

1655 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust
1656 may claim a refundable tax credit under this Subsection (3) with respect to a commercial
1657 energy system if:

1658 (i) the commercial energy system does not use:

1659 (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a
1660 total of 660 or more kilowatts of electricity; or

1661 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

1662 (ii) the claimant, estate, or trust purchases or participates in the financing of the
1663 commercial energy system;

1664 (iii) (A) the commercial energy system supplies all or part of the energy required by
1665 commercial units owned or used by the claimant, estate, or trust; or

1666 (B) the claimant, estate, or trust sells all or part of the energy produced by the
1667 commercial energy system as a commercial enterprise;

1668 (iv) the commercial energy system is completed and placed in service on or after
1669 January 1, 2007; and

1670 (v) the claimant, estate, or trust obtains a written certification from the office in
1671 accordance with Subsection (6).

1672 (b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 10% of the
1673 reasonable costs of the commercial energy system.

1674 (ii) A tax credit under this Subsection (3) may include installation costs.

1675 (iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the
1676 taxable year in which the commercial energy system is completed and placed in service.

1677 (iv) A tax credit under this Subsection (3) may not be carried forward or carried back.

1678 (v) The total amount of tax credit a claimant, estate, or trust may claim under this
1679 Subsection (3) may not exceed \$50,000 per commercial unit.

1680 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a
1681 lessee of a commercial energy system installed on a commercial unit may claim a tax credit
1682 under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably
1683 elects not to claim the tax credit.

1684 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax
1685 credit under this Subsection (3) only the principal recovery portion of the lease payments.

1686 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit
1687 under this Subsection (3) for a period that does not exceed seven taxable years after the date the
1688 lease begins, as stated in the lease agreement.

1689 (4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust
1690 may claim a refundable tax credit under this Subsection (4) with respect to a commercial
1691 energy system if:

1692 (i) the commercial energy system uses wind, geothermal electricity, or biomass
1693 equipment capable of producing a total of 660 or more kilowatts of electricity;

1694 (ii) (A) the commercial energy system supplies all or part of the energy required by
1695 commercial units owned or used by the claimant, estate, or trust; or

1696 (B) the claimant, estate, or trust sells all or part of the energy produced by the
1697 commercial energy system as a commercial enterprise;

1698 (iii) the commercial energy system is completed and placed in service on or after
1699 January 1, 2007; and

1700 (iv) the claimant, estate, or trust obtains a written certification from the office in

1701 accordance with Subsection (6).

1702 (b) (i) Subject to Subsections (4)(b)(ii) and (iii), a tax credit under this Subsection (4)
1703 is equal to the product of:

1704 (A) 0.35 cents; and

1705 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

1706 (ii) A tax credit under this Subsection (4) may be claimed for production occurring
1707 during a period of 48 months beginning with the month in which the commercial energy
1708 system is placed in commercial service.

1709 (iii) A tax credit under this Subsection (4) may not be carried forward or back.

1710 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
1711 on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or
1712 trust confirms that the lessor irrevocably elects not to claim the tax credit.

1713 (5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust
1714 may claim a refundable tax credit as provided in this Subsection (5) if:

1715 (i) the claimant, estate, or trust owns a commercial energy system that uses solar
1716 equipment capable of producing a total of 660 or more kilowatts of electricity;

1717 (ii) (A) the commercial energy system supplies all or part of the energy required by
1718 commercial units owned or used by the claimant, estate, or trust; or

1719 (B) the claimant, estate, or trust sells all or part of the energy produced by the
1720 commercial energy system as a commercial enterprise;

1721 (iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

1722 (iv) the commercial energy system is completed and placed in service on or after
1723 January 1, 2015; and

1724 (v) the claimant, estate, or trust obtains a written certification from the office in
1725 accordance with Subsection (6).

1726 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)
1727 is equal to the product of:

1728 (A) 0.35 cents; and

1729 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

1730 (ii) A tax credit under this Subsection (5) may be claimed for production occurring
1731 during a period of 48 months beginning with the month in which the commercial energy

1732 system is placed in commercial service.

