

Senator Kirk A. Cullimore proposes the following substitute bill:

TAX AND REVENUE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends tax provisions and provides for expenditure of certain tax revenue.

Highlighted Provisions:

This bill:

- ▶ authorizes a refund on aviation fuel taxes under certain circumstances;
- ▶ deposits, for ten years, a portion of the state severance tax into the Industrial Assistance Account under certain circumstances;
- ▶ provides for investors in projects that produce and sell new aviation fuel to receive an award of money from the Industrial Assistance Account; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-5-115, as last amended by Laws of Utah 2014, Chapter 241

59-5-116, as last amended by Laws of Utah 2014, Chapter 241



- 26 [59-5-119](#), as last amended by Laws of Utah 2014, Chapter 241
- 27 [59-13-401](#), as last amended by Laws of Utah 2009, Chapters 222 and 358
- 28 [63N-3-102](#), as last amended by Laws of Utah 2018, Chapter 428
- 29 [63N-3-103](#), as last amended by Laws of Utah 2018, Chapters 204 and 428
- 30 [63N-3-104](#), as last amended by Laws of Utah 2018, Chapter 204
- 31 [63N-3-104.5](#), as enacted by Laws of Utah 2018, Chapter 204
- 32 [63N-3-105](#), as last amended by Laws of Utah 2016, Chapter 34

33 ENACTS:

- 34 [59-5-121](#), Utah Code Annotated 1953
- 35 [63N-3-112](#), Utah Code Annotated 1953
- 36 [63N-3-113](#), Utah Code Annotated 1953



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

39 Section 1. Section **59-5-115** is amended to read:

40 **59-5-115. Disposition of taxes collected -- Credit to General Fund.**

41 Except as provided in Section [51-9-305](#), [59-5-116](#), [~~or~~] [59-5-119](#), or [59-5-121](#), a tax
42 imposed and collected under Section [59-5-102](#) shall be paid to the commission, promptly
43 remitted to the state treasurer, and credited to the General Fund.

44 Section 2. Section **59-5-116** is amended to read:

45 **59-5-116. Disposition of certain taxes collected on Ute Indian land.**

46 (1) Except as provided in Subsection (2), there shall be deposited into the Uintah Basin
47 Revitalization Fund established in Section [35A-8-1602](#):

48 (a) for taxes imposed under this part, 33% of the taxes collected on oil, gas, or other
49 hydrocarbon substances produced from a well:

50 (i) for which production began on or before June 30, 1995; and

51 (ii) attributable to interests:

52 (A) held in trust by the United States for the Tribe and its members; or

53 (B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948);

54 (b) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other
55 hydrocarbon substances produced from a well:

56 (i) for which production began on or after July 1, 1995; and

57 (ii) attributable to interests:
58 (A) held in trust by the United States for the Tribe and its members; or
59 (B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948); and
60 (c) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other
61 hydrocarbon substances produced from a well:
62 (i) for which production began on or after January 1, 2001; and
63 (ii) attributable to interests on lands conveyed to the tribe under the Ute-Moab Land
64 Restoration Act, Pub. L. No. 106-398, Sec. 3303.
65 (2) (a) The maximum amount deposited in the Uintah Basin Revitalization Fund may
66 not exceed:
67 (i) \$3,000,000 in fiscal year 2005-06;
68 (ii) \$5,000,000 in fiscal year 2006-07;
69 (iii) \$6,000,000 in fiscal years 2007-08 and 2008-09; and
70 (iv) for fiscal years beginning with fiscal year 2009-10, the amount determined by the
71 commission as described in Subsection (2)(b).
72 (b) (i) The commission shall increase or decrease the dollar amount described in
73 Subsection (2)(a)(iii) by a percentage equal to the percentage difference between the consumer
74 price index for the preceding calendar year and the consumer price index for calendar year
75 2008; and
76 (ii) after making an increase or decrease under Subsection (2)(b)(i), round the dollar
77 amount to the nearest whole dollar.
78 (c) For purposes of this Subsection (2), "consumer price index" is as described in
79 Section 1(f)(4), Internal Revenue Code, and defined in Section (1)(f)(5), Internal Revenue
80 Code.
81 (d) Any amounts in excess of the maximum described in Subsection (2)(a) shall be
82 credited as provided in Sections [51-9-305](#) [and], [59-5-115](#), and [59-5-121](#).
83 Section 3. Section **59-5-119** is amended to read:
84 **59-5-119. Disposition of certain taxes collected on Navajo Nation land located in**
85 **Utah.**
86 (1) Except as provided in Subsection (2), there shall be deposited into the Navajo
87 Revitalization Fund established in Section [35A-8-1704](#) for taxes imposed under this part