1733 (iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

1734 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
1735 on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or
1736 trust confirms that the lessor irrevocably elects not to claim the tax credit.

1737 (6) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
1738 claimant, estate, or trust shall obtain a written certification from the office.

1739 (b) The office shall issue a claimant, estate, or trust a written certification if the office
1740 determines that:

1741 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1742 credit; and

1743 (ii) the office determines that the commercial energy system with respect to which the
1744 claimant, estate, or trust seeks to claim a tax credit:

1745 (A) has been completely installed;

1746 (B) is a viable system for saving or producing energy from renewable resources; and

1747 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial
1748 energy system uses the state's renewable and nonrenewable resources in an appropriate and
1749 economic manner.

1750 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1751 office may make rules:

1752 (i) for determining whether a commercial energy system meets the requirements of
1753 Subsection (6)(b)(ii); and

1754 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs
1755 of a commercial energy system, as an amount per unit of energy production.

1756 (d) A claimant, estate, or trust that obtains a written certification from the office shall
1757 retain the certification for the same time period a person is required to keep books and records
1758 under Section [59-1-1406](#).

1759 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1760 commission may make rules to address the certification of a tax credit under this section.

1761 (8) A tax credit under this section is in addition to any tax credits provided under the
1762 laws or rules and regulations of the United States.

1763 (9) A purchaser of one or more solar units that claims a tax credit under Section
1764 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
1765 section for that purchase.

1766 ~~[(10) (a) On or before October 1, 2017, and every five years after 2017, the Revenue
1767 and Taxation Interim Committee shall review each tax credit provided by this section and
1768 report its recommendations to the Legislative Management Committee concerning whether the
1769 credit should be continued, modified, or repealed.]~~

1770 ~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (10)(a)
1771 shall include information concerning the cost of the credit, the purpose and effectiveness of the
1772 credit, and the state's benefit from the credit.]~~

1773 Section 22. Section [59-10-1107](#) is amended to read:

1774 **[59-10-1107. Refundable economic development tax credit.](#)**

1775 (1) As used in this section:

1776 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1777 "business entity" as defined in Section [63N-2-103](#).

1778 (b) "New incremental jobs" means the same as that term is defined in Section
1779 [63N-2-103](#).

1780 (c) "New state revenues" means the same as that term is defined in Section [63N-2-103](#).

1781 (d) "Office" means the Governor's Office of Economic Development.

1782 (2) Subject to the other provisions of this section, a business entity may claim a
1783 refundable tax credit for economic development.

1784 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1785 tax credit certificate that the office issues to the business entity for the taxable year.

1786 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1787 (4)(b), the commission shall make a refund to a business entity that claims a tax credit under
1788 this section if the amount of the tax credit exceeds the business entity's tax liability for a
1789 taxable year.

1790 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1791 commission may make rules providing procedures for making a refund to a business entity as
1792 required by Subsection (4)(a).

1793 (5) (a) ~~[On or before October 1, 2013, and every five years after October 1, 2013] In~~

1794 accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study
 1795 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
 1796 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
 1797 repealed.

1798 (b) [~~For~~] Except as provided in Subsection (5)(c), for purposes of the study required by
 1799 this Subsection (5), the office shall provide the following information, if available to the office,
 1800 to the Revenue and Taxation Interim Committee by electronic means:

1801 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

1802 (ii) the criteria the office uses in granting a tax credit;

1803 (iii) the new state revenues generated by each taxpayer for each calendar year;

1804 (iv) estimates for each of the next [~~five~~] three calendar years of the following:

1805 (A) the amount of tax credits that the office will grant;

1806 (B) the amount of new state revenues that will be generated; and

1807 (C) the number of new incremental jobs within the state that will be generated;

1808 (v) the information contained in the office's latest report [~~to the Legislature~~] under

1809 Section 63N-2-106; and

1810 (vi) any other information that the Revenue and Taxation Interim Committee requests.

1811 (c) (i) In providing the information described in Subsection (5)(b), the office shall
 1812 redact information that identifies a recipient of a tax credit under this section.

1813 (ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the
 1814 information described in Subsection (5)(b) might disclose the identity of a recipient of a tax
 1815 credit, the office may file a request with the Revenue and Taxation Interim Committee to
 1816 provide the information described in Subsection (5)(b) in the aggregate for all taxpayers that
 1817 receive the tax credit under this section.

1818 [~~(c)~~] (d) The Revenue and Taxation Interim Committee shall ensure that [~~its~~] the
 1819 recommendations [~~under~~] described in Subsection (5)(a) include an evaluation of:

1820 (i) the cost of the tax credit to the state;

1821 (ii) the purpose and effectiveness of the tax credit; and

1822 (iii) the extent to which the state benefits from the tax credit.

1823 Section 23. Section **59-10-1108** is amended to read:

1824 **59-10-1108. Refundable motion picture tax credit.**

1825 (1) As used in this section:

1826 (a) "Motion picture company" means a claimant, estate, or trust that meets the
1827 definition of a motion picture company under Section [63N-8-102](#).

1828 (b) "Office" means the Governor's Office of Economic Development created in Section
1829 [63N-1-201](#).

1830 (c) "State-approved production" [~~has the same meaning as~~] means the same as that
1831 term is defined in Section [63N-8-102](#).

1832 (2) For a taxable [~~years~~] year beginning on or after January 1, 2009, a motion picture
1833 company may claim a refundable tax credit for a state-approved production.

1834 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1835 tax credit certificate that the office issues to a motion picture company under Section
1836 [63N-8-103](#) for the taxable year.

1837 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1838 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1839 credit under this section if the amount of the tax credit exceeds the motion picture company's
1840 tax liability for the taxable year.

1841 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1842 commission may make rules providing procedures for making a refund to a motion picture
1843 company as required by Subsection (4)(a).

1844 (5) (a) [~~On or before October 1, 2014, and every five years after October 1, 2014~~] In
1845 accordance with Section [59-10-137](#), the Revenue and Taxation Interim Committee shall study
1846 the tax credit allowed by this section and make recommendations [~~to the Legislative~~
1847 ~~Management Committee~~] concerning whether the tax credit should be continued, modified, or
1848 repealed.

1849 (b) [~~For~~] (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study
1850 required by this Subsection (5), the office shall provide the following information, if available
1851 to the office, to the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal
1852 Analyst by electronic means:

1853 [(~~†~~)] (A) the amount of tax credit the office grants to each taxpayer for each calendar
1854 year; [~~and~~]

1855 (B) estimates of the amount of tax credit that the office will grant for each of the next

- 1856 [~~five~~] three calendar years;
- 1857 [(~~ii~~)] (C) the criteria the office uses in granting a tax credit;
- 1858 [(~~iii~~)] (D) the dollars left in the state, as defined in Section [63N-8-102](#), by each motion
1859 picture company for each calendar year;
- 1860 [(~~iv~~)] (E) the information contained in the office's latest report [~~to the Legislature~~]
1861 under Section [63N-8-105](#); and
- 1862 [(~~v~~)] (F) any other information [~~requested by the Revenue and Taxation Interim
1863 Committee~~] that the Office of the Legislative Fiscal Analyst requests.
- 1864 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
1865 redact information that identifies a recipient of a tax credit under this section.
- 1866 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
1867 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
1868 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
1869 provide the information described in Subsection (5)(b)(i) in the aggregate for all taxpayers that
1870 receive the tax credit under this section.
- 1871 (c) As part of the study required by this Subsection (5), the Office of the Legislative
1872 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
1873 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
1874 office under Subsection (5)(b).
- 1875 [(~~e~~)] (d) The Revenue and Taxation Interim Committee shall ensure that [~~its~~] the
1876 recommendations [~~under~~] described in Subsection (5)(a) include an evaluation of:
- 1877 (i) the cost of the tax credit to the state;
- 1878 (ii) the effectiveness of the tax credit; and
- 1879 (iii) the extent to which the state benefits from the tax credit.
- 1880 Section 24. Section **59-13-202** is amended to read:
- 1881 **59-13-202. Refund of tax for agricultural uses on individual income and
1882 corporate franchise and income tax returns -- Application for permit for refund --
1883 Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties --
1884 Revenue and Taxation Interim Committee study.**
- 1885 (1) As used in this section:
- 1886 (a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or

1887 nonresident person.