88 beginning on July 1, 1997:

89 (a) 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced
90 from a well:

91 (i) for which production began on or before June 30, 1996; and

92 (ii) attributable to interests in Utah held in trust by the United States for the Navajo
93 Nation and its members; and

94 (b) 80% of the taxes collected on oil, gas, or other hydrocarbon substances produced
95 from a well:

96 (i) for which production began on or after July 1, 1996; and

97 (ii) attributable to interests in Utah held in trust by the United States for the Navajo
98 Nation and its members.

99 (2) (a) The maximum amount deposited in the Navajo Revitalization Fund may not
100 exceed:

101 (i) \$2,000,000 in fiscal year 2006-07; and

102 (ii) \$3,000,000 for fiscal years beginning with fiscal year 2007-08.

103 (b) Any amounts in excess of the maximum described in Subsection (2)(a) shall be
104 credited as provided in Sections [51-9-305](#) [and], [59-5-115](#), and [59-5-121](#).

105 Section 4. Section **59-5-121** is enacted to read:

106 **59-5-121. Disposition of taxes collected -- Industrial Assistance Account.**

107 (1) As used in this section, "GOED" means the Governor's Office of Economic
108 Development created in Section [63N-1-201](#).

109 (2) Subject to Subsections (3) and (4), the Division of Finance shall deposit annually
110 \$1,000,000 from the taxes collected under Section [59-5-102](#) into the Industrial Assistance
111 Account created in Section [63N-3-103](#).

112 (3) The Division of Finance shall make the deposit described in Subsection (2):

113 (a) after making the deposits required by Sections [51-9-305](#), [59-5-116](#), and [59-5-119](#);

114 (b) after receiving the certification from GOED required by Section [63N-3-113](#); and

115 (c) for ten consecutive fiscal years.

116 (4) If there is less than \$1,000,000 available for deposit, the Division of Finance shall
117 deposit the amount available.

118 Section 5. Section **59-13-401** is amended to read:

119 **59-13-401. Aviation fuel tax -- Rate.**

120 (1) A tax is imposed upon aviation fuel at the rates provided in this section.

121 (2) Except as provided by Subsection (3), the tax on aviation fuel shall be 9 cents per
122 gallon.

123 (3) Aviation fuel purchased for use by a federally certificated air carrier is subject to a
124 tax of:

125 (a) 4 cents per gallon on aviation fuel purchased other than at an international airport:

126 (i) located within a county of the first class; and

127 (ii) that has a United States customs office on its premises; or

128 (b) 2.5 cents per gallon on aviation fuel purchased at an international airport:

129 (i) located within a county of the first class; and

130 (ii) that has a United States customs office on its premises.

131 (4) (a) If a federally certificated air carrier purchases more than 130 million gallons of
132 aviation fuel in this state during a calendar year, the federally certificated air carrier may claim
133 a refund of the tax paid under this section on each gallon of aviation fuel that the federally
134 certificated air carrier purchases in excess of 130 million gallons.

135 (b) The amount of the refund described in Subsection (4)(a) is equal to the tax paid on
136 each gallon of aviation fuel that the federally certificated air carrier purchases after the
137 federally certificated air carrier purchases 130 million gallons.