1888 (ii) "Claimant" does not include an estate or trust.

1889 (b) "Estate" means a nonresident estate or a resident estate.

1890 (c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or

1891 trust may claim:

1892 (i) as provided by statute; and

1893 (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust

1894 claims the tax credit, the claimant, estate, or trust has a tax liability under:

1895 (A) Chapter 7, Corporate Franchise and Income Taxes; or

1896 (B) Chapter 10, Individual Income Tax Act.

1897 (d) "Trust" means a nonresident trust or a resident trust.

1898 (2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state

1899 for the purpose of operating or propelling stationary farm engines and self-propelled farm

1900 machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as

1901 provided by this part, is entitled to a refund of the tax subject to the conditions and limitations

1902 provided under this part.

1903 (3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under

1904 this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate,

1905 or trust files under:

1906 (i) Chapter 7, Corporate Franchise and Income Taxes; or

1907 (ii) Chapter 10, Individual Income Tax Act.

1908 (b) A claimant, estate, or trust not subject to filing a tax return described in Subsection

1909 (3)(a) shall obtain a permit and file claims on a calendar year basis.

1910 (c) Any claimant, estate, or trust claiming a refundable tax credit under this section is

1911 required to furnish any or all of the information outlined in this section upon request of the

1912 commission.

1913 (d) A refundable tax credit under this section is allowed only on purchases on which

1914 tax is paid during the taxable year covered by the tax return.

1915 (4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall

1916 be filed containing:

1917 (a) the name of the claimant, estate, or trust;

1918 (b) the claimant's, estate's, or trust's address;

1919 (c) location and number of acres owned and operated, location and number of acres
1920 rented and operated, the latter of which shall be verified by a signed statement from the legal
1921 owner;

1922 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

1923 (e) make, size, and type of fuel used and power rating of each piece of equipment using
1924 fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm
1925 machinery with which the claimant, estate, or trust works for hire doing custom jobs for other
1926 farmers, the application shall include information the commission requires and shall all be
1927 contained in, and be considered part of, the original application. The claimant, estate, or trust
1928 shall also file with the application a certificate from the county assessor showing each piece of
1929 equipment using fuel. This original application and all information contained in it constitutes a
1930 permanent file with the commission in the name of the claimant, estate, or trust.

1931 (5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall
1932 file a claim with the commission by April 15 of each year for the refund for the previous
1933 calendar year. The claim shall state the name and address of the claimant, estate, or trust, the
1934 number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount
1935 paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support
1936 the claim. No more than one claim for a tax refund may be filed annually by each user of
1937 motor fuel purchased for nonhighway agricultural uses.

1938 (6) Upon commission approval of the claim for a refund, the Division of Finance shall
1939 pay the amount found due to the claimant, estate, or trust. The total amount of claims for
1940 refunds shall be paid from motor fuel taxes.

1941 (7) The commission may refuse to accept as evidence of purchase or payment any
1942 instruments that show alteration or that fail to indicate the quantity of the purchase, the price of
1943 the motor fuel, a statement that the motor fuel is purchased for purposes other than
1944 transportation, and the date of purchase and delivery. If the commission is not satisfied with
1945 the evidence submitted in connection with the claim, the commission may reject the claim or
1946 require additional evidence.

1947 (8) A claimant, estate, or trust aggrieved by the decision of the commission with
1948 respect to a refundable tax credit or refund may file a request for agency action, requesting a

1949 hearing before the commission.

1950 (9) A claimant, estate, or trust that makes any false claim, report, or statement, as
1951 claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the
1952 claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under
1953 Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged
1954 violations of this part. In addition to these penalties, the claimant, estate, or trust may not
1955 receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for
1956 refund for a period of five years.

1957 (10) (a) In accordance with any rules prescribed by the commission under Subsection
1958 (10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund
1959 into the Education Fund an amount equal to the amount of the refund claimed under this
1960 section.

1961 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1962 commission may make rules providing procedures for:

- 1963 (i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i);
- 1964 (ii) making a transfer from the Transportation Fund into the Education Fund as
1965 required by Subsection (10)(a); or
- 1966 (iii) enforcing this part.

1967 (11) (a) On or before November 30, 2017, and every three years after 2017, the
1968 Revenue and Taxation Interim Committee shall review the tax credit provided by this section
1969 and make recommendations concerning whether the tax credit should be continued, modified,
1970 or repealed.

1971 (b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation
1972 Interim Committee shall:

- 1973 (i) schedule time on at least one committee agenda to conduct the review;
- 1974 (ii) invite state agencies, individuals, and organizations concerned with the credit under
1975 review to provide testimony;
- 1976 (iii) ensure that the recommendations described in this section include an evaluation of:
 - 1977 (A) the cost of the tax credit to the state;
 - 1978 (B) the purpose and effectiveness of the tax credit; and
 - 1979 (C) the extent to which the state benefits from the tax credit; and

1980 (iv) undertake other review efforts as determined by the chairs of the Revenue and
1981 Taxation Interim Committee.

1982 Section 25. Section **63N-2-106** is amended to read:

1983 **63N-2-106. Reports -- Posting monthly and annual reports -- Audit and study of**
1984 **tax credits.**

1985 (1) The office shall include the following information in the annual written report
1986 described in Section **63N-1-301**:

1987 (a) the office's success in attracting new commercial projects to development zones
1988 under this part and the corresponding increase in new incremental jobs;

1989 (b) how many new incremental jobs and high paying jobs are employees of a company
1990 that received tax credits under this part, including the number of employees who work for a
1991 third-party rather than directly for a company, receiving the tax credits under this part;

1992 (c) the estimated amount of tax credit commitments made by the office and the period
1993 of time over which tax credits will be paid;

1994 (d) the economic impact on the state from new state revenues and the provision of tax
1995 credits under this part;

1996 (e) the estimated costs and economic benefits of the tax credit commitments made by
1997 the office;

1998 (f) the actual costs and economic benefits of the tax credit commitments made by the
1999 office; and

2000 (g) tax credit commitments made by the office, with the associated calculation.

2001 (2) Each month, the office shall post on its website and on a state website:

2002 (a) the new tax credit commitments made by the office during the previous month; and

2003 (b) the estimated costs and economic benefits of those tax credit commitments.

2004 (3) (a) On or before November 1, 2014, and every three years after November 1, 2014,
2005 the office shall:

2006 (i) conduct an audit of the tax credits allowed under Section **63N-2-105**;

2007 (ii) study the tax credits allowed under Section **63N-2-105**; and

2008 (iii) make recommendations concerning whether the tax credits should be continued,
2009 modified, or repealed.

2010 (b) The audit shall include an evaluation of:

- 2011 (i) the cost of the tax credits;
- 2012 (ii) the purposes and effectiveness of the tax credits;
- 2013 (iii) the extent to which the state benefits from the tax credits; and
- 2014 (iv) the state's return on investment under this part measured by new state revenues,
- 2015 compared with the costs of tax credits provided and GOED's expenses in administering this
- 2016 part.

2017 (c) The office shall provide the results of the audit described in this Subsection (3):

- 2018 (i) in the written annual report described in Subsection (1); and
- 2019 (ii) as part of the reviews described in Sections [59-7-159](#) and [59-10-137](#).

2020 Section 26. Section **63N-2-213** is amended to read:

2021 **63N-2-213. State tax credits.**

2022 (1) The office shall certify a business entity's eligibility for a tax credit described in this

2023 section.

2024 (2) A business entity seeking to receive a tax credit as provided in this section shall

2025 provide the office with:

2026 (a) an application for a tax credit certificate in a form approved by the office, including

2027 a certification, by an officer of the business entity, of a signature on the application; and

2028 (b) documentation that demonstrates the business entity has met the requirements to

2029 receive the tax credit.