138 (c) The federally certificated air carrier is eligible to claim the refund beginning in the
139 month after the federally certificated air carrier reaches 130 million gallons of aviation fuel
140 purchased in this state.

141 (d) For purposes of determining whether a federally certificated air carrier has
142 purchased more than 130 million gallons of aviation fuel in this state, the federally certificated
143 air carrier may count the gallons of fuel purchased in the state for use in an aircraft operated by
144 another federally certificated air carrier if:

145 (i) the other federally certificated air carrier operates the aircraft exclusively for the
146 federally certificated air carrier claiming the refund; and

147 (ii) the federally certificated air carrier claiming the refund paid for, or reimbursed the
148 other federally certificated air carrier for, the aviation fuel purchase.

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

150 commission shall make rules governing the procedures for claiming a refund authorized by this
151 section.

152 Section 6. Section **63N-3-102** is amended to read:

153 **63N-3-102. Definitions.**

154 As used in this part:

155 (1) "Administrator" means the executive director or the executive director's designee.

156 (2) "Aviation fuel" means the same as that term is defined in Section 59-13-102.

157 (3) "Aviation fuel project" means the production in the state, through the cooperation
158 of a refinery in the state and an investor, of new aviation fuel.

159 [~~(2)~~] (4) "Best available control technology" means a pollution control method that is
160 approved by the United States Environmental Protection Agency or the Department of
161 Environmental Quality to control a certain pollutant type to a specified degree.

162 [~~(3)~~] (5) "Company creating an economic impediment" means a company that
163 discourages economic development within a reasonable radius of its location because of:

164 (a) odors;

165 (b) noise;

166 (c) pollution;

167 (d) health hazards; or

168 (e) other activities similar to those described in Subsections [~~(3)~~] (5)(a) through (d).

169 [~~(4)~~] (6) "Economic opportunities" means unique business situations or community
170 circumstances, including the development of recreation infrastructure and the promotion of the
171 high tech sector in the state, which lend themselves to the furtherance of the economic interests
172 of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce
173 and industry in the state, including retention of companies whose relocation outside the state
174 would have a significant detrimental economic impact on the state as a whole, regions of the
175 state, or specific components of the state as determined by the board.

176 [~~(5)~~] (7) "Economically disadvantaged rural area" means a geographic area designated
177 by the board under Section 63N-3-111.

178 (8) "Federally certificated air carrier" means the same as that term is defined in Section
179 59-13-102.

180 (9) "Investor" means a federally certificated air carrier.

181 (10) "New aviation fuel" means an average of at least 2,000 barrels of aviation fuel per
 182 day during the previous calendar year above a baseline established in accordance with Section
 183 63N-3-112.

184 ~~[(6)]~~ (11) "Nonattainment area" means a part of the state where air quality is
 185 determined to exceed the National Ambient Air Quality Standards, as defined in the Clean Air
 186 Act Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

187 ~~[(7)]~~ (12) "Replacement company" means a company locating its business or part of its
 188 business in a location vacated by a company creating an economic impediment.

189 ~~[(8)]~~ (13) "Restricted Account" means the restricted account known as the Industrial
 190 Assistance Account created in Section 63N-3-103.

191 ~~[(9)]~~ (14) "Targeted industry" means an industry or group of industries targeted by the
 192 board under Section 63N-3-111, for economic development in the state.

193 Section 7. Section **63N-3-103** is amended to read:

194 **63N-3-103. Industrial Assistance Account created -- Uses -- Administrator duties**
 195 **-- Costs.**

196 (1) There is created a restricted account within the General Fund known as the
 197 "Industrial Assistance Account" of which annually:

198 (a) except as provided in Subsection (1)(b):

199 ~~[(a)]~~ (i) up to 50% of the unencumbered money in the account may be used in
 200 economically disadvantaged rural areas; and

201 ~~[(b)]~~ (ii) up to the greater of \$250,000 or 25% of the unencumbered money in the
 202 account may be used to take timely advantage of economic opportunities as they arise[-]; and

203 (b) \$1,000,000 shall be used for the purposes described in Section 63N-3-112.