2030 (3) If, after review of an application and documentation provided by a business entity

2031 as described in Subsection (2), the office determines that the application and documentation are

2032 inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

2033 (a) deny the tax credit; or

2034 (b) inform the business entity that the application or documentation was inadequate

2035 and ask the business entity to submit additional documentation.

2036 (4) If, after review of an application and documentation provided by a business entity

2037 as described in Subsection (2), the office determines that the application and documentation

2038 provide reasonable justification for authorizing a tax credit, the office shall:

2039 (a) determine the amount of the tax credit to be granted to the business entity;

2040 (b) issue a tax credit certificate to the business entity; and

2041 (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

2042 (5) A business entity may not claim a tax credit under this section unless the business
2043 entity has a tax credit certificate issued by the office.

2044 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2045 office shall make rules describing:

2046 (a) the form and content of an application for a tax credit under this section;

2047 (b) the documentation requirements for a business entity to receive a tax credit
2048 certificate under this section; and

2049 (c) administration of the program, including relevant timelines and deadlines.

2050 (7) Subject to the limitations of Subsections (8) through (10), and if the requirements
2051 of this part are met, the following nonrefundable tax credits against a tax under Title 59,
2052 Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income
2053 Tax Act, are applicable in an enterprise zone:

2054 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
2055 employee position created within the enterprise zone;

2056 (b) an additional \$500 tax credit may be claimed if the new full-time employee position
2057 created within the enterprise zone pays at least 125% of:

2058 (i) the county average monthly nonagricultural payroll wage for the respective industry
2059 as determined by the Department of Workforce Services; or

2060 (ii) if the county average monthly nonagricultural payroll wage is not available for the
2061 respective industry, the total average monthly nonagricultural payroll wage in the respective
2062 county where the enterprise zone is located;

2063 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
2064 position created within the enterprise zone is in a business entity that adds value to agricultural
2065 commodities through manufacturing or processing;

2066 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
2067 new full-time employee position created within the enterprise zone that is filled by an
2068 employee who is insured under an employer-sponsored health insurance program if the
2069 employer pays at least 50% of the premium cost for the year for which the credit is claimed;

2070 (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the
2071 enterprise zone that has been vacant for two years or more; and

2072 (f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%

2073 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
2074 property.

2075 (8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax
2076 credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30
2077 full-time employee positions in a taxable year.

2078 (b) A business entity that received a tax credit for one or more new full-time employee
2079 positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for
2080 a new full-time employee position in a subsequent taxable year under Subsections (7)(a)
2081 through (d) if:

2082 (i) the business entity has created a new full-time position within the enterprise zone;
2083 and

2084 (ii) the total number of full-time employee positions at the business entity at any point
2085 during the tax year for which the tax credit is being claimed is greater than the highest number
2086 of full-time employee positions that existed at the business entity in the previous three taxable
2087 years.

2088 (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a)
2089 through (d).

2090 (9) If the amount of a tax credit under this section exceeds a business entity's tax
2091 liability under this chapter for a taxable year, the business entity may carry forward the amount
2092 of the tax credit exceeding the liability for a period that does not exceed the next three taxable
2093 years.

2094 (10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business
2095 entity primarily engaged in retail trade or by a public utilities business.

2096 (11) A business entity that has no employees:

2097 (a) may not claim tax credits under Subsections (7)(a) through (d); and

2098 (b) may claim tax credits under Subsections (7)(e) through (f).

2099 (12) A business entity may not claim or carry forward a tax credit available under this
2100 part for a taxable year during which the business entity has claimed the targeted business
2101 income tax credit available under Section [63N-2-305](#).

2102 (13) (a) On or before November 30, 2018, and every three years after 2018, the
2103 Revenue and Taxation Interim Committee shall review the tax credits provided by this section

2104 and make recommendations concerning whether the tax credits should be continued, modified,
 2105 or repealed.