204 (2) The administrator shall administer the restricted account created under Subsection
 205 (1) under the policy direction of the board.

206 (3) The administrator may hire appropriate support staff to perform the duties required
 207 under this section.

208 (4) (a) [The] Except as provided in Subsection (4)(b), the cost of administering the
 209 restricted account shall be paid from money in the restricted account.

210 (b) The cost of administering the restricted account may not be paid from the
 211 \$1,000,000 in the restricted account to be used for the purposes described in Section

212 [63N-3-112.](#)

213 (5) Interest accrued from investment of money in the restricted account shall remain in
214 the restricted account.

215 (6) The office shall review the activities and progress of grant recipients under this
216 chapter on a regular basis and, as part of the office's annual written report described in Section
217 [63N-1-301](#), report on the economic impact of activities funded by the grants.

218 (7) Any revenue described in Subsection (1)(b) that the office does not expend by the
219 close of the fiscal year lapses to the General Fund.

220 Section 8. Section [63N-3-104](#) is amended to read:

221 **[63N-3-104. Rural Fast Track Program -- Creation -- Funding -- Qualifications](#)**
222 **for program participation -- Awards -- Reports.**

223 (1) (a) There is created the Rural Fast Track Program.

224 (b) The program is a funded component of the economically disadvantaged rural areas
225 designation in Subsection [63N-3-103\(1\)\(a\)\(i\)](#).

226 (2) In awarding a grant, loan, or other financial assistance under this section, the
227 administrator shall:

228 (a) consider whether the award will:

229 (i) provide an efficient way for small companies in rural areas of the state to receive
230 incentives for capital investment; and

231 (ii) lead to the creation of high paying jobs in rural areas of the state; and

232 (b) request and consider a recommendation from the Governor's Rural Partnership
233 Board created in Section [63C-10-102](#) regarding an applicant seeking a grant, loan, or other
234 financial assistance under Subsection (5)(d).

235 (3) (a) Subject to available funds in the restricted account, at least \$1,500,000 from the
236 Industrial Assistance Account created in Subsection [63N-3-103\(1\)](#) shall be used to fund the
237 program at the beginning of each fiscal year.

238 (b) The amount referred to in Subsection (3)(a) is not in addition to but is a part of the
239 up to 50% designation for economically disadvantaged rural areas referred to in Subsection
240 [63N-3-103\(1\)\(a\)\(i\)](#).

241 (c) If any of the funding referred to in Subsection (3)(a) has not been used in the
242 program by the end of the third quarter of each fiscal year, that money may be used for any

243 other loan, grant, or assistance program offered through the Industrial Assistance Account
244 during the fiscal year.

245 (4) (a) To qualify for participation in the program a company:

246 (i) shall complete and file with the office an application for participation in the
247 program, signed by an officer of the company;

248 (ii) shall be located and conduct its business operations in a county in the state of the
249 third, fourth, fifth, or sixth class as described in Section 17-50-501;

250 (iii) that is located and conducts its business operations in a county of the third class as
251 described in Section 17-50-501, may not be located and conduct its business operations within
252 a city that has a:

253 (A) population of more than 20,000; or

254 (B) median household income of more than \$70,000 as reflected in the most recently
255 available data collected and reported by the United States Census Bureau;

256 (iv) shall have been in business in the state for at least two years; and

257 (v) shall have at least two employees.

258 (b) (i) The office shall verify an applicant's qualifications under Subsection (4)(a).

259 (ii) The application must be approved by the administrator in order for a company to
260 receive an incentive or other assistance under this section.

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

263 (i) the content of the application form referred to in Subsection (4)(a)(i);

264 (ii) who qualifies as an employee under Subsection (4)(a)(v); and

265 (iii) the verification procedure referred to in Subsection (4)(b).