2106 (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation
 2107 Interim Committee shall:

2108 (i) schedule time on at least one committee agenda to conduct the review;

2109 (ii) invite state agencies, individuals, and organizations concerned with the credits
 2110 under review to provide testimony;

2111 (iii) ensure that the recommendations described in this section include an evaluation of:

2112 (A) the cost of the tax credits to the state;

2113 (B) the purpose and effectiveness of the tax credits; and

2114 (C) the extent to which the state benefits from the tax credits; and

2115 (iv) undertake other review efforts as determined by the chairs of the Revenue and
 2116 Taxation Interim Committee.

2117 Section 27. Section **63N-2-305** is amended to read:

2118 **63N-2-305. Targeted business income tax credit structure -- Duties of the local**
 2119 **zone administrator -- Duties of the State Tax Commission -- Revenue and Taxation**
 2120 **Interim Committee study.**

2121 (1) A business applicant that is certified under Subsection **63N-2-304(3)** and issued a
 2122 targeted business tax credit eligibility form by the office under Subsection (8) may claim a
 2123 refundable tax credit:

2124 (a) against the business applicant's tax liability under:

2125 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

2126 (ii) Title 59, Chapter 10, Individual Income Tax Act; and

2127 (b) subject to requirements and limitations provided by this part.

2128 (2) The total amount of the targeted business income tax credits allowed under this part
 2129 for all business applicants may not exceed \$300,000 in any fiscal year.

2130 (3) (a) A targeted business income tax credit allowed under this part for each
 2131 community investment project provided by a business applicant may not:

2132 (i) be claimed by a business applicant for more than seven consecutive taxable years
 2133 from the date the business applicant first qualifies for a targeted business income tax credit on
 2134 the basis of a community investment project;

2135 (ii) be carried forward or carried back;

2136 (iii) exceed \$100,000 in total amount for the community investment project period

2137 during which the business applicant is eligible to claim a targeted business income tax credit;

2138 or

2139 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser

2140 of:

2141 (A) 50% of the maximum amount allowed by the local zone administrator; or

2142 (B) the allocated cap amount determined by the office under Subsection [63N-2-304\(5\)](#).

2143 (b) A business applicant may apply to the local zone administrator to claim a targeted

2144 business income tax credit allowed under this part for each community investment project

2145 provided by the business applicant as the basis for its eligibility for a targeted business income

2146 tax credit.

2147 (4) Subject to other provisions of this section, the local zone administrator shall

2148 establish for each business applicant that qualifies for a targeted business income tax credit:

2149 (a) criteria for maintaining eligibility for the targeted business income tax credit that

2150 are reasonably related to the community investment project that is the basis for the business

2151 applicant's targeted business income tax credit;

2152 (b) the maximum amount of the targeted business income tax credit the business

2153 applicant is allowed for the community investment project period;

2154 (c) the time period over which the total amount of the targeted business income tax

2155 credit may be claimed;

2156 (d) the maximum amount of the targeted business income tax credit that the business

2157 applicant will be allowed to claim each year; and

2158 (e) requirements for a business applicant to report to the local zone administrator

2159 specifying:

2160 (i) the frequency of the business applicant's reports to the local zone administrator,

2161 which shall be made at least quarterly; and

2162 (ii) the information needed by the local zone administrator to monitor the business

2163 applicant's compliance with this Subsection (4) or Section [63N-2-304](#) that shall be included in

2164 the report.

2165 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted

2166 business income tax credit under this part shall report to the local zone administrator.

2167 (6) The amount of a targeted business income tax credit that a business applicant is
2168 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office
2169 or the local zone administrator determines that the business applicant has failed to comply with
2170 a requirement of Subsection (3) or Section 63N-2-304.

2171 (7) The office or local zone administrator may audit a business applicant to ensure:

2172 (a) eligibility for a targeted business income tax credit; or

2173 (b) compliance with Subsection (3) or Section 63N-2-304.

2174 (8) The office shall issue a targeted business income tax credit eligibility form in a
2175 form jointly developed by the State Tax Commission and the office no later than 30 days after
2176 the last day of the business applicant's taxable year showing:

2177 (a) the maximum amount of the targeted business income tax credit that the business
2178 applicant is eligible for that taxable year;

2179 (b) any reductions in the maximum amount of the targeted business income tax credit
2180 because of failure to comply with a requirement of Subsection (3) or Section 63N-2-304;

2181 (c) the allocated cap amount that the business applicant may claim for that taxable
2182 year; and

2183 (d) the actual amount of the targeted business income tax credit that the business
2184 applicant may claim for that taxable year.