266 (5) (a) The administrator shall make incentive cash awards to small companies under
267 this section based on the following criteria:

268 (i) \$1,000 for each new incremental job that pays over 110% of the county's median
269 annual wage;

270 (ii) \$1,250 for each incremental job that pays over 115% of the county's median annual
271 wage; and

272 (iii) \$1,500 for each incremental job that pays over 125% of the county's median
273 annual wage.

274 (b) The administrator shall make a cash award under Subsection (5)(a) when a new
275 incremental job has been in place for at least 12 months.

276 (c) The creation of a new incremental job by a company is based on the number of
277 employees at the company during the previous 24 months.

278 (d) A small company may also apply for grants, loans, or other financial assistance
279 under the program for capital investment to help develop its business in rural Utah and may
280 receive:

281 (i) up to \$50,000 under the program if approved by the administrator; or

282 (ii) over \$50,000 under the program if approved by the administrator and the board.

283 (6) The administrator shall make an annual report to the board of the awards made by
284 the administrator under this section and submit a report to the office on the awards and their
285 impact on economic development in the state's rural areas for inclusion in the office's annual
286 written report described in Section 63N-1-301.

287 Section 9. Section 63N-3-104.5 is amended to read:

288 **63N-3-104.5. Business Expansion and Retention Initiative -- Creation -- Funding**
289 **-- Qualifications for program participation -- Awards -- Reports.**

290 (1) As used in this section:

291 (a) "Business resource centers" means the same as that term is defined in Section
292 63N-3-303.

293 (b) "Rural economic development entity" means a public, nonprofit, or private
294 organization primarily engaged in economic development efforts in a rural area of the state, and
295 may include:

296 (i) county, city, or tribal economic development offices;

297 (ii) associations of governments, established pursuant to an interlocal agreement under
298 Title 11, Chapter 13, Interlocal Cooperation Act;

299 (iii) business resource centers; or

300 (iv) small business development centers, established under the United States Small
301 Business Administration's small business development center program.

302 (2) (a) There is created the Business Expansion and Retention Initiative.

303 (b) The program is a funded component of the economically disadvantaged rural areas
304 designation in Subsection 63N-3-103(1)(a)(i).

305 (3) In awarding a grant under this section, the administrator shall:
306 (a) consider whether the grant will:
307 (i) assist new and existing rural businesses;
308 (ii) influence rural job creation; and
309 (iii) diversify Utah's rural economies; and
310 (b) request and consider a recommendation from the Governor's Rural Partnership
311 Board created in Section 63C-10-102 regarding an applicant seeking financial assistance under
312 this section.

313 (4) (a) Subject to available funds in the restricted account, at least \$350,000 from the
314 Industrial Assistance Account created in Subsection 63N-3-103(1) shall be used to fund the
315 program at the beginning of each fiscal year.

316 (b) The amount referred to in Subsection (4)(a) is not in addition to but is a part of the
317 up to 50% designation for economically disadvantaged rural areas referred to in Subsection
318 63N-3-103(1)(a)(i).

319 (c) If any of the funding referred to in Subsection (4)(a) has not been used in the
320 program by the end of the third quarter of each fiscal year, that money may be used for any
321 other loan, grant, or assistance program offered through the Industrial Assistance Account
322 during the fiscal year.

323 (5) (a) To qualify for participation in the program a rural economic development entity:

324 (i) shall complete and file with the office an application for participation in the
325 program;

326 (ii) shall be located and conduct its operations in a county in the state of the third,
327 fourth, fifth, or sixth class as described in Section 17-50-501; and

328 (iii) that is located and conducts its operations in a county of the third class as
329 described in Section 17-50-501, may not be located and conduct its operations within a city
330 that has a:

331 (A) population of more than 20,000; or

332 (B) median household income of more than \$70,000 as reflected in the most recently
333 available data collected and reported by the United States Census Bureau.

334 (b) (i) The office shall verify an applicant's qualifications under Subsection (5)(a).