2185 (9) (a) A business applicant shall retain the targeted business income tax credit
2186 eligibility form provided by the office under this Subsection (9).

2187 (b) The State Tax Commission may audit a business applicant to ensure:

2188 (i) eligibility for a targeted business income tax credit; or

2189 (ii) compliance with Subsection (3) or Section 63N-2-304.

2190 (10) (a) On or before November 30, 2018, and every three years after 2018, the
2191 Revenue and Taxation Interim Committee shall review the tax credit provided by this section
2192 and make recommendations concerning whether the tax credit should be continued, modified,
2193 or repealed.

2194 (b) In conducting the review required by Subsection (10)(a), the Revenue and Taxation
2195 Interim Committee shall:

2196 (i) schedule time on at least one committee agenda to conduct the review;

2197 (ii) invite state agencies, individuals, and organizations concerned with the credit under
 2198 review to provide testimony;

2199 (iii) ensure that the recommendations described in this section include an evaluation of:

2200 (A) the cost of the tax credit to the state;

2201 (B) the purpose and effectiveness of the tax credit; and

2202 (C) the extent to which the state benefits from the tax credit; and

2203 (iv) undertake other review efforts as determined by the chairs of the Revenue and
 2204 Taxation Interim Committee.

2205 Section 28. Section **63N-2-810** is amended to read:

2206 **63N-2-810. Reports on tax credit certificates -- Study by legislative committees.**

2207 [(+)] The office shall include the following information in the annual written report
 2208 described in Section **63N-1-301**:

2209 [(a)] (1) the total amount listed on tax credit certificates the office issues under this
 2210 part;

2211 [(b)] (2) the criteria that the office uses in prioritizing the issuance of tax credits
 2212 amongst tax credit applicants under this part; and

2213 [(c)] (3) the economic impact on the state related to providing tax credits under this
 2214 part.

2215 [~~(2)(a) On or before November 1, 2016, and every five years after November 1, 2016,~~
 2216 ~~the Revenue and Taxation Interim Committee shall:]~~

2217 [~~(i) study the tax credit allowed under Section **59-10-1025**; and]~~

2218 [~~(ii) make recommendations concerning whether the tax credit should be continued,~~
 2219 ~~modified, or repealed.]~~

2220 [~~(b) The study under Subsection (2)(a) shall include an evaluation of:]~~

2221 [~~(i) the cost of the tax credit under Section **59-10-1025**;~~]

2222 [~~(ii) the purposes and effectiveness of the tax credit; and]~~

2223 [~~(iii) the extent to which the state benefits from the tax credit.]~~

2224 [(c) For purposes of the study required by this Subsection (2), the office shall provide
 2225 the following information to the Revenue and Taxation Interim Committee by electronic
 2226 means:]

2227 [(i) the amount of tax credits that the office grants to each eligible business entity for

2228 each taxable year;]
2229 ~~[(ii) the amount of eligible new state tax revenues generated by each eligible product or~~
2230 ~~project;]~~
2231 ~~[(iii) estimates for each of the next five calendar years of the following:]~~
2232 ~~[(A) the amount of tax credits that the office will grant;]~~
2233 ~~[(B) the amount of eligible new state tax revenues that will be generated; and]~~
2234 ~~[(C) the number of new incremental jobs within the state that will be generated;]~~
2235 ~~[(iv) the information contained in the office's latest report to the Legislature under~~
2236 ~~Section ~~63N-2-705~~; and]~~
2237 ~~[(v) any other information that the Revenue and Taxation Interim Committee requests.]~~
2238 Section 29. **Effective date.**
2239 If approved by two-thirds of all the members elected to each house, this bill takes effect
2240 upon approval by the governor, or the day following the constitutional time limit of Utah
2241 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
2242 the date of veto override.

Legislative Review Note
Office of Legislative Research and General Counsel