335 (ii) The application must be approved by the administrator in order for a rural

336 economic development entity to receive a grant under this section.

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

339 (i) the content of the application form referred to in Subsection (5)(a)(i); and

340 (ii) the verification procedure referred to in Subsection (5)(b).

341 (6) The board may issue a grant of no more than \$30,000 to a single rural economic
342 development entity under this section in any calendar year.

343 (7) A rural economic development entity shall use a grant awarded under this section
344 to:

345 (a) conduct outreach and information gathering efforts to better understand the needs of
346 local businesses; or

347 (b) engage in other activity approved by the administrator that is intended to expand or
348 retain businesses in a rural area of the state.

349 (8) The administrator shall make an annual report to the board of the awards made by
350 the administrator under this section and submit a report to the office on the awards and their
351 impact on economic development in the state's rural areas for inclusion in the office's annual
352 written report described in Section [63N-1-301](#).

353 Section 10. Section **63N-3-105** is amended to read:

354 **63N-3-105. Qualification for assistance.**

355 (1) Except as provided in Section [63N-3-108](#), [63N-3-109](#), [63N-3-109.5](#), [~~or~~]
356 [63N-3-110](#), or [63N-3-112](#), the administrator shall determine which industries, companies, and
357 individuals qualify to receive money from the Industrial Assistance Account. Except as
358 provided by Subsection (2), to qualify for financial assistance from the restricted account, an
359 applicant shall:

360 (a) demonstrate to the satisfaction of the administrator that the applicant will expend
361 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount
362 proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per
363 year or other more stringent requirements as established from time to time by the board for a
364 minimum period of five years beginning with the date the loan or grant was approved;

365 (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
366 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the

367 loan provided by the restricted account; and

368 (c) satisfy other criteria the administrator considers appropriate.

369 (2) (a) The administrator may exempt an applicant from the requirements of Subsection
370 (1)(a) or (b) if:

371 (i) the financial assistance is provided to an applicant for the purpose of locating all or
372 any portion of its operations to an economically disadvantaged rural area;

373 (ii) the applicant is part of a targeted industry;

374 (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
375 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations
376 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide
377 significant economic stimulus to the growth of commerce and industry in the state; or

378 (iv) the applicant is an entity offering an economic opportunity under Section
379 63N-3-109.

380 (b) The administrator may not exempt the applicant from the requirement under
381 Subsection 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the
382 state equals at least the amount of the assistance together with an annual interest charge.

383 (3) The administrator shall:

384 (a) for applicants not described in Subsection (2)(a):

385 (i) make findings as to whether or not each applicant has satisfied each of the
386 conditions set forth in Subsection (1); and

387 (ii) monitor the continued compliance by each applicant with each of the conditions set
388 forth in Subsection (1) for five years;

389 (b) for applicants described in Subsection (2)(a), make findings as to whether the
390 economic activities of each applicant has resulted in the creation of new jobs on a per capita
391 basis in the economically disadvantaged rural area or targeted industry in which the applicant is
392 located;

393 (c) monitor the compliance by each applicant with the provisions of any contract or
394 agreement entered into between the applicant and the state as provided in Section 63N-3-107;
395 and

396 (d) make funding decisions based upon appropriate findings and compliance.

397 Section 11. Section 63N-3-112 is enacted to read:

398 **63N-3-112. Grant to investor in new aviation fuel product -- Application**
399 **requirements -- Rulemaking.**

400 (1) (a) Subject to the other provisions of this section, an investor that meets the
401 requirements described in Subsection (2) may apply annually to receive up to a \$1,000,000
402 grant from the Industrial Assistance Account.

403 (b) An investor may apply for a grant under this Subsection (1)(b) only for ten
404 consecutive years, and the maximum amount of grants that an investor can receive is
405 \$10,000,000.

406 (2) (a) To be eligible for a grant under this section, an investor shall have invested at
407 least \$30,000,000 into an aviation fuel project:

408 (i) that produced new aviation fuel during the previous calendar year; and

409 (ii) for which the refinery purchased at least the minimum threshold of barrels of crude
410 oil in the state during the previous calendar year.

411 (b) The minimum threshold of barrels of crude oil is the percentage described in
412 Subsection (2)(b)(i) or (ii) above the barrels of crude oil purchased in the state during the
413 baseline year:

414 (i) 20%; or

415 (ii) if the refinery experienced industry-recognized downtime during the previous
416 calendar year, the percentage calculated by multiplying the percentage described in Subsection
417 (2)(b)(i) by the number of months that the refinery operated during the previous year divided by
418 12.

419 (3) Each year that an investor applies for a grant under this section, the investor shall
420 submit an application that includes:

421 (a) the total amount to date that the investor has contributed to an aviation fuel project;

422 (b) with the application for the first year only, the number of barrels of aviation fuel the
423 refinery produced per day during the calendar year before the aviation fuel project began
424 producing new aviation fuel;

425 (c) the number of barrels of aviation fuel that the aviation fuel project produced per day
426 during the previous calendar year;

427 (d) the number of barrels of aviation fuel the aviation fuel project sold during the
428 previous calendar year;

429 (e) with the application for the first year only, the number of barrels of crude oil that
430 the refinery purchased from producers in the state during the calendar year before the aviation
431 fuel project began producing new aviation fuel;

432 (f) the number of barrels of crude oil that the refinery purchased from producers in the
433 state during the previous calendar year; and

434 (g) any other information requested by the office relevant to an aviation fuel project.

435 (4) Upon receiving an investor's first application, the office shall establish a baseline
436 of:

437 (a) aviation fuel produced and sold by the refinery for the calendar year before the
438 aviation fuel project began producing new aviation fuel; and

439 (b) the number of barrels of crude oil the refinery purchased from producers in the state
440 during the calendar year before the aviation fuel project began producing new aviation fuel.

441 (5) (a) To determine if the aviation fuel project has produced and sold new aviation
442 fuel and purchased the minimum threshold of barrels of crude oil in the state, the office shall
443 compare the information submitted by the investor to the baseline established in Subsection (4)
444 and to State Tax Commission data.

445 (b) (i) For purposes of making the determinations required by Subsection (5)(a), the
446 office may require the investor to provide the office with a document that expressly directs and
447 authorizes the State Tax Commission to disclose to the office the business entity's returns and
448 other information that would otherwise be subject to confidentiality under Section [59-1-403](#) or
449 Section 6103, Internal Revenue Code.

450 (ii) The office shall submit the document described in Subsection (5)(b)(i) to the State
451 Tax Commission.

452 (iii) Upon receipt of a document described in Subsection (5)(b)(i), the State Tax
453 Commission shall provide the office with the returns and other information requested by the
454 office that the State Tax Commission is directed or authorized to provide to the office in
455 accordance with Subsection (5)(b)(i).

456 (6) (a) The office may award a grant to an investor if the office determines that the
457 investor meets the requirements of Subsection (2).

458 (b) The office may not award grant money in excess of the amount that the Division of
459 Finance transfers for the fiscal year to the Industrial Assistance Account for the purposes

460 described in this section.

461 (c) If more than one investor qualifies for a grant, the office shall prorate the grant
462 based on the level of investment.

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

465 (a) the application and reporting criteria for an investor to receive a grant under this
466 section;

467 (b) procedures for setting the baselines for:

468 (i) aviation fuel produced and sold by the refinery; and

469 (ii) the number of barrels of crude oil purchased in the state; and

470 (c) the requirements for demonstrating industry-recognized downtime.

471 Section 12. Section **63N-3-113** is enacted to read:

472 **63N-3-113. Certification to Division of Finance.**

473 On or before March 31, the office shall provide a certification to the Division of
474 Finance if an investor qualifies for a grant under Section [63N-3-112](#) for the previous calendar
475 year.

476 Section 13. **Effective date.**

477 This bill takes effect on January 1, 2020